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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2026–2047]

RIN 3150–AL68

List of Approved Spent Fuel Storage Casks: NAC International, Inc., MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment Nos. 16 and 17 and Revisions to Amendment Nos. 0 Through 16

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the NAC International, Inc. (NAC) MAGNASTOR® System listing within the “List of approved spent fuel storage casks” to include Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to Certificate of Compliance (CoC) No. 1031. Amendment No. 16 revises the CoC to permit alternate methods for determining the free volume inside a loaded canister and for measuring helium to ensure that Technical Specification limits are met. It also clarifies that mixed loadings of different assembly types or subtypes within a single Transportable Storage Canister (TSC) are acceptable. Amendment No. 17 and revisions to Amendment Nos. 0 through 16 revise the CoC to incorporate changes to the design basis for the MAGNASTOR® storage system to correct an error with M5 fuel cladding material yield strength that was introduced in CoC No. 1031, Amendment No. 14 and the associated revisions to Amendment Nos. 0 through 13.

DATES: This direct final rule is effective September 14, 2026, unless significant adverse comments are received by July

31, 2026. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2026–2047, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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 public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on <https://www.regulations.gov> to view public comments.

You can read a plain language description of this direct final rule at <https://www.regulations.gov/docket/NRC-2026-2047>. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Caylee Kenny, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7150, email: Caylee.Kenny@nrc.gov.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2047 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–2047. Address questions about NRC dockets to Helen Chang, telephone: 301–415–3228, email: Helen.Chang@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include

Docket ID NRC–2026–2047 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

This rule is limited to the changes contained in Amendment Nos. 16 and 17 and revisions to Amendments Nos. 0 through 16 to Certificate of Compliance (CoC) No. 1031 and does not include other aspects of the NAC International, Inc., MAGNASTOR® System design. The NRC is using the “direct final rule procedure” to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be non-controversial. Adequate protection of public health and safety continues to be reasonably assured. The amendment to the rule will become effective on September 14, 2026. However, if the NRC receives any significant adverse comment on this direct final rule by July 31, 2026, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register** or as otherwise appropriate. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a

substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, CoC, or technical specifications.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the NAC MAGNASTOR® System design and added it to the list of NRC-approved cask designs in § 72.214 as CoC No. 1031.

IV. Discussion of Changes

On March 21, 2025, NAC International, Inc. submitted a request to the NRC to add Amendment No. 16 to CoC 1031. NAC supplemented its request on April 18, 2025. Amendment No. 16 revises the CoC to:

- Allow an alternate method to determine the free volume inside a loaded canister.
- Allow an alternate method to measure the amount of helium placed inside the canister to ensure that Technical Specification limits for Helium density inside the TSC are met.
- Clarify that mixed loadings of different assembly types and/or assembly subtypes within a single TSC are acceptable.

On July 30, 2025, NAC International, Inc. submitted a request to the NRC to amend CoC No. 1031 to add Amendment No. 17 and revisions to Amendment Nos. 0–16. NAC supplemented its request on the following dates: March 4, 2026, and March 13, 2026. Amendment No. 17 and revisions to Amendment Nos. 0 through 16 revise the CoC to incorporate changes to the design basis for the MAGNASTOR® storage system to correct an error with M5 fuel cladding material yield strength that was introduced in CoC No. 1031, Amendment No. 14 and the associated revisions to Amendment Nos. 0 through 13.

The changes to the aforementioned documents are identified with revisions bars in the margin of each document.

As documented in the preliminary safety evaluation reports, the NRC performed safety evaluations of the proposed CoC amendment requests. The NRC determined that these amendments do not reflect a significant change in design or fabrication of the cask. Specifically, the NRC determined that the design of the cask would continue to maintain confinement, shielding, and criticality control in the event of each evaluated accident condition. In addition, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 would remain well within the limits specified by 10 CFR part 20, “Standards for Protection Against Radiation.” Thus, the NRC found there will be no significant change in the types or amounts of any effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents.

The NRC staff determined that the amended MAGNASTOR® system cask design, when used under the conditions specified in the CoC, the technical specifications, and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be reasonably assured. When this direct final rule becomes effective, persons who hold a general license under § 72.210 may, consistent with the license conditions under § 72.212, load spent nuclear fuel into MAGNASTOR® casks that meet the criteria of Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to CoC No. 1031.

V. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC revises the MAGNASTOR® Cask System design listed in § 72.214, “List of approved spent fuel storage casks.” This action does not constitute the establishment of a standard that contains generally applicable requirements.

VI. Agreement State Compatibility

Under the “Agreement State Program Policy Statement” approved by the Commission on October 2, 2017, and published in the **Federal Register** on October 18, 2017 (82 FR 48535), this rule is classified as Compatibility Category NRC—Areas of Exclusive NRC Regulatory Authority. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR chapter I. Therefore, compatibility is not required for program elements in this category.

VII. Plain Writing

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

VIII. Environmental Assessment and Finding of No Significant Impact

Under the National Environmental Policy Act of 1969, as amended, and the

NRC's regulations in 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,” the NRC has determined that this direct final rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment. This environmental assessment and finding of no significant impact can be tracked with identification number NEPA ID EAXX–429–00–000–1777512751.

A. The Action

The action is to amend § 72.214 to revise the NAC International, Inc., MAGNASTOR® system listing within the “List of approved spent fuel storage casks” to include Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to CoC No. 1031.

B. The Need for the Action

This direct final rule amends the CoC for the NAC International, Inc., MAGNASTOR® system design within the list of approved spent fuel storage casks to allow power reactor licensees to store spent fuel at reactor sites in casks with the approved modifications under a general license. Specifically, Amendment No. 16 revises the CoC to allow an alternate method to determine the free volume inside a loaded canister, allow an alternate method to measure the amount of helium placed inside the canister to assure that Technical Specification limits for Helium density inside the TSC are met, and clarify that mixed loadings of different assembly types and/or assembly subtypes within a single TSC is acceptable. Amendment No. 17 and revisions to Amendment Nos. 0 through 16 revises the CoC to incorporate changes to the design basis for the MAGNASTOR® storage system to correct an error with M5 fuel cladding material yield strength that was introduced in CoC No. 1031, Amendment No. 14 and the associated revisions to Amendment Nos. 0 through 13.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for

Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act of 1969, as amended.

The NAC International, Inc., MAGNASTOR® system is designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an independent spent fuel storage installation, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, can include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

This amendment does not reflect a significant change in design or fabrication of the cask. Because there are no significant design or process changes, any resulting occupational exposure or offsite dose rates from the implementation of Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 would remain well within the 10 CFR part 20 limits. The NRC has also determined that the design of the cask as modified by this rule would maintain confinement, shielding, and criticality control in the event of an accident. Therefore, the proposed changes will not result in any radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of any effluent released, no significant increase in the individual or cumulative radiation exposures, and no significant increase in the potential for, or consequences from, radiological accidents. The NRC documented its safety findings in the preliminary safety evaluation reports.

D. Alternative to the Action

The alternative to this action is to deny approval of Amendment Nos. 16 and 17 and revision to Amendment Nos. 0 through 16 and not issue the direct final rule. Consequently, any 10 CFR part 72 general licensee that seeks to load spent nuclear fuel into the NAC International, Inc., MAGNASTOR® system in accordance with the changes

described in proposed Amendment Nos. 16 and 17 and revision to Amendment Nos. 0 through 16 would have to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, interested licensees would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee. The environmental impacts would be the same as the proposed action.

E. Alternative Use of Resources

Approval of Amendment Nos. 16 and 17 and revision to Amendment Nos. 0 through 16 to CoC No. 1031 would result in no irreversible and irretrievable commitments of Federal resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions." Based on the foregoing environmental assessment, the NRC concludes that this direct final rule, "List of Approved Spent Fuel Storage Casks: MAGNASTOR®, CoC No. 1031, Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16," will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this direct final rule.

IX. Regulatory Planning and Review

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA determined that this direct final rule is not a significant regulatory action under E.O. 12866.

X. Paperwork Reduction Act Statement

This direct final rule does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the

Office of Management and Budget, approval number 3150–0132.

Public Protection Notification

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

XI. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this direct final rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only nuclear power plant licensees and NAC. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (§ 2.810).

XII. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if (1) it notifies the NRC in advance; (2) the spent fuel is stored under the conditions specified in the cask's CoC; and (3) the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On November 21, 2008 (73 FR 70587), the NRC issued an amendment to 10 CFR part 72 that approved the NAC International, Inc., MAGNASTOR® system by adding it to the list of NRC-approved cask designs in § 72.214.

On March 21, 2025, and as supplemented on April 18, 2025, NAC submitted a request for Amendment No. 16 to amend the MAGNASTOR® system. On July 30, 2025, and as supplemented on March 4, 2026, and March 13, 2026, NAC submitted a request for Amendment No. 17 and revisions to Amendment Nos. 0 through 16 to amend the MAGNASTOR® system as described in Section IV, "Discussion of Changes," of this document.

The alternative to this action is to withhold approval of Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into the NAC International, Inc., MAGNASTOR® system under the changes described in Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through

16 to request an exemption from the requirements of §§ 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of this direct final rule is consistent with previous NRC actions. Further, as documented in the preliminary safety evaluation reports and environmental assessment, this direct final rule will have no adverse effect on public health and safety or the environment. This direct final rule has no significant identifiable impact or benefit on other government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of this direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory; therefore, this action is recommended.

XIII. Backfitting and Issue Finality

This direct final rule revises CoC No. 1031 for the NAC International, Inc., MAGNASTOR® storage system, as currently listed in 10 CFR 72.214, "List of approved spent fuel storage casks." Revisions to Amendment Nos. 0 through 16 (specifically, Initial Certificate, Revision 4; Amendment No. 1, Revision 4; Amendment No. 2, Revision 4; Amendment No. 3, Revision 4; Amendment No. 4, Revision 3; Amendment No. 5, Revision 3; Amendment No. 6, Revision 3; Amendment No. 7, Revision 3; Amendment No. 8, Revision 3; Amendment No. 9, Revision 3; Amendment No. 10, Revision 2; Amendment No. 11, Revision 2; Amendment No. 12, Revision 2; Amendment No. 13, Revision 2; Amendment No. 14, Revision 1; Amendment No. 15, Revision 1; and Amendment No. 16, Revision 1), changes the design basis for the MAGNASTOR® storage system to correct an error with M5 fuel cladding material yield strength that was introduced in CoC No. 1031, Amendment No. 14 and the associated revisions to Amendment Nos. 0 through 13. For the reasons set forth in this section, the NRC has determined that this direct final rule does not constitute backfitting under 10 CFR 72.62, "Backfitting."

As stated in § 72.62(a), "backfitting" means the "addition, elimination or modification, after the license has been issued, of: (1) Structures, systems, or

components of an ISFSI [independent spent fuel storage installation]. . . , or (2) Procedures or organization required to operate an ISFSI.” NAC is not within the scope of the backfitting provisions in § 72.62 because the provisions of § 72.62 are applicable to the NRC actions that affect general licensees, not vendors.

According to NAC, no general licensees have purchased or use the system under CoC No. 1031, Amendment Nos. 0–5, Amendment No. 8, Amendment Nos. 10–12, Amendment No. 14, and Amendment No. 16, which is the subject of this revision. This NRC action would not result in an addition, elimination, or modification of a structure, system, or component of a general licensee’s ISFSI or the procedures or organization required to operate a general licensee’s ISFSI. Therefore, the changes in Amendment No. 0, Revision 4; Amendment No. 1, Revision 4; Amendment No. 2, Revision 4; Amendment No. 3, Revision 4; Amendment No. 4, Revision 3; Amendment No. 5, Revision 3; Amendment No. 8, Revision 3; Amendment No. 10, Revision 2; Amendment No. 11, Revision 2; Amendment No. 12, Revision 2; Amendment No. 14, Revision 1; and Amendment No. 16, Revision 1 that are approved in this direct final rule do not fall within the definition of backfitting under § 72.62.

According to NAC, two general licensees have purchased or use casks from NAC under existing CoC No. 1031, Amendment No. 6, Revision 2, which is the subject of this revision. This NRC action would result in a change in procedures or organization required to operate an ISFSI and, therefore, would constitute backfitting under § 72.62(a)(2). However, in this instance, the general licensees (Kewaunee Solutions for the Kewaunee ISFSI, and Constellation Energy Generation LLC for the Zion Nuclear Power Station, Units 1 and 2 ISFSI) indicated their willingness to voluntarily comply with the revised CoC and implement the CoC revision after approval. Because the general licensees intend to voluntarily implement the revision, the NRC’s action would not be imposing the technical change on the licensees,

thereby eliminating the potential backfitting. Therefore, the issuance of Revision 3 to Amendment No. 6 does not fall within the definition of backfitting under 10 CFR 72.62.

According to NAC, one general licensee has purchased or uses casks from NAC under existing CoC No. 1031, Amendment No. 7, Revision 2, which is the subject of this revision. This NRC action would result in a change in procedures or organization required to operate an ISFSI and, therefore, would constitute backfitting under 10 CFR 72.62(a)(2). However, in this instance, the general licensee (Arizona Public Service for the Palo Verde Generating Station ISFSI) indicated its willingness to voluntarily comply with the revised CoC and implement the latest Amendment No. 17 when approved. Because the general licensee intends to voluntarily implement the latest Amendment No. 17, the NRC’s action would not be imposing the technical change on the licensee, thereby eliminating the potential backfitting. Therefore, the issuance of Revision 3 to Amendment No. 7 does not fall within the definition of backfitting under 10 CFR 72.62.

According to NAC, one general licensee has purchased or uses casks from NAC under existing CoC No. 1031, Amendment No. 9, Revision 2, which is the subject of this revision. This NRC action would result in a change in procedures or organization required to operate an ISFSI and, therefore, would constitute backfitting under 10 CFR 72.62(a)(2). However, in this instance, the general licensee (Constellation Energy Generation LLC for Christopher M. Crane Clean Energy Center, Unit 1 ISFSI) indicated its willingness to voluntarily comply with the revised CoC and implement the CoC revision after approval. Because the general licensee intends to voluntarily implement the revision, the NRC’s action would not be imposing the technical change on the licensee, thereby eliminating the potential backfitting. Therefore, the issuance of Revision 3 to Amendment No. 9 does not fall within the definition of backfitting under 10 CFR 72.62.

According to NAC, one general licensee has purchased or uses casks

from NAC under existing CoC No. 1031, Amendment No. 13, Revision 1, which is the subject of this revision. This NRC action would result in a change in procedures or organization required to operate an ISFSI and, therefore, would constitute backfitting under 10 CFR 72.62(a)(2). However, in this instance, the general licensee (Three Mile Island Nuclear Station, Unit 2 Solutions for the Three Mile Island Nuclear Station, Unit 2 ISFSI) indicated its willingness to voluntarily comply with the revised CoC and implement the CoC revision after approval. Because the general licensee intends to voluntarily implement the revision, the NRC’s action would not be imposing the technical change on the licensee, thereby eliminating the potential backfitting. Therefore, the issuance of Revision 2 to Amendment No. 13 does not fall within the definition of backfitting under 10 CFR 72.62.

According to NAC, one general licensee has purchased or uses casks from NAC under existing CoC No. 1031, Amendment No. 15, which is the subject of this revision. This NRC action would result in a change in procedures or organization required to operate an ISFSI and, therefore, would constitute backfitting under 10 CFR 72.62(a)(2). However, in this instance, the general licensee (Duke Energy for the Catawba ISFSI and McGuire ISFSI) indicated its willingness to voluntarily comply with the revised CoC and implement the latest Amendment No. 17 when approved. Because the general licensee intends to voluntarily implement the latest Amendment No. 17, the NRC’s action would not be imposing the technical change on the licensee, thereby eliminating the potential backfitting. Therefore, the issuance of Revision 1 to Amendment No. 15 does not fall within the definition of backfitting under 10 CFR 72.62.

XIV. Congressional Review Act

This direct final rule is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

XV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession No./ web link/ Federal Register citation
Documents Related to Initial Certificate (Amendment No. 0), Revision 4	
Proposed CoC 1031 Amendment No. 0 Revision 4	ML26098A208
Proposed CoC 1031 Amendment No. 0 Revision 4 Technical Specifications (TS) Appendix A	ML26098A209

Document	ADAMS accession No./ web link/ Federal Register citation
Proposed CoC 1031 Amendment No. 0 Revision 4 TS Appendix B	ML26098A210
Documents Related to Amendment No. 1, Revision 4	
Proposed CoC 1031 Amendment No. 1 Revision 4	ML26098A211
Proposed CoC 1031 Amendment No. 1 Revision 4 TS Appendix A	ML26098A212
Proposed CoC 1031 Amendment No. 1 Revision 4 TS Appendix B	ML26098A213
Documents Related to Amendment No. 2, Revision 4	
Proposed CoC 1031 Amendment No. 2 Revision 4	ML26098A214
Proposed CoC 1031 Amendment No. 2 Revision 4 TS Appendix A	ML26098A215
Proposed CoC 1031 Amendment No. 2 Revision 4 TS Appendix B	ML26098A216
Documents Related to Amendment No. 3, Revision 4	
Proposed CoC 1031 Amendment No. 3 Revision 4	ML26098A217
Proposed CoC 1031 Amendment No. 3 Revision 4 TS Appendix A	ML26098A218
Proposed CoC 1031 Amendment No. 3 Revision 4 TS Appendix B	ML26098A219
Documents Related to Amendment No. 4, Revision 3	
Proposed CoC 1031 Amendment No. 4 Revision 3	ML26098A220
Proposed CoC 1031 Amendment No. 4 Revision 3 TS Appendix A	ML26098A221
Proposed CoC 1031 Amendment No. 4 Revision 3 TS Appendix B	ML26098A222
Documents Related to Amendment No. 5, Revision 3	
Proposed CoC 1031 Amendment No. 5 Revision 3	ML26098A223
Proposed CoC 1031 Amendment No. 5 Revision 3 TS Appendix A	ML26098A225
Proposed CoC 1031 Amendment No. 5 Revision 3 TS Appendix B	ML26098A227
Documents Related to Amendment No. 6, Revision 3	
Proposed CoC 1031 Amendment No. 6 Revision 3	ML26098A228
Proposed CoC 1031 Amendment No. 6 Revision 3 TS Appendix A	ML26098A229
Proposed CoC 1031 Amendment No. 6 Revision 3 TS Appendix B	ML26098A230
Documents Related to Amendment No. 7, Revision 3	
Proposed CoC 1031 Amendment No. 7 Revision 3	ML26098A231
Proposed CoC 1031 Amendment No. 7 Revision 3 TS Appendix A	ML26098A232
Proposed CoC 1031 Amendment No. 7 Revision 3 TS Appendix B	ML26098A233
Documents Related to Amendment No. 8, Revision 3	
Proposed CoC 1031 Amendment No. 8 Revision 3	ML26098A234
Proposed CoC 1031 Amendment No. 8 Revision 3 TS Appendix A	ML26098A235
Proposed CoC 1031 Amendment No. 8 Revision 3 TS Appendix B	ML26098A236
Documents Related to Amendment No. 9, Revision 3	
Proposed CoC 1031 Amendment No. 9 Revision 3	ML26098A237
Proposed CoC 1031 Amendment No. 9 Revision 3 TS Appendix A	ML26098A238
Proposed CoC 1031 Amendment No. 9 Revision 3 TS Appendix B	ML26098A239
Documents Related to Amendment No. 10, Revision 2	
Proposed CoC 1031 Amendment No. 10 Revision 2	ML26098A240
Proposed CoC 1031 Amendment No. 10 Revision 2, TS Appendix A	ML26098A241
Proposed CoC 1031 Amendment No. 10 Revision 2, TS Appendix B	ML26098A242
Documents Related to Amendment No. 11, Revision 2	
Proposed CoC 1031 Amendment No. 11 Revision 2	ML26098A243
Proposed CoC 1031 Amendment No. 11 Revision 2 TS Appendix A	ML26098A244
Proposed CoC 1031 Amendment No. 11 Revision 2 TS Appendix B	ML26098A245
Documents Related to Amendment No. 12, Revision 2	
Proposed CoC 1031 Amendment No. 12 Revision 2	ML26098A246
Proposed CoC 1031 Amendment No. 12 Revision 2 TS Appendix A	ML26098A247

Document	ADAMS accession No./ web link/ Federal Register citation
Proposed CoC 1031 Amendment No. 12 Revision 2 TS Appendix B	ML26098A248
Documents Related to Amendment No. 13, Revision 2	
Proposed CoC 1031 Amendment No. 13 Revision 2	ML26098A249
Proposed CoC 1031 Amendment No. 13 Revision 2 TS Appendix A	ML26098A250
Proposed CoC 1031 Amendment No. 13 Revision 2 TS Appendix B	ML26098A251
Documents Related to Amendment No. 14, Revision 1	
Proposed CoC 1031 Amendment No. 14 Revision 1	ML26098A252
Proposed CoC 1031 Amendment No. 14 Revision 1 TS Appendix A	ML26098A253
Proposed CoC 1031 Amendment No. 14 Revision 1 TS Appendix B	ML26098A254
Documents Related to Amendment No. 15, Revision 1	
Proposed CoC 1031 Amendment No. 15 Revision 1	ML26098A255
Proposed CoC 1031 Amendment No. 15 Revision 1 TS Appendix A	ML26098A256
Proposed CoC 1031 Amendment No. 15 Revision 1 TS Appendix B	ML26098A257
Documents Related to Amendment No. 16, Revision 0	
Proposed CoC 1031 Amendment No. 16, Revision 0	ML25217A298
Proposed CoC 1031 Amendment No. 16 Revision 0 TS Appendix A	ML25217A300
Proposed CoC 1031 Amendment No. 16 Revision 0 TS Appendix B	ML25217A302
Preliminary Safety Evaluation Report for CoC 1031 Amendment 16 Revision 0	ML25217A304
Initial Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 16, March 21, 2025.	ML25080A349
Supplement to NAC International's Request to Amendment MAGNASTOR® Cask System, Amendment No. 16, April 18, 2025	ML25108A159
Documents Related to Amendment No. 16, Revision 1	
Proposed CoC 1031 Amendment No. 16 Revision 1	ML26098A258
Proposed CoC 1031 Amendment No. 16 Revision 1 TS Appendix A	ML26098A259
Proposed CoC 1031 Amendment No. 16 Revision 1 TS Appendix B	ML26098A260
Documents Related to Amendment No. 17, Revision 0 and Revisions to Amendment Nos. 0 through 16	
Proposed CoC 1031 Amendment No. 17	ML26098A262
Proposed CoC 1031 Amendment No. 17 TS Appendix A	ML26098A263
Proposed CoC 1031 Amendment No. 17 TS Appendix B	ML26098A264
Preliminary Safety Evaluation Report, CoC No. 1031, Amendment 17 and Revisions to Amendments 0–16	ML26098A207
NAC International—Initial Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 17, July 30, 2025.	ML25211A197
Submission of a Supplement to Amendment Request No. 17 for the NAC International MAGNASTOR® Cask System, March 4, 2026.	ML26064A039
Submission of a Supplement to Amendment Request No. 17 for the NAC International MAGNASTOR® Cask System, March 13, 2026.	ML26075E865
Other Documents	
User Need Memorandum for Amendment No. 16	ML25217A296
User Need Memorandum for Amendment No. 17 and Revisions to Amendment Nos. 0 through 16	ML26098A206
Final Rule, “List of Approved Spent Fuel Storage Casks: MAGNASTOR® Addition,” published November 21, 2008	73 FR 70587
Revision to Policy Statement, “Agreement State Program Policy Statement; Correction,” published October 18, 2017	82 FR 48535
Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998	63 FR 31885

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2026–2047. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2026–2047); (2) click the “Subscribe”

link; and (3) enter an email address and click on the “Subscribe” link.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Hazardous waste, Indians, Intergovernmental relations, Nuclear energy, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is adopting the following amendments to 10 CFR part 72:

**PART 72—LICENSING
REQUIREMENTS FOR THE
INDEPENDENT STORAGE OF SPENT
NUCLEAR FUEL, HIGH-LEVEL
RADIOACTIVE WASTE, AND
REACTOR-RELATED GREATER THAN
CLASS C WASTE**

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date:

February 4, 2009, superseded by Initial Certificate, Revision 1, on February 1, 2016, superseded by Initial Certificate, Revision 2, on October 16, 2023, superseded by Initial Certificate, Revision 3, on March 19, 2025, superseded by Initial Certificate, Revision 4, on September 14, 2026.

Amendment Number 1 Effective Date: August 30, 2010, superseded by Amendment Number 1, Revision 1, on February 1, 2016, superseded by Amendment Number 1, Revision 2, on October 16, 2023, superseded by Amendment Number 1, Revision 3, on March 19, 2025, superseded by Amendment Number 1, Revision 4, on September 14, 2026.

Amendment Number 2 Effective Date: January 30, 2012, superseded by Amendment Number 2, Revision 1, on February 1, 2016, superseded by Amendment Number 2, Revision 2, on October 16, 2023, superseded by Amendment Number 2, Revision 3, on March 19, 2025, superseded by Amendment Number 2, Revision 4, on September 14, 2026.

Amendment Number 3 Effective Date: July 25, 2013, superseded by Amendment Number 3, Revision 1, on February 1, 2016, superseded by Amendment Number 3, Revision 2, on October 16, 2023, superseded by Amendment Number 3, Revision 3, on March 19, 2025, superseded by

Amendment Number 3, Revision 4, on September 14, 2026.

Amendment Number 4 Effective Date: April 14, 2015, superseded by Amendment Number 4, Revision 1, on October 16, 2023, superseded by Amendment Number 4, Revision 2, on March 19, 2025, superseded by Amendment Number 4, Revision 3, on September 14, 2026.

Amendment Number 5 Effective Date: June 29, 2015, superseded by Amendment Number 5, Revision 1, on October 16, 2023, superseded by Amendment Number 5, Revision 2, on March 19, 2025, superseded by Amendment Number 5, Revision 3, on September 14, 2026.

Amendment Number 6 Effective Date: December 21, 2016, superseded by Amendment Number 6, Revision 1, on October 16, 2023, superseded by Amendment Number 6, Revision 2, on March 19, 2025, superseded by Amendment Number 6, Revision 3, on September 14, 2026.

Amendment Number 7 Effective Date: August 21, 2017, as corrected (ADAMS Accession No. ML19045A346), superseded by Amendment Number 7, Revision 1, on October 16, 2023, superseded by Amendment Number 7, Revision 2, on March 19, 2025, superseded by Amendment Number 7, Revision 3, on September 14, 2026.

Amendment Number 8, Effective Date: March 24, 2020, superseded by Amendment Number 8, Revision 1, on October 16, 2023, superseded by Amendment Number 8, Revision 2, on March 19, 2025, superseded by Amendment Number 8, Revision 3, on September 14, 2026.

Amendment Number 9, Effective Date: December 7, 2020, superseded by Amendment Number 9, Revision 1, on October 16, 2023, superseded by Amendment Number 9, Revision 2, on March 19, 2025, superseded by Amendment Number 9, Revision 3, on September 14, 2026.

Amendment Number 10, Effective Date: January 18, 2023, superseded by Amendment Number 10, Revision 1, on March 19, 2025, superseded by Amendment Number 10, Revision 2, on September 14, 2026.

Amendment Number 11, Effective Date: October 16, 2023, superseded by Amendment Number 11, Revision 1, on March 19, 2025, superseded by Amendment Number 11, Revision 2, on September 14, 2026.

Amendment Number 12, Effective Date: October 16, 2023, superseded by Amendment Number 12, Revision 1, on March 19, 2025, superseded by Amendment Number 12, Revision 2, on September 14, 2026.

Amendment Number 13, Effective Date: November 19, 2024, superseded by Amendment Number 13, Revision 1, on March 19, 2025, superseded by Amendment Number 13, Revision 2, on September 14, 2026.

Amendment Number 14, Effective Date: March 19, 2025, superseded by Amendment Number 14, Revision 1, on September 14, 2026.

Amendment Number 15, Effective Date: June 3, 2025, superseded by Amendment Number 15, Revision 1, on September 14, 2026.

Amendment Number 16, Effective Date: September 14, 2026, superseded by Amendment Number 16, Revision 1, on September 14, 2026.

Amendment Number 17, Effective Date: September 14, 2026.

Safety Analysis Report (SAR)

Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR.

* * * * *

Dated: June 17, 2026.

For the Nuclear Regulatory Commission.

Michael King,

Executive Director of Operations.

[FR Doc. 2026–13260 Filed 6–30–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 1040

[DOE–HQ–2025–0015]

RIN 1903–AA24

**Rescinding New Construction
Requirements Related to
Nondiscrimination in Federally
Assisted Programs or Activities**

AGENCY: Office of Civil Rights and EEO, Department of Energy.

ACTION: Direct final rule; further delay of effective date.

SUMMARY: The U.S. Department of Energy (DOE) is further extending the effective date of the direct final rule “Rescinding Construction Requirements Related to Nondiscrimination in Federally Assisted Programs or Activities,” published on May 16, 2025.

DATES: As of July 1, 2026, the effective date of the direct final rule published May 16, 2025, at 90 FR 20783, delayed until September 12, 2025 (90 FR 31140), further delayed until December 10, 2025 (90 FR 43907), again delayed until March 9, 2026 (90 FR 56968) and then

delayed until July 6, 2026 (91 FR 10954) is further delayed until December 28, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Zarate, U.S. Department of Energy, Office of Equal Employment Opportunity, MA-1.3, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586-2218 or mail to: civilrights@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2025, DOE published a direct final rule. 90 FR 20783. DOE stated in that direct final rule that if significant adverse comments were received by June 16, 2025, DOE would withdraw the direct final rule. *Id.* On July 14, 2025, DOE published a document delaying the effective date to consider comments submitted in response to the direct final rule. 90 FR 31140.

In this document, DOE is further extending the effective date pending Department of Justice action on the topic of the direct final rule under Executive Order 14281, “Restoring Equality of Opportunity and Meritocracy” and Executive Order 12250, “Leadership and Coordination of Nondiscrimination Laws.” 90 FR 17537 (April 28, 2025); 45 FR 72995 (Nov. 4, 1980).

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a “substantive rule” for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on June 29, 2026, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 29, 2026.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2026-13347 Filed 6-30-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

10 CFR Part 1040

[DOE-HQ-2025-0024]

RIN 1903-AA20

Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions)

AGENCY: Office of Civil Rights and EEO, Department of Energy.

ACTION: Direct final rule; further delay of effective date.

SUMMARY: The U.S. Department of Energy (DOE) is further extending the effective date of the direct final rule “Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions),” published on May 16, 2025.

DATES: As of July 1, 2026, the effective date of the direct final rule published May 16, 2025, at 90 FR 20777, delayed until September 12, 2025 (90 FR 31140), further delayed until December 9, 2025 (90 FR 43539), and again delayed until March 9, 2026 (90 FR 56967) and then delayed until July 6, 2026 (91 FR 10955) is further delayed until December 28, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Zarate, U.S. Department of Energy, Office of Equal Employment Opportunity, MA-1.3, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586-2218 or mail to: civilrights@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2025, DOE published a direct final rule. 90 FR 20777. DOE stated in that direct final rule that if significant adverse comments were received by June 16, 2025, DOE would withdraw the direct final rule. *Id.* On July 14, 2025, DOE published a document delaying the effective date to consider comments submitted in response to the direct final rule. 90 FR 31140.

In this document, DOE is further extending the effective date pending Department of Justice action on the topic of the direct final rule under Executive Order 14281, “Restoring Equality of Opportunity and Meritocracy” and Executive Order 12250, “Leadership and Coordination of Nondiscrimination Laws.” 90 FR 17537 (April 28, 2025); 45 FR 72995 (Nov. 4, 1980).

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C.

553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a “substantive rule” for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on June 29, 2026, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 29, 2026.

Treena V. Garrett,
*Federal Register Liaison Officer, U.S.
Department of Energy.*

[FR Doc. 2026-13305 Filed 6-30-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

10 CFR Part 1042

[DOE-HQ-2025-0025]

RIN 1903-AA22

Rescinding Regulations Related to Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Office of Civil Rights and EEO, Department of Energy.

ACTION: Direct final rule; further delay of effective date.

SUMMARY: The U.S. Department of Energy (DOE) is further extending the effective date of the direct final rule “Rescinding Regulations Related to Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” published on May 16, 2025.

DATES: As of July 1, 2026, the effective date of the direct final rule published May 16, 2025, at 90 FR 20788, delayed until September 12, 2025 (90 FR 31141), further delayed until December 9, 2025 (90 FR 43540, 90 FR 45317), again delayed until March 9, 2026 (90 FR 56968) and then delayed until July 6,

2026 (91 FR 10955) is further delayed until December 28, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Zarate, U.S. Department of Energy, Office of Equal Employment Opportunity, MA-1.3, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586-2218 or mail to: civilrights@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On May 16, 2025, DOE published a direct final rule. 90 FR 20788. DOE stated in that direct final rule that if significant adverse comments were received by June 16, 2025, DOE would withdraw the direct final rule. *Id.* On July 14, 2025, DOE published a document delaying the effective date to consider comments submitted in response to the direct final rule. 90 FR 31141.

In this document, DOE is further extending the effective date pending Department of Justice action on the topic of the direct final rule under Executive Order 14281, “Restoring Equality of Opportunity and Meritocracy” and Executive Order 12250, “Leadership and Coordination of Nondiscrimination Laws.” 90 FR 17537 (April 28, 2025); 45 FR 72995 (Nov. 4, 1980).

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A) and for which no notice or hearing is required by statute. Additionally, this action is not a “substantive rule” for which a 30-day delay in effective date is required under 5 U.S.C. 553(d).

Signing Authority

This document of the Department of Energy was signed on June 29, 2026, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 29, 2026.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026-13304 Filed 6-30-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA-2026-3768; Special Conditions No. 25-891-SC]

Special Conditions: AMAC Aerospace, The Boeing Company Model 747-8 Airplane; Side-Facing Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for The Boeing Company (Boeing) Model 747-8 airplane. This airplane, as modified by AMAC Aerospace (AMAC), will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature is side-facing, single-occupant and multiple-occupant seats. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on AMAC on July 1, 2026. Send comments on or before August 17, 2026.

ADDRESSES: Send comments identified by Docket No. FAA-2026-3768 using any of the following methods:

- **Federal eRegulations Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- **Fax:** Fax comments to Docket Operations at 202-493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200

New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Perrin, Cabin Safety section, AIR-624, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, Texas 76177; telephone and fax (817) 222-5847; email Michael.J.Perrin@faa.gov.

SUPPLEMENTARY INFORMATION: The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received without change to www.regulations.gov, including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, 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 the indicated comments will not be placed in the public docket of these proposed special conditions. Send submissions containing CBI to the individual listed in the For Further Information Contact section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

Background

On May 28, 2025, AMAC applied for a supplemental type certificate for an executive interior installation on a Boeing 747–8 airplane. This airplane will have side-facing, single- and multiple-occupant seats. The Boeing Model 747–8 airplane, currently approved under Type Certificate No. A20WE, is a four engine transport category airplane. The airplane, as modified by AMAC, will have a maximum seating capacity for 89 passengers, 14 crew members, and a maximum take-off weight of 975,000 pounds.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, AMAC must show that the Boeing Model 747–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. A20WE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 747–8 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 747–8 airplane must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 747–8 airplane will incorporate the following novel or unusual design feature:

An executive interior installation on a Boeing 747–8 airplane with side-facing, single-occupant and multiple-occupant seats.

Discussion

Section 25.785(b), requires that each seat, safety belt, harness, and adjacent part of the airplane at each station designated as occupiable during takeoff and landing must be designed so that a person making proper use of these facilities will not suffer serious injury in an emergency landing as a result of the inertia forces specified in §§ 25.561 and 25.562. Additionally, § 25.562 requires dynamic testing of all seats occupied during takeoff and landing. The relative forces and injury mechanisms affecting the occupants of side-facing seats during an emergency landing are different from those of standard forward or aft-facing seats, given the different side loading conditions imposed upon the occupant. Therefore, the FAA has determined that, in addition to the requirements of part 21 and part 25, these special conditions are needed to address this seat installation.

The European Union Aviation Safety Agency (EASA) issued a supplemental type certificate (STC) to AMAC for the installation of side facing seats on a Boeing 747–8 airplane and now AMAC is seeking an FAA STC via validation. EASA issued special conditions applicable to AMAC's seating arrangement that directly align with the occupant protection requirements in title 14, Code of Federal Regulations (14 CFR) Special Federal Regulation (SFAR) 109, paragraph (4)(b), for multiple occupancy side-facing seats. The occupant protection criteria of SFAR 109 paragraph (4)(b), is independent of the number of occupants in the cabin. Applying this SFAR 109 paragraph (4)(b) criteria, in addition to criteria in existing requirements, provides an adequate level of safety for occupants of these side-facing seats.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–8 airplane. Should AMAC apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A20WE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on one model of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701, 44702, and 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for Boeing Model 747–8, as modified by AMAC.

In addition to the airworthiness standards in §§ 25.562 and 25.785, the following special conditions provide injury criteria and installation/testing guidelines that represent the minimum acceptable airworthiness standard for side-facing, single-occupant and multiple-occupant seats:

(1) Injury Criteria

(a) *Existing Criteria:* All injury protection criteria of § 25.562(c)(1) through (c)(6) apply to an occupant of a side-facing seat. Head-injury criterion (HIC) assessments are only required for head contact with the seat and/or adjacent structures.

(b) *Body-to-Wall/Furnishing Contact:* If the seat is installed aft of a structure, such as an interior wall or furnishing, that may contact the pelvis, upper arm, chest, or head of an occupant seated next to the structure, a conservative representation of the structure and its stiffness must be included in the tests. It is recommended, but not required, that the contact surface of this structure be covered with at least two inches of energy-absorbing protective padding (foam or equivalent) such as Ensolite.

(c) *Body-to-Body Contact*: Contact between the head, pelvis, torso or shoulder area of one anthropomorphic test dummy (ATD) with the adjacent seated ATD's head, pelvis, torso or shoulder area is not allowed during the tests conducted in accordance with § 25.562(b)(1) and (b)(2). Contact during rebound is allowed.

(d) *Thoracic Trauma*: Thoracic trauma index (TTI) injury criterion must be substantiated by dynamic test or by rational analysis based on previous test(s) of a similar seat installation. Testing must be conducted with a side impact dummy (SID) anthropomorphic test device (ATD), as defined by title 49 CFR part 572, subpart F, or its equivalent. TTI must be less than 85, as defined in part 572, subpart F. SID TTI data must be processed as defined in Federal Motor Vehicle Safety Standard (FMVSS) part 571.214, section S6.13.5.

(e) *Pelvis*: Lateral pelvic acceleration must be shown not to exceed 130g by dynamic test or by rational analysis based on previous test(s) of a similar seat installation. Pelvic acceleration data must be processed as defined in FMVSS part 571.214, section S6.13.5.

(f) *Shoulder Strap Loads*: Where upper-torso straps (shoulder straps) are used for occupants, tension loads in individual straps must not exceed 1,750 pounds. If dual straps are used for restraining the upper torso, the total strap-tension loads must not exceed 2,000 pounds.

(2) General Test Guidelines

(a) One longitudinal test with the SID ATD or its equivalent, undeformed floor, no yaw, and with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: TTI and pelvic acceleration.

(b) One longitudinal test with the Hybrid II ATD, deformed floor, with 10 degrees yaw, and with all lateral structural supports (armrests/walls).

Pass/fail injury assessments: HIC; and upper-torso-restraint load, restraint-system retention, and pelvic acceleration.

(c) A vertical (14G) test is to be conducted with modified Hybrid II ATD with existing pass/fail criteria.

Issued in Des Moines, Washington, on June 26, 2026.

Paul R. Siegmund,

Deputy Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

[FR Doc. 2026-13280 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2026-4660; Project Identifier AD-2026-00423-T; Amendment 39-23387; AD 2026-13-05]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2026-04-05, which applied to all The Boeing Company Model 737-8, 737-9, and 737-8200 airplanes. AD 2026-04-05 required revising the existing airplane flight manual (AFM) to provide the flightcrew with operating procedures (non-normal checklists) if a certain circuit breaker in the standby power control unit (SPCU) trips. Since the FAA issued AD 2026-04-05, the FAA has determined that additional revisions to the AFM are necessary to address certain environmental control system (ECS) circuit breakers downstream of the SPCU that could also trip. This AD retains the requirements of AD 2026-04-05 and requires revising the existing AFM to provide the flightcrew with operating procedures (non-normal checklists) if certain ECS circuit breakers trip. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 16, 2026.

The FAA must receive comments on this AD by August 17, 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) by searching for and locating Docket No. FAA-2026-4660; 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 street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT:

Derrick Herrera, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5140; email: derrick.r.herrera@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include "Docket No. FAA-2026-4660 and Project Identifier AD-2026-00423-T" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Derrick Herrera, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817-222-5140; email: derrick.r.herrera@faa.gov. Any commentary that the FAA receives that is not specifically

designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2026–04–05, Amendment 39–23265 (91 FR 8708, February 24, 2026) (AD 2026–04–05), for all The Boeing Company Model 737–8, 737–9, and 737–8200 airplanes. AD 2026–04–05 required revising the existing AFM to provide the flightcrew with operating procedures (non-normal checklists) if a certain circuit breaker in the SPCU trips. AD 2026–04–05 was prompted by reports of in-flight events of excessive cabin and flight deck temperatures that could not be controlled by the flightcrew using existing procedures. The FAA issued AD 2026–04–05 to address a tripped BAT BUS SECT 2 circuit breaker that could lead to an air conditioning system malfunction causing an uncontrollable, excessively high temperature in the cabin and flight deck. The unsafe condition, if not addressed, could lead to injury or incapacitation of flightcrew and passengers, which could result in the inability to maintain safe flight and landing.

Actions Since AD 2026–04–05 Was Issued

The preamble to AD 2026–04–05 specifies that the FAA considers that AD to be an interim action and that the FAA might consider further rulemaking to provide flightcrew procedures for addressing tripped ECS circuit breakers. Since the FAA issued AD 2026–04–05, the manufacturer has developed flightcrew procedures for addressing tripped ECS circuit breakers, and the FAA has determined that further rulemaking is necessary. The FAA is issuing this AD to address the unsafe condition on these products.

Explanation of Existing AFM Procedures and Procedures Required by This AD

This AD provides flightcrew procedures for a controlled descent, an attempt to reset the tripped BAT BUS SECT 2 or ECS circuit breakers, as applicable, and, if the attempt is unsuccessful, selecting engine bleed

switches OFF. This AD includes five AFM procedures, as follows:

- Cabin Temperature Hot procedure, as shown in appendices 1 (retained from AD 2026–04–05) and 4 (revised from AD 2026–04–05) of this AD;
- Cabin Temperature Hot BAT BUS Sect 2 Circuit Breaker Trips procedure, as shown in appendix 2 of this AD (retained from AD 2026–04–05);
- PACK procedure, as shown in appendix 3 of this AD (retained from AD 2026–04–05);
- Cabin Temperature Hot PACK CONT VALVES RIGHT or LEFT Circuit Breaker Trips, as shown in appendix 5 of this AD (new since AD 2026–04–05); and
- ZONE TEMP procedure, which currently exists in the quick reference handbook (QRH) but not in the existing AFM, as shown in appendix 6 of this AD (new since AD 2026–04–05).

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD retains all requirements of AD 2026–04–05. This AD also requires revising the Operating Procedures section of the existing AFM to provide the flightcrew with non-normal checklists if the ECS circuit breakers downstream of the SPCU trip.

Interim Action

The FAA considers this AD to be an interim action. The manufacturer is currently developing a modification to address the unsafe condition identified in this AD. Once this modification is developed, FAA-approved, and available, the FAA might consider additional rulemaking.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because a tripped BAT BUS SECT 2 or ECS circuit breaker, and resulting effects on the cabin environment that cannot be controlled via normal procedures, could lead to injury or incapacitation of flightcrew and passengers, which could result in the inability to maintain safe flight and landing. Additionally, the compliance time in this AD is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 825 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
AFM Revision (retained actions from AD 2026–04–05).	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$70,125
AFM Revision (new AD action)	1 work-hour × \$85 per hour = \$85	0	85	70,125

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directive (AD) 2026–04–05, Amendment 39–23265 (91 FR 8708, February 24, 2026); and
 - b. Adding the following new AD:

2026–13–05 The Boeing Company: Amendment 39–23387; Docket No. FAA–2026–4660; Project Identifier AD–2026–00423–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 16, 2026.

(b) Affected ADs

This AD replaces AD 2026–04–05, Amendment 39–23265 (91 FR 8708, February 24, 2026) (AD 2026–04–05).

(c) Applicability

This AD applies to all The Boeing Company Model 737–8, 737–9, and 737–8200 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air conditioning.

(e) Unsafe Condition

This AD was prompted by reports of in-flight events of excessive cabin and flight deck temperatures that could not be controlled by the flightcrew using existing procedures. The FAA is issuing this AD to address a tripped BAT BUS SECT 2 or environmental control systems (ECS) circuit breaker that could lead to an air conditioning system malfunction causing an uncontrollable, excessively high temperature in the cabin and flight deck. The unsafe condition, if not addressed, could lead to injury or incapacitation of flightcrew and passengers, which could result in the inability to maintain safe flight and landing.

(f) Compliance

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

(g) Retained Revision of Existing Airplane Flight Manual (AFM), With a New Terminating Action for Appendix 1

This paragraph restates the requirements of paragraph (g) of AD 2026–04–05, with a new terminating action for appendix 1 of this AD. Within 30 days after February 24, 2026 (the effective date of AD 2026–04–05), revise the Operating Procedures section of the existing AFM to include the information specified in appendices 1 through 3 of this AD. This may be done by inserting a copy of appendices 1 through 3 of this AD into the AFM. Accomplishing the revision of the existing AFM required by paragraph (h)(1) of this AD

terminates the requirement of this paragraph to include the information specified in appendix 1 of this AD in the existing AFM.

(h) New Revision of Existing AFM

Within 30 days after the effective date of this AD, revise the Operating Procedures section of the existing AFM as required in paragraphs (h)(1) and (2) of this AD.

(1) Replace the information specified in appendix 1 of this AD with the information specified in appendix 4 of this AD. This may be done by removing a copy of appendix 1 of this AD from the existing AFM and inserting a copy of appendix 4 of this AD into the existing AFM. Accomplishing the revision required by this paragraph terminates the requirement of paragraph (g) of this AD to include the information specified in appendix 1 of this AD in the existing AFM.

(2) Include the information specified in appendices 5 and 6 of this AD. This may be done by inserting a copy of appendices 5 and 6 of this AD into the existing AFM.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) 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.

(j) Additional Information

For more information about this AD, contact Derrick Herrera, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5140; email: derrick.r.herrera@faa.gov.

(k) Material Incorporated by Reference

None.

BILLING CODE 4910–13–P

Appendix 1 of AD 2026-13-05 - Cabin Temperature Hot Procedure

(As Required by AD 2026-04-05)

Cabin Temperature Hot

Condition: Flight deck or passenger cabin temperature is excessively hot.
The temperature can cause incapacitation.

Objective: To regain temperature control. If unable to regain control, to descend and configure to provide alternate ventilation.

1. Choose one:

- BAT BUS SECT 2 circuit breaker is tripped:

Plan to land at the nearest suitable airport.

Note: The BAT BUS SECT 2 circuit breaker is located on the P-6 SPCU panel behind the First Officer and near the R3 window.

Go to the Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips procedure.

End of Procedure.

- BAT BUS SECT 2 circuit breaker is **not** tripped:

Go to step 2

2. Choose one:

- Flight deck temperature is excessively hot:

Go to step 3

- Passenger cabin temperature is excessively hot:

Go to step 10

3. TRIM AIR switch OFF

4. Wait 1 minute.

5. Choose one:

- Air from the flight deck outlets is still **excessively hot**:

Go to step 6

- Air from the flight deck outlets is **becoming cooler**:

The flight deck temperature gradually cools.

Continued on next page

Section Cabin Temperature Hot, continued from previous page

End of Procedure.

6. ISOLATION VALVE switch CLOSE

7. L PACK switch OFF

8. Wait 1 minute.

9. Choose one:

- Air from the flight deck outlets is still **excessively hot**:

Go to step 17

- Air from the flight deck outlets is **becoming cooler**:

The flight deck temperature gradually cools.

End of Procedure.

10. TRIM AIR switch OFF

11. Wait 1 minute.

12. Choose one:

- Air from the passenger cabin outlets is still **too warm**:

Go to step 13

- Air from the passenger cabin outlets is **cool**:

The passenger cabin temperature gradually cools.

End of Procedure.

13. ISOLATION VALVE switch CLOSE

14. R PACK switch OFF

15. Wait 1 minute.

16. Choose one:

- Air from the passenger cabin outlets is still **too warm**:

Go to step 17

Continued on next page

Section Cabin Temperature Hot, continued from previous page

- Air from the passenger cabin outlets is cool:

The passenger cabin temperature gradually cools.

End of Procedure.

17. Start a descent to the lowest safe altitude, or 10,000 feet, whichever is higher. Use the speedbrakes to increase the rate of descent, if needed. Monitor cabin altitude and rate.

18. R RECIRC FAN switch AUTO

19. L RECIRC FAN switch OFF

20. Minimize the flight deck lighting intensity.

21. Open the flight deck door.

22. During daylight:

Use flight deck window shades, as needed.

Instruct the cabin crew to close cabin window shades.

23. Instruct the cabin crew to turn off in-flight entertainment systems (if installed).

24. Advise the cabin crew that the cabin lighting will be extinguished, but passenger reading lights will continue to work.

25. CAB/UTIL switch (if installed) OFF

26. IFE/PASS SEAT switch (if installed) OFF

27. GALLEY switch (if installed) OFF

28. When at level off:

Maintain 290 knots minimum. Flight deck and passenger cabin temperatures can increase rapidly at speeds below 290 knots.

29. Choose one:

- Airplane altitude is at or below 10,000 feet:

Go to step 30

- Airplane altitude is above 10,000 feet:

Don oxygen masks.

Continued on next page

Section Cabin Temperature Hot, continued from previous page

Establish crew communications.

Go to step 30

30. PACK switch (operating pack) OFF

Do **not** accomplish the following procedure:

PACK

31. Pressurization mode selector MAN

32. **Precaution!** Use momentary actuation of the outflow valve switch to avoid large and rapid pressurization changes.

Outflow VALVE switch Move to OPEN until the outflow VALVE indication shows fully open

This step increases airplane ventilation.

33. Plan to land at the nearest suitable airport.

End of Procedure.

Appendix 2 to AD 2026-13-05 - Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips Procedure

(As Required by AD 2026-04-05)

Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips

If A/P B is engaged, the red A/P P/RST disengage warning light illuminates.

Also, all of the following amber caution lights illuminate:

- PACK (both)
- STANDBY PWR OFF
- REVERSER LIMITED (Engine 2)
- ZONE TEMP (CONT, FWD and AFT)

Condition: BAT BUS SECT 2 circuit breaker is tripped resulting in excessive cabin and flight deck temperatures.

1. Plan to land at the nearest suitable airport.
2. Start a descent to the lowest safe altitude or 10,000 feet, whichever is higher.
3. Wait approximately 2 minutes after the BAT BUS SECT 2 circuit breaker trips. The 2 minutes begin when the Master Caution and the related flight deck effects initially occur.

Caution! After waiting 2 minutes, do not delay resetting the circuit breaker to ensure the cabin and flight deck temperatures do not continue to increase and become excessively hot.

4. **Precaution!** When the BAT BUS SECT 2 circuit breaker is reset, pack overheat protection is restored. This closes one or both pack valves if a pack overheat condition is present. If both pack valves close, cabin and flight deck airflow supply stops and cabin altitude begins to climb.

BAT BUS SECT 2 circuit breaker Reset

Caution! Do not reset circuit breaker more than one time.

5. Monitor cabin altitude

6. If at anytime a cabin altitude warning occurs:

Go to the **CABIN ALTITUDE WARNING** or **Rapid Depressurization** procedure

7. Choose one:

- BAT BUS SECT 2 circuit breaker trips again:

Cabin and flight deck temperatures cannot be controlled and become excessively hot.

Go to step 10

- BAT BUS SECT 2 circuit breaker does not trip again:

Go to step 8

8. If at anytime the BAT BUS SECT 2 circuit breaker subsequently trips during the flight, return to step 10 of this procedure.

Continued on next page

Section Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips, continued from previous page

9. If one or both pack lights illuminate:
Go to the PACK procedure

Note: Even if one or both packs reset, plan to land at the nearest suitable airport.

End of Procedure.

10. BLEED air switches (both) OFF

This step prevents hot air from entering the cabin and flight deck.
This step also causes a loss of cabin pressure.

11. APU switch OFF

Caution! Do not run the APU. An APU fire would not be detected and the APU would continue to run.

12. Avoid icing conditions where wing anti-ice is needed.

13. Establish alternate interphone communications.

The airplane interphone, call system (chimes) and Passenger Address (PA) are inoperative.

Note: Consider opening the flight deck door for crew communication.

14. Pressurization mode selector AUTO or ALTN

Select AUTO unless the automatic pressurization mode has failed.

15. After level off, set the Landing Altitude (LAND ALT) indicator to 1,000 feet above airplane altitude.

This step opens the outflow valve causing the cabin altitude to climb and improves airplane ventilation.

Note: Do not reset the pressurization to the landing altitude to ensure the outflow valve remains open.

16. After level off, maintain 290 KIAS minimum.

This step prevents cabin and flight deck temperatures from increasing. It also ventilates hot air from the cabin and flight deck through the open outflow valve.

Note: Cabin and flight deck temperatures can increase with a high passenger count.

17. Avoid high rates of descent for passenger comfort.

18. Do **not** accomplish the following procedures:

Cabin Temperature Hot

Continued on next page

Section Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips, continued from previous
page

PACK

ZONE TEMP

19. Review all warning lights, caution lights and other alerts, and do other procedures as needed.

End of Procedure.

Appendix 3 of AD 2026-13-05 - PACK Procedure**(As Required by AD 2026-04-05)****PACK**

The amber **PACK** caution light illuminates.

Condition: One or more of these occur:

- The primary and standby pack controls are failed
- A pack overheat
- A flow control valve failed closed
- An incorrect pack switch configuration after takeoff.

1. Choose one:

- **Both** **PACK** lights are **illuminated**:

Go to step 2

- A **single** **PACK** light is **illuminated**:

Go to step 7

2. Choose one:

- **Both** **PACK** switches are in the **OFF** position:

Go to step 3

- A **single** or **both** **PACK** switches are in the **AUTO** or **HIGH** position:

Go to step 7

3. L **PACK** switch **AUTO**

4. ISOLATION VALVE switch Verify **AUTO**

5. **Precaution!** Allow cabin rate to stabilize before placing R **PACK** switch to **AUTO**.

R **PACK** switch **AUTO**

6. Choose one:

- **Both** **PACK** lights are **extinguished**:

End of Procedure.

- A **single** or **both** **PACK** lights stay **illuminated**:

Go to step 7

7. Temperature selectors (all) Select warmer temperature

Continued on next page

Section PACK, continued from previous page

This step reduces the workload on the affected air conditioning pack.

8. TRIP RESET switch Push

If the PACK light illuminated as a result of the pack temperature exceeding limits, the light extinguishes if the pack temperature has cooled below limits.

9. Choose one:

- Both PACK lights are extinguished:

Continue normal operation.

End of Procedure.

- A single PACK light stays illuminated:

ISOLATION VALVE switch CLOSE

PACK switch (affected side) OFF

This causes the operating pack to regulate to high flow in flight with flaps up.

End of Procedure.

- Both PACK lights stay illuminated:

Note: Both pack valves may have closed resulting in a gradual loss of cabin pressure and an eventual CABIN ALTITUDE warning.

Go to step 10

10. Descend to the lowest safe altitude, or 10,000 feet, whichever is higher. Monitor cabin altitude and rate.

11. When at level off:

Maintain 290 knots minimum. Flight deck and cabin temperatures may increase rapidly at speeds below 290 knots.

12. Choose one:

- Airplane altitude is at or below 10,000 feet:

Go to step 13

- Airplane altitude is above 10,000 feet:

Continued on next page

Section PACK, continued from previous page

Don oxygen masks.

Establish crew communications.

Go to step 13

13. Pressurization mode selector MAN

14. **Precaution!** Use momentary actuation of the outflow valve switch to avoid large and rapid pressurization changes.

Outflow VALVE switch Move to OPEN until the outflow VALVE indication shows fully open

This step increases airplane ventilation.

15. R RECIRC FAN switch AUTO

16. L RECIRC FAN switch OFF

17. Minimize the flight deck lighting intensity.

18. Open the flight deck door.

19. **During daylight:**

Use flight deck window shades, as needed.

Instruct the cabin crew to close cabin window shades.

20. Advise the cabin crew that the cabin lighting will be extinguished, but passenger reading lights will continue to work.

21. CAB/UTIL switch (if installed) OFF

22. IFE/PASS SEAT switch (if installed) OFF

23. Plan to land at the nearest suitable airport.

End of Procedure.

Appendix 4 of AD 2026-13-05 - New Cabin Temperature Hot Procedure

(As Required by AD 2026-13-05)

Cabin Temperature Hot

Condition: Flight deck or passenger cabin temperature is excessively hot.
The temperature can cause incapacitation.

Objective: To regain temperature control. If unable to regain control, to descend and configure to provide alternate ventilation.

1. Choose one:

- BAT BUS SECT 2 circuit breaker is tripped:

Plan to land at the nearest suitable airport.

Note: The BAT BUS SECT 2 circuit breaker is located on the P6 SPCU panel behind the First Officer and near the R3 window.

Go to the Cabin Temperature Hot BAT BUS SECT 2 Circuit Breaker Trips procedure.

End of Procedure.

- BAT BUS SECT 2 circuit breaker is not tripped:

Go to step 2

2. Choose one:

- PACK CONT VALVES RIGHT or LEFT circuit breaker is tripped:

Note: The PACK CONT VALVES RIGHT or LEFT circuit breakers are located on the P6-4 panel behind the First Officer. The right is located at C5 and the left is at C6.

Go to the Cabin Temperature Hot PACK CONT VALVES RIGHT or LEFT Circuit Breaker Trips procedure.

End of Procedure.

- PACK CONT VALVES RIGHT and LEFT circuit breakers are not tripped:

Go to step 3

3. Choose one:

- Flight deck temperature is excessively hot:

Go to step 4

- Passenger cabin temperature is excessively hot:

Go to step 11

4. TRIM AIR switch OFF

Continued on next page

Section Cabin Temperature Hot, continued from previous page

5. Wait 1 minute.

6. Choose one:

- Air from the flight deck outlets is still excessively hot:

Go to step 7

- Air from the flight deck outlets is becoming cooler:

The flight deck temperature gradually cools.

End of Procedure.

7. ISOLATION VALVE switch CLOSE

8. L PACK switch OFF

9. Wait 1 minute.

10. Choose one:

- Air from the flight deck outlets is still excessively hot:

Go to step 18

- Air from the flight deck outlets is becoming cooler:

The flight deck temperature gradually cools.

End of Procedure.

11. TRIM AIR switch OFF

12. Wait 1 minute.

13. Choose one:

- Air from the passenger cabin outlets is still too warm:

Go to step 14

- Air from the passenger cabin outlets is cool:

The passenger cabin temperature gradually cools.

End of Procedure.

Continued on next page

Section Cabin Temperature Hot, continued from previous page

14. ISOLATION VALVE switch CLOSE

15. R PACK switch OFF

16. Wait 1 minute.

17. Choose one:

- Air from the passenger cabin outlets is still too warm:

Go to step 18

- Air from the passenger cabin outlets is cool:

The passenger cabin temperature gradually cools.

End of Procedure.

18. Start a descent to the lowest safe altitude, or 10,000 feet, whichever is higher. Use the speedbrakes to increase the rate of descent, if needed. Monitor cabin altitude and rate.

19. R RECIRC FAN switch AUTO

20. L RECIRC FAN switch OFF

21. Minimize the flight deck lighting intensity.

22. Open the flight deck door.

23. **During daylight:**

Use flight deck window shades, as needed.

Instruct the cabin crew to close cabin window shades.

24. Instruct the cabin crew to turn off in-flight entertainment systems (if installed).

25. Advise the cabin crew that the cabin lighting will be extinguished, but passenger reading lights will continue to work.

26. CAB/UTIL switch (if installed) OFF

27. IFE/PASS SEAT switch (if installed) OFF

28. GALLEY switch (if installed) OFF

29. **When at level off:**

Maintain 290 knots minimum. Flight deck and passenger cabin temperatures can increase rapidly at speeds below 290 knots.

Continued on next page

Section Cabin Temperature Hot, continued from previous page

30. Choose one:

- Airplane altitude is at or below 10,000 feet:

Go to step 31

- Airplane altitude is above 10,000 feet:

Don oxygen masks.

Establish crew communications.

Go to step 31

31. PACK switch (operating pack) OFF

Do not accomplish the following procedure:

PACK

32. Pressurization mode selector MAN

33. **Precaution!** Use momentary actuation of the outflow valve switch to avoid large and rapid pressurization changes.

Outflow VALVE switch Move to OPEN until the outflow VALVE indication shows fully open

This step increases airplane ventilation.

34. Plan to land at the nearest suitable airport.

End of Procedure.

Appendix 5 of AD 2026-13-05 - Cabin Temperature Hot PACK CONT

Section Cabin Temperature Hot PACK CONT VALVES RIGHT or LEFT Circuit Breaker Trips, continued from previous page

9. ISOLATION VALVE CLOSE

10. BLEED 1 air switch OFF

This step prevents hot air from entering the flight deck.

11. R PACK switch HIGH

Note: R PACK switch can remain in HIGH for approach and landing.

12. Open the flight deck door to ventilate flight deck with cooler cabin air, if needed.

Go to step 16

13. ISOLATION VALVE CLOSE

14. BLEED 2 air switch OFF

This step prevents hot air from entering the cabin.

15. L PACK switch HIGH

Note: L PACK switch can remain in HIGH for approach and landing.

16. Choose one:

- Cabin and flight deck temperatures can be controlled:

Go to step 17

- Cabin or flight deck temperature cannot be controlled:

Plan to land at the nearest suitable airport.

Go to step 17

17. Do not accomplish the following procedures:

Cabin Temperature Hot

PACK

ZONE TEMP

End of Procedure.

VALVES RIGHT or LEFT Circuit Breaker Trips Procedure

Appendix 6 of AD 2026-13-05 - ZONE TEMP procedure

(As Required by AD 2026-13-05)

ZONE TEMP

The amber **ZONE TEMP** caution light illuminates.

Condition: One or more of these occur:

- A zone duct overheat
- Flight deck temperature control is failed.

1. Temperature selector (affected cabin) Select a cooler temperature

This step prevents the trim air modulating valve from returning to an overheat condition.

2. TRIP RESET switch Push

The ZONE TEMP light extinguishes if the duct temperature has cooled below limits.

3. Monitor duct temperature.

If the duct temperature increases rapidly, set the TRIM AIR switch to OFF.

4. Choose one:

- Affected cabin temperature is excessively high:

Go to the Cabin Temperature Hot procedure.

End of Procedure.

- Affected cabin temperature is normal:

End of Procedure.

Issued on June 26, 2026.

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

[FR Doc. 2026–13241 Filed 6–29–26; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[DOT–OST–2025–0633]

RIN 2105–AF38

Procedures in Regulating and Enforcing Unfair or Deceptive Practices

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The U.S. Department of Transportation (Department or DOT) is amending its regulations regarding the hearing procedures available when the Department proposes a discretionary

aviation consumer protection rulemaking declaring a practice to be unfair or deceptive. This final rule revises the hearing procedures established in 2022 to align them with the more robust due process protections originally set forth in 2020, ensuring the use of neutral hearing officers and the issuance of formal findings of fact. Further, this rule rescinds the 2023 Clarification of Formal Enforcement Procedures, which specified that the Department is not limited to administrative proceedings before an Administrative Law Judge, but may also initiate civil enforcement actions in United States District Court. The Department now finds this clarification unnecessary and redundant because its authority to seek judicial enforcement is established clearly by statute.

DATES: Effective July 31, 2026.

FOR FURTHER INFORMATION CONTACT:

Robert Gorman, Beth Brodsky, or Blane Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590, 202–366–9342; robert.gorman@dot.gov; beth.brodsky@dot.gov; blane.workie@dot.gov (email).

SUPPLEMENTARY INFORMATION:**I. Background***A. The Unfair and Deceptive Practices (UDP) Statute and the Department's Recent Rulemakings*

The Department has authority under 49 U.S.C. 41712 (Section 41712) to investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice in air transportation or the sale of air transportation. Under Section 41712, after notice and an opportunity for a hearing, the Department has authority to order the regulated entity to stop the unfair or deceptive practice. Further, the Department can issue regulations to declare a practice to be unfair or deceptive under the rulemaking authority found in 49 U.S.C. 40113 (Section 40113), which states that the Department may take action, including prescribing regulations, it considers necessary to carry out Part A of Subtitle VII of Title 49 of the U.S. Code, which includes Section 41712.

On December 7, 2020, the Department published a final rule titled “Defining Unfair or Deceptive Practices” (2020 UDP Rule) in the **Federal Register**.¹ The 2020 UDP Rule was intended to provide stakeholders with greater clarity regarding the Department's enforcement and regulatory processes with respect to aviation consumer protection actions under Section 41712. Among other things, the 2020 UDP Rule defined the terms “unfair” and “deceptive” for purposes of Section 41712. The definitions were modeled after Federal Trade Commission (FTC) precedent; they also reflect the Department's longstanding interpretation of those terms.

The 2020 UDP Rule also set forth procedures the Department would use when conducting future discretionary rulemaking² and enforcement actions

under the authority of Section 41712. Specifically, under the 2020 UDP Rule, if the Department proposes a discretionary rule that would declare a practice to be unfair or deceptive, then interested parties have the right to request a hearing to challenge the technical, economic, or other assumptions that underlie the Department's proposed rule. These procedures were designed to ensure that discretionary consumer protection rules are grounded in a robust factual record, subjected to rigorous due process protections, and aligned with Section 41712, which requires notice and an opportunity for a hearing before the Department declares a practice to be unfair or deceptive.

On February 2, 2022, the Department issued a final rule titled “Procedures in Regulating Unfair or Deceptive Practices” (2022 UDP Rule),³ which modified these hearing procedures. The 2022 UDP Rule increased the burden of proof for granting a hearing from a “plausible” showing that the rule depended on disputed factual issues to a “clear and convincing” showing that a hearing is in the public interest. It also removed the requirement for a neutral officer to preside and issue formal findings of fact, requiring only that an officer provide minutes of the meeting. Furthermore, it eliminated the explicit right to cross-examine witnesses, granting the Department broad discretion over the level of party participation. These changes reduced the transparency of the process, including how the hearing actually influences the final regulation.

On August 29, 2022, the Department issued “Guidance Regarding Interpretation of Unfair or Deceptive Practices” (Guidance).⁴ The Guidance, which was issued without notice and comment, expounded on the definitions of “unfair” and “deceptive” found in the 2020 UDP Rule.

On June 16, 2023, the Department issued another final rule titled

If Congress specifically directed the Department to issue a rule finding a practice to be unfair or deceptive, then the hearing procedures described herein would not apply. *Id.*

³ U.S. Department of Transportation, Final Rule, “Procedures in Regulating Unfair or Deceptive Practices,” 87 FR 5655 (RIN 2105–AF03) (Docket DOT–OST–2021–0142) (Feb. 2, 2022), available at <https://www.federalregister.gov/documents/2022/02/02/2022-01589/procedures-in-regulating-unfair-or-deceptive-practices>.

⁴ U.S. Department of Transportation, Guidance Document, “Guidance Regarding Interpretation of Unfair or Deceptive Practices,” 87 FR 52677 (RIN 2105–ZA18) (Docket DOT–OST–2019–0182) (Aug. 29, 2022), available at <https://www.federalregister.gov/documents/2022/08/29/2022-18170/guidance-regarding-interpretation-of-unfair-and-deceptive-practices>.

“Clarification of Formal Enforcement Procedures for Unfair or Deceptive Practices” (Clarification).⁵ At that time, the Department determined it was necessary to clarify that, when taking enforcement action, the Department is not limited to initiating a proceeding before an administrative law judge, but retains the option to bring a civil action in a United States District Court under its independent statutory authority.⁶

On April 3, 2025, the Department issued a Request for Information (RFI) titled “Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs.”⁷ The Department solicited information to identify regulations, guidance documents, paperwork, and other administrative burdens that can be modified or repealed, consistent with the law. In response to the RFI, industry stakeholders including Airlines for America (A4A), the International Air Transport Association (IATA), and United Airlines, as well as a libertarian think tank (Reason Foundation) recommended that the Department take action to reinstate the 2020 UDP hearing procedures, rescind the 2022 UDP Rule, and rescind the Guidance.

B. Notice of Proposed Rulemaking (NPRM)

On October 30, 2025, the Department issued an NPRM proposing changes in three areas of the UDP framework as described below.

1. Revision to UDP Hearing Procedures

As noted above, the 2020 UDP Rule set forth procedures that DOT would use to conduct hearings on future discretionary aviation protection rulemakings. The 2022 UDP Rule made significant changes to those procedures that increased the burden on stakeholders and reduced the formality of the proceedings. The 2025 NPRM proposed to revert these procedures

⁵ U.S. Department of Transportation, Final Rule, “Clarification of Formal Enforcement Procedures for Unfair or Deceptive Practices,” 88 FR 39352 (RIN 2105–AF18) (DOT–OST–2021–0142) (June 16, 2023), available at <https://www.federalregister.gov/documents/2023/06/16/2023-12845/clarification-of-formal-enforcement-procedures-for-unfair-and-deceptive-practices>.

⁶ The 2020 UDP Rule explained that the Department had the option of taking enforcement action by filing a complaint with a DOT ALJ, but that rule did not mention DOT's separate statutory authority (at 49 U.S.C. 46016 and 46107) to take action in U.S. District Court.

⁷ U.S. Department of Transportation, Request for Information, “Ensuring Lawful Regulation; Reducing Regulation and Controlling Regulatory Costs,” 90 FR 14593 (Docket DOT–OST–2025–0026) (April 3, 2025), available at <https://www.federalregister.gov/documents/2025/04/03/2025-05557/ensuring-lawful-regulation-reducing-regulation-and-controlling-regulatory-costs>.

¹ See U.S. Department of Transportation, Final Rule, “Defining Unfair or Deceptive Practices,” 85 FR 78707 (RIN 2105–AE72) (Docket DOT–OST–2019–0182) (Dec. 7, 2020), available at <https://www.transportation.gov/sites/dot.gov/files/2020-12/Defining%20Unfair%20or%20Deceptive%20Practices%20Final%20Rule%20-%202085%20FR%20278707.pdf>.

² Discretionary rulemakings are ones that are not specifically required by statute. 14 CFR 399.75(b).

back to the 2020 standards, with minor modifications.

a. Standard for Granting a Hearing

The 2020 UDP Rule allowed for a hearing if a petitioner showed that: “(i) the proposed rule depends on conclusions concerning one or more specific scientific, technical, economic, or other factual issues that are genuinely in dispute or that may not satisfy the requirements of the Information Quality Act; (ii) the ordinary public comment process is unlikely to provide an adequate examination of the issues to permit a fully informed judgment; and (iii) the resolution of the disputed factual issues would likely have a material effect on the costs and benefits of the proposed rule.”

In contrast, the 2022 UDP Rule allowed for a hearing to be granted if the General Counsel found that a hearing was in the public interest. Factors to be considered in determining whether a hearing was in the public interest included, but were not limited to the first three factors set forth above, along with “whether the requested hearing would advance the consideration of the proposed rule and the General Counsel’s ability to make the rulemaking determinations required by this section” and “whether the hearing would unreasonably delay completion of the rulemaking.” The 2025 NPRM proposed to reinstate the original three-part test.

b. Level of Proof for Granting a Hearing

The 2020 UDP Rule required a petitioner to establish a “plausible *prima facie* case” that the three factors for granting a hearing were met. The 2022 UDP Rule made it more difficult to obtain a hearing by requiring the petitioner to establish a “clear and convincing showing” that a hearing was in the public interest. The 2025 NPRM proposed a return to the “plausible *prima facie* case” standard.

c. Explaining the Rationale for Granting or Denying a Hearing; Appeal Rights

The 2020 UDP Rule required a written explanation from the DOT General Counsel only when a hearing was denied. The 2022 UDP Rule expanded this requirement to include a written explanation for *granting* a hearing. The 2025 NPRM proposed reverting to the 2020 standard, requiring an explanation only for denial. For the first time, the Department added a proposal that if the General Counsel denied the petition in whole or in part, that decision may be appealed to the Secretary within 30 days.

d. Qualifications of Hearing Officer

The 2020 UDP Rule required the General Counsel to appoint a “neutral officer” to conduct the hearing. The 2022 UDP Rule removed the word “neutral,” thereby allowing the General Counsel to appoint an officer from the Department’s Office of Aviation Consumer Protection (OACP), the office that typically drafts the consumer protection rules, to preside. The 2025 NPRM proposed to reinstate the neutral officer requirement.

e. Conduct of the Hearing

The 2020 UDP Rule required the hearing officer to provide a “reasonable opportunity to participate in the hearing through the presentation of testimony and written submissions.”

The 2022 UDP rule weakened the rights of participants by eliminating the guarantee that they could present testimony and written submissions. The 2025 NPRM proposed to reinstate these participation rights at the hearing.

f. Issuance of Proposed Findings of Fact

The 2020 UDP Rule required the hearing officer to “place on the docket minutes of the hearing with sufficient detail as to fully reflect the evidence and arguments presented on the issues, along with proposed findings addressing the disputed issues of fact identified in the hearing notice.” The 2022 UDP Rule eliminated this requirement, requiring only minutes of the meeting. The 2025 NPRM proposed to reinstate the requirement for formal findings of fact.

g. Closing Procedures

The 2020 UDP Rule limited closing statements or comments on the docket to hearing participants. The 2022 UDP Rule allowed all “interested parties” to file comments, even if they had not participated in the hearing itself. The 2025 NPRM proposed to revert to the 2020 standard, limiting closing statements or comments on the docket to those who participated in the hearing.

In the 2025 NPRM, the Department explained that the 2022 UDP Rule was promulgated in response to Executive Orders that have since been rescinded and are inconsistent with current Department and Administration policy. We noted that the 2022 UDP Rule was based on the stated goal of streamlining the hearing procedures to allow the Department greater efficiency and flexibility to issue the underlying consumer protection rules without being “bogged down by overly prescriptive procedural constraints.”⁸

⁸ 87 FR 5655, 5657.

We stated that we have now reconsidered these justifications for the 2022 rulemaking and support the recodification of the 2020 procedures. We found that “any delay associated with following the 2020 procedures for applicable discretionary rulemakings would not only be minimal, based on past practice with these procedures, but also would be outweighed by the Department’s development of higher quality rulemakings and enforcement actions. The Department produces its best work when it is informed by robust public input, the best available data, and sound law and economics, and these procedures increase opportunities to receive those essential building blocks for good governance that would strengthen the overall quality and fairness of the Department’s administrative actions.”⁹

2. Revocation of 2023 Clarification

The Department proposed to revoke the 2023 Clarification regarding enforcement action in U.S. District Court. The Department found this clarification unnecessary, as its “authority to bring an action in the United States District Court to enforce Section 41712 is grounded in statute, settled, and does not need to be clarified.”¹⁰

3. Consolidation of Similar Provisions; Planned Revocation of Guidance

Finally, the Department proposed to consolidate 14 CFR 399.75(a) and (d) into a single section to improve clarity and administrative efficiency. 14 CFR 399.75(a) states that the Department must use the definitions of “unfair” and “deceptive” set forth in § 399.79 when it issues a proposed or final regulation declaring a practice in air transportation or the sale of air transportation to be unfair or deceptive to consumers under the authority of 49 U.S.C. 41712(a), unless the regulation is specifically required by statute. Per 14 CFR 399.75(d), the Department’s rulemaking must “articulate the basis” for its conclusions that a practice is unfair or deceptive, using those definitions. The 2025 NPRM also expressed the Department’s intent to revoke the 2022 Guidance “at a later date” (*i.e.*, in a separate rulemaking proceeding) because it was unnecessary, potentially confusing, and issued without notice and comment.¹¹

⁹ 90 FR 48849–48852.

¹⁰ *Id.* at 48852.

¹¹ *Id.* at 48851. A separate proceeding is necessary because the Office of the Federal Register has indicated that agencies cannot amend two distinct parts of the **Federal Register** in the same rulemaking document.

C. NPRM Comments

The Department received 15 comments on the NPRM. Eight were from individuals who generally supported the proposed rule as offering sensible due process protections, although one cautioned that more rigid hearing procedures could slow down rulemaking, potentially to the detriment of consumers.

Industry and Policy Groups

A4A and IATA supported the NPRM. A4A expressed the view that the proposal would “ensure rulemakings are fully informed and give stakeholders a fair opportunity to participate in the regulatory process.”¹² They specifically endorsed the transparency of the proposed hearing process, the appointment of a neutral hearing officer, the ability of participants to address the hearing officer’s findings, and the consolidation of subsections 399.75(a) and (d).¹³ However, A4A recommended that the Department retain explicit consideration of potential delays to a rulemaking caused by a hearing. A4A also recommended limiting participation by interested parties to the factual issues specified in the hearing notice and requiring parties to submit a brief statement in advance describing the testimony or written submission that will be presented to the Department and its pertinence to the factual issues specified in the notice. They argued that this is necessary to prevent hearings from considering ancillary issues.¹⁴

IATA supported the NPRM and the Department’s broader deregulatory agenda. IATA specifically supported the more flexible “plausible” standard for obtaining a hearing; the appointment of a neutral officer; limiting comments on the officer’s hearings to those entities or individuals that participated in the hearing; the right of parties to appeal the denial of a hearing to the Secretary; and the consolidation of subsections 399.75(a) and (d). IATA argued that the standard for denying a hearing should focus on whether a hearing would advance the consideration of the proposed rule, rather than whether it would cause unreasonably delay in the rulemaking.

The Reason Foundation and the Center for Regulatory Freedom (CRF) also supported the NPRM. The Reason Foundation argued that rigorous

procedures modeled after FTC’s regime are necessary to avoid regulatory overreach and to ensure high-quality rules. Similarly, CRF argued that these procedures are a way of ensuring that DOT rulemakings are based on clear standards and a solid informational foundation, not “shifting policy priorities.” They argued that this is especially important to the airline industry, which is constantly innovating and evolving.¹⁵ They stressed the importance of regulatory certainty, particularly for small businesses. A4A, IATA, Reason Foundation, and CRF supported rescinding the 2022 UDP Rule, the 2022 Guidance, and the 2023 Clarification.

Consumer Advocates

The Department received various comments opposing the proposed rule. Samuel Levine, former director of the Bureau of Consumer Protection for FTC, argued that the proposed hearing procedures would significantly weaken the Department’s ability to issue timely aviation consumer protection rules in the future. He contended that the proposed rule should be read against the backdrop of the airline industry’s history of advocating for weakened consumer protection regulations and weakened DOT enforcement. Finally, he argued that the traditional notice-and-comment process set forth in the Administrative Procedure Act (APA) is sufficient to gather public input about proposed rules, without additional hearing procedures.

Seven consumer advocacy organizations¹⁶ filed a joint comment urging the Department to discontinue the NPRM. They argued that the Department has not identified an actual problem necessitating these changes, nor provided “sound economic principles and analysis supported by rigorous cost-benefit requirements and

data-driven decisions” to justify this rule, as required by DOT Order 2100.7.¹⁷ They contended that the procedural hurdles in the proposed rule increase regulatory burdens, rather than relieving them. The consumer advocacy organizations emphasized that discretionary aviation consumer protections enjoy bipartisan support and are beneficial to consumers. They noted that Congress already sets adequate procedural rulemaking protections in the APA and argued that additional procedural hurdles violate Congress’s command that DOT maintain a regulatory system “in which decisions are reached promptly.”¹⁸ Finally, they argued that if the procedures are retained, the Department should deny hearing requests from petitioners who failed meaningfully to participate in the initial notice-and-comment period.

Lastly, the Citizens Rulemaking Alliance (CRA) urged the Department to withdraw or revise the proposed rule, arguing that it may have significant adverse effects on small businesses because it may change how DOT enforces UDP principles. CRA argues that DOT should reconsider the effect of the rule under several statutes designed to protect small businesses from regulatory overreach.¹⁹

D. DOT Response

After reviewing the comments, the Department is finalizing the NPRM as proposed. We believe that the hearing procedures set forth in the NPRM afford appropriate due process protections to parties who request a hearing, while ensuring that discretionary UDP rulemakings are based on an adequate factual foundation. We also find that the new proposal to allow an appeal from denials of petitions for hearings ensures due process protections for stakeholders.

¹⁷ NCL at 1, citing <https://www.transportation.gov/mission/ensuring-reliance-upon-sound-economic-analysis-department-transportation-policies-programs> (January 29, 2025), paragraph 5.

¹⁸ *Id.* at 6, citing 49 U.S.C. 40101(a)(7) (the “Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity: . . . developing and maintaining a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—(A) the commerce of the United States; (B) the United States Postal Service; and (C) the national defense.”).

¹⁹ CRA at 1 (“While styled as ‘procedures, the rule alters the substantive risk environment, compliance expectations, and documentation obligations of thousands of small entities that fall within the statutory definition of ‘ticket agent,’ 49 U.S.C. 40102(a)(45), and numerous small air carriers.”)

¹² A4A at 2.

¹³ *Id.* at 2–3.

¹⁴ A4A also argued that DOT should clarify whether OACP takes enforcement action on a per-passenger basis or a per-flight basis. We note that this issue is beyond the scope of this NPRM, which focuses on hearing procedures.

¹⁵ CRF argued that the final rule should include a large number of “good government” principles for rulemaking and enforcement, such as using neutral hearing officers and limiting reliance on informal guidance documents. Some of those principles are already within the scope of this NPRM; some are already reflected in parts of the 2020 UDP Rule which have never changed; and others are reflected in other recent documents such as OACP’s Notice of Proposed Guidance regarding enforcement matters (91 FR 385 (January 6, 2026), available at <https://www.federalregister.gov/documents/2026/01/06/2025-24282/notice-regarding-investigatory-and-enforcement-policies-and-procedures-of-the-office-of-aviation> and DOT’s proposed revisions to 49 CFR part 5 (90 FR 20956 (May 16, 2025); available at <https://www.federalregister.gov/documents/2025/05/16/2025-08724/administrative-rulemaking-guidance-and-enforcement-procedures>).

¹⁶ National Consumers League (NCL), American Economic Liberties Project, Consumer Action, Consumer Federation of America, FlyersRights, Travelers United, and U.S. PIRG.

Burden and Small Business Impact

We disagree with the contention that this rulemaking increases regulatory burdens or violates DOT Order 2100.7. As we explain in the Regulatory Analysis, this rule is strictly one of internal DOT procedure. It does not impose substantive compliance costs on regulated entities; rather it requires the Department to engage in more formalized hearing procedures to improve the quality of its regulations. For the same reasons, we disagree with CRA that the rule substantively burdens small businesses.

Value of Codifying Procedures

While we agree that the hearing procedures set forth in the NPRM are not required by the APA, there is a statutory basis for them. Section 41712 provides for notice and an opportunity for a hearing before the Secretary may order an air carrier, foreign air carrier, or ticket agent to stop an unfair or deceptive practice. While Section 41712 does not prescribe specific procedures that the Department must use for its hearings, the proposed hearing procedures were developed by the Department to increase public participation in matters of significant economic and technical importance. Prior to 2020, the Department occasionally held hearings in connection with various rulemakings; however, those procedures were not codified in regulation and were conducted on an ad hoc basis. Codifying these procedures provides transparency and certainty for all stakeholders.

Marginal Delay in Rulemakings

We disagree with the suggestion that hearings are designed to delay rulemakings unduly. Recent DOT experience with public hearings demonstrated that such proceedings can improve the regulatory record without preventing the timely publication of a final rule.²⁰ Furthermore, the Department is eliminating the principle from the 2022 UDP rule that hearings may be denied based on a generalized public-interest test, which includes consideration of “whether the hearing would unreasonably delay completion of the rulemaking.”²¹ In the Department’s view, if the petitioner meets the three-part factual test, then a hearing is warranted and worth the wait. The value of a higher quality, more defensible rule based on robust data

outweighs the marginal delay of the hearing itself.

Participation Standards

Finally, we find it unnecessary automatically to “deny hearing requests from petitioners who did not substantively participate in the public comment period.”²² Because a petition for a hearing must be filed “before the close of the comment period,”²³ the petition itself constitutes participation. The General Counsel retains the discretion to deny petitions that are superficial or fail to meet the plausible prima facie standard.

We also remain firm in our decision to revoke the 2023 Clarification as unnecessary and redundant, and to consolidate sections 399.75(a) and (d) for improved administrative efficiency. As we indicated in the NPRM, we also intend to revoke the 2022 Guidance in a separate rulemaking.

Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review)

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. This rule primarily involves agency procedure and interpretation. By adopting enhanced procedures for future rulemaking activities, the Department ensures that its actions are rooted in fairness, due process, and an adequate factual foundation.

Under this rule, discretionary rulemakings are subject to a hearing procedure. This rule allows interested parties to request a hearing when the Department proposes a rule to classify a practice as unfair or deceptive; when the issuance of the NPRM raises one or more disputed scientific, technical, economic, or other complex factual issues; or when the NPRM may not satisfy the requirements of the Information Quality Act. Allowing interested parties an opportunity for a hearing ensures that they can test the information upon which discretionary consumer protection regulations rely.

The Department expects that requests for hearings will continue to occur occasionally when the Department issues discretionary aviation consumer protection rulemakings under its authority to regulate unfair or deceptive practices. This final rule revises the standard for granting a hearing by

returning to a “plausible prima facie” case standard, which should make it easier for regulated entities to request a hearing than the previous “clear and convincing showing” standard. While the Department lacks data allowing it to distinguish the costs and time of conducting the hearings from one hearing standard to the other, the Department believes that any incremental costs and time associated with the hearing procedure modifications contained in this final rule are small relative to the baseline scenario in which the Department had hearing procedures with less robust public participation mechanisms. Previous discretionary rulemakings involving unfair or deceptive practices in aviation consumer protection have attracted substantial interest from consumer advocates, airline industry advocates, and the general public. The Department previously engaged with these parties with both the benefit of a formal process and without a formal hearing process, and the Department expects that future hearings will require similar investments of time and resources by the Department and interested parties.

The Department has experience using hearing procedures to supplement traditional notice-and-comment rulemaking.²⁴ The hearing procedures provide consistency in the Department’s exercise of its UDP authority by mirroring the statute’s hearing requirement to ensure rulemakings enacted under the same authority ensure due process and are grounded in fairness and supported by an adequate factual foundation. The Department believes that its experience with hearings prevent it from leading to excessive delays in issuing aviation consumer protection rules.

This rule does not impose any more than *de minimis* regulatory costs. The rule provides an additional mechanism for industry to provide input to the Department on its discretionary aviation consumer protection rulemakings. Private industry should not experience more than minimal additional costs relative to the status quo because it already engages in significant

²⁰ See, e.g., Docket DOT–OST–2022–0089 (refund rule), available at <https://www.regulations.gov>.

²¹ See current 14 CFR 399.75(b)(2)(v).

²² NCL at 1.

²³ 14 CFR 399.75(b)(1), below.

²⁴ See, e.g., Recording of the Public Meeting on the Airline Ticket Refunds and Consumer Protections NPRM, available at https://www.transportation.gov/airconsumer/Airline_Refund_NPRM/March21_Public_Hearing_Recording (Mar. 21, 2023) (UDP rulemaking); and Accessible Lavatories on Single-Aisle Aircraft: Part 1; Reopening of Comment Period and Public Meeting, available at <https://www.federalregister.gov/documents/2021/11/19/2021-25000/accessible-lavatories-on-single-aisle-aircraft-part-1-reopening-of-comment-period-and-public-meeting> (Dec. 16, 2021) (civil rights rulemaking).

information exchange with the Department. Industry has the option of continuing to use historical mechanisms for providing input to discretionary aviation consumer protection and is not required to make use of the alternatives set forth in this rule. The Department should not experience significant additional costs because it has considerable experience conducting analysis in support of aviation consumer protection rules as well as hearings analogous to those in this rule. Such efforts are consistent with the Department's normal business operations, and any additional resources needed could be accommodated through a simple and temporary realignment of internal resources.

B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 14192 ("Unleashing Prosperity Through Deregulation"). This rule is not expected to be an Executive Order 14192 regulatory action because it is not significant under Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A direct air carrier or foreign air carrier is a small business if it provides air transportation only with small aircraft (*i.e.*, aircraft with up to 60 seats/18,000-pound payload capacity). *See* 14 CFR 399.73. The Department has determined that this rule does not have a significant economic impact on a substantial number of small entities.

D. Executive Order 13132 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The rule does not include any provision that: (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49 U.S.C. 41713. Therefore, the

consultation and funding requirements of Executive Order 13132 do not apply.

E. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this rule does not significantly or uniquely affect the communities of the Indian Tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

F. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. The DOT has determined there are no new information collection requirements associated with this rule.

G. Unfunded Mandates Reform Act

The Department has determined the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

H. National Environmental Policy Act

The Department has analyzed the environmental impacts of this rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined it is categorically excluded pursuant to DOT Order 5610.1D, "Procedures for Considering Environmental Impacts" (July 1, 2025). Categorical exclusions (CEs) are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* DOT Order 5610.1D § 9. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that warrant the preparation of an EA or EIS. *Id.* § 9(b). An Operating Administration (OA) of the Department may apply CEs established in another OA's procedures. *Id.* § 9(f). To do so, the OA "must evaluate the action for extraordinary circumstances identified in the OA procedures in which the CE

is established to determine if a normally excluded action may have a significant impact and coordinate with the originating OA to ensure that the CE is being applied correctly." *Id.* This rulemaking, which sets procedures for departmental unfair or deceptive practices rulemaking actions, is categorically excluded pursuant to 23 CFR 771.117(c)(20): "Promulgation of rules, regulations, and directives." The Department does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

I. Privacy Act

Anyone may search the electronic form of all comments received into any of OST's dockets by the name of the individual submitting the comment or signing the comment if submitted on behalf of an association, business, labor union, or any other entity. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8.

J. Statutory/Legal Authority for This Rulemaking

This rulemaking is issued under the authority of 49 U.S.C. 40113(a), which grants the Secretary the authority to take action the Secretary considers necessary to carry out 49 U.S.C. Subtitle VII (Aviation Programs), including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

K. Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in Spring and Fall of each year. The RIN set forth in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 399

Airfare advertising, Consumer protection, Rulemaking proceedings, Unfair or deceptive practices.

For the reasons set forth in the preamble, the Department of Transportation amends 14 CFR part 399 as follows:

PART 399—STATEMENTS OF GENERAL POLICY

■ 1. The authority citation for Part 399 is revised to read as follows:

Authority: 49 U.S.C. 41712, 40113(a).

Subpart F—Policies Relating to Rulemaking Proceedings

■ 2. Revise § 399.75 to read as follows:

§ 399.75 Rulemakings relating to unfair or deceptive practices.

(a) *General.* Unless specifically required by statute, the Department shall only issue a proposed or final regulation under the authority of 49 U.S.C. 41712(a) if the Department articulates the basis for declaring a practice in air transportation or the sale of air transportation to be unfair or deceptive to consumers, employing the definitions of “unfair” and “deceptive” set forth in § 399.79.

(b) *Procedural requirements.* Except as provided in paragraph (c), when issuing a proposed regulation to determine a practice in air transportation or the sale of air transportation to be unfair or deceptive to consumers under the authority of 49 U.S.C. 41712(a), the Department shall adhere to the following procedural requirements:

(1) *Request for a hearing.* Following publication of a proposed regulation, and before the close of the comment period, any interested party may file in the rulemaking docket a petition, directed to the General Counsel, to hold a hearing on the proposed regulation. The General Counsel shall determine whether to grant the petition in accordance with the requirements of this section.

(2) *Grant of petition for hearing.* Except as provided in paragraph (b)(3) of this section, the petition shall be granted if the petitioner makes a plausible *prima facie* showing that:

(i) The proposed rule depends on conclusions concerning one or more specific scientific, technical, economic, or other factual issue that is genuinely in dispute or that may not satisfy the requirements of the Information Quality Act (Section 515 of Pub. L. 106–554);

(ii) The ordinary public comment process is unlikely to provide an adequate examination of the issues to permit a fully informed judgment; and

(iii) The resolution of the disputed factual issues would likely have a material effect on the costs and benefits of the proposed rule.

(3) *Denial of petition for hearing.* A petition meeting the requirements of paragraph (b)(2) of this section may be denied if the General Counsel determines the requested hearing would not advance the consideration of the proposed rule and the General Counsel’s ability to make the rulemaking determinations required by this section.

(4) *Explanation and appeal of denial.* If a petition is denied in whole or in part, the General Counsel shall include a detailed explanation of the factual basis for the denial, including findings on each of the relevant factors identified in paragraph (b)(2) or (3) of this section. The General Counsel’s denial of a petition, in whole or in part, may be appealed by the petitioner to the Secretary within 30 days of the date on which the General Counsel’s explanation of the factual basis for the denial is issued.

(5) *Hearing notice.* If the General Counsel grants the petition, or if the denial of a petition is reversed on appeal to the Secretary, the General Counsel shall publish notification of the hearing in the **Federal Register**. The document shall specify the proposed rule at issue and the specific factual issues to be considered at the hearing. The scope of the hearing shall be limited to the factual issues specified in the notice.

(6) *Hearing process.* (i) A hearing under this section shall be conducted using procedures approved by the General Counsel, and interested parties shall have a reasonable opportunity to participate in the hearing through the presentation of testimony and written submissions.

(ii) The General Counsel shall arrange for a neutral officer to preside over the hearing and shall provide a reasonable opportunity to question the presenters.

(iii) After the hearing and after the record of the hearing is closed, the hearing officer shall place in the docket minutes of the hearing with sufficient detail as to reflect fully the evidence and arguments presented on the issues, along with proposed findings addressing the disputed issues of fact identified in the hearing notice.

(iv) Interested parties who participated in the hearing shall be given an opportunity to file statements of agreement or objection in response to the hearing officer’s proposed findings. The complete record of the hearing shall be made part of the rulemaking record.

(7) *Actions following hearing.* (i) Following the completion of the hearing process, the General Counsel shall consider the record of the hearing, including the hearing officer’s proposed findings, and shall make a reasoned determination whether to terminate the rulemaking, to proceed with the rulemaking as proposed, or to modify the proposed rule.

(ii) If the General Counsel decides to terminate the rulemaking, the General Counsel shall publish a document in the **Federal Register** announcing the

decision and explaining the reasons for the decision.

(iii) If the General Counsel decides to finalize the proposed rule without material modifications, the General Counsel shall explain the reasons for the decision and provide responses to the hearing record in the preamble to the final rule.

(iv) If the General Counsel decides to modify the proposed rule in material respects, the General Counsel shall publish a new or supplemental notice of proposed rulemaking in the **Federal Register** explaining the General Counsel’s responses to and analysis of the hearing record, setting forth the modifications to the proposed rule, and providing additional reasonable opportunity for public comment on the proposed modified rule.

(8) *Interagency review process.* The hearing procedures under this paragraph (b)(8) shall not impede or interfere with the interagency review process of the Office of Information and Regulatory Affairs for the proposed rulemaking.

(c) When issuing a proposed regulation under this section that is defined as high impact or economically significant within the meaning of DOT Order 2100.6B or 49 CFR part 5, the Department shall follow the procedural requirements set forth therein.

Subpart G—Policies Relating to Enforcement

■ 3. Amend § 399.79 by revising the heading of paragraph (f), and removing paragraph (g) to read as follows:

§ 399.79 Policies relating to unfair and deceptive practices.

* * * * *

(f) *Formal enforcement proceedings before an administrative law judge.*

* * *

Issued in Washington, DC, under authority delegated in 49 CFR part 1.27(n).

Gregory Zerzan,

General Counsel.

[FR Doc. 2026–13295 Filed 6–30–26; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1216

[NASA Document Number–26–019; NASA Docket Number–NASA–2026–0100]

RIN 2700–AE80

Procedures for Implementing the National Environmental Policy Act

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim final rule; request for comments.

SUMMARY: The National Aeronautics and Space Administration (NASA) is rescinding and repromulgating its regulations related to environmental quality to update the regulations to codify changes to NEPA. NASA has determined there is good cause to promulgate its revised NEPA implementing regulations in the form of an interim final rule in order to avoid confusion related to NASA's administrative process and provide NASA action proponents, non-Federal project sponsors of proposed actions, and the public with the procedural certainty required to efficiently prepare an environmental document under NEPA. Additionally, this interim final rule updates NASA's list of existing categorical exclusions.

DATES: This interim final rule is effective August 17, 2026. Comments are due by July 31, 2026.

ADDRESSES: You may send comments, identified by NASA–2026–0100 to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for sending comments. If access to the website is not feasible, NASA will receive mailed comments to NASA Rulemaking Comments—NASA–2026–0100, Environmental Management Division, Suite 2X84, 300 E Street SW, Washington, DC 20546. As the security screening process may delay mail sent through the U.S. Postal Service, NASA encourages electronic submittal directly through the e-Rulemaking Portal described above. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment, including your PII, will be posted without change to <https://www.regulations.gov>. Do not submit electronically any information you consider to be private, Confidential Business Information, or other information the disclosure of which is restricted by statute, as it may be made publicly available at any time. While

you can request to withhold your PII or other sensitive information from public review as part of the overall comment submittal, NASA cannot guarantee the execution of such a request.

FOR FURTHER INFORMATION CONTACT: Nick Murdock, nicholas.a.murdock@nasa.gov. General information about NASA's NEPA process is available on the NASA NEPA Portal and NEPA Library at <http://www.nasa.gov/emd/NEPA>.

SUPPLEMENTARY INFORMATION:

I. Background

The NEPA, as amended, 42 U.S.C. 4321 *et seq.*, requires all Federal agencies to assess the environmental impact of their actions. NEPA does not mandate results or substantive outcomes, rather, NEPA requires Federal agencies to consider the environmental effects of proposed actions as part of that agency's decision-making processes. *Seven County Infrastructure Coalition v. Eagle County, Colorado*, 605 U.S. 168, 180 (2025) NEPA provides requirements to facilitate timely and unified Federal reviews, including provisions clarifying lead, joint lead, and cooperating agency designations; generally requiring the development of a single environmental document; directing agencies to develop procedures for project sponsors to prepare environmental assessments and environmental impact statements; and prescribing page limits and deadlines. 42 U.S.C. 4336a. NEPA also sets forth the circumstances under which agencies may rely on programmatic environmental documents, 42 U.S.C. 4336b, and adopt and use another agency's categorical exclusions. 42 U.S.C. 4336c.

NEPA identifies three levels of review—categorical exclusion, environmental assessment, and environmental impact statement. 42 U.S.C. 4336a. A categorical exclusion is a “a category of actions that a federal agency has determined normally does not significantly affect the quality of the human environment within the meaning of NEPA section 102(2)(C).” 42 U.S.C. 4336e (1). An environmental assessment is a “concise” document “set[ting] forth the basis of [an] agency's finding of no significant impact or determination that an environmental impact statement is necessary,” prepared in connection with a proposed agency action that does not have a significant impact, or the significance of whose impact is unknown. 42 U.S.C. 4336(b)(2). An environmental impact statement is a document analyzing a proposed agency action with significant impact, governed

by the provisions of 42 U.S.C. 4332(2)(C) and 4336(b)(1). Agencies must prepare an environmental impact statement—“in essence, a report”—for proposed “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. 4332(2)(C); *Seven County*, 605 U.S. at 173. This statement must address: (1) the reasonably foreseeable environmental effects of the proposed agency action; (2) any reasonably foreseeable adverse environmental effects that cannot be avoided should the proposal be implemented; (3) a reasonable range of alternatives to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are technically and economically feasible, and meet the purpose and need of the proposal; (4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and (5) any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action should it be implemented. 42 U.S.C. 4332(2)(C).

On January 20, 2025, President Donald J. Trump issued Executive Order (E.O.) 14154, *Unleashing American Energy*.¹ E.O. 14154 rescinded E.O. 11991, *Relating to Protection and Enhancement of Environmental Quality*,² which rescinded E.O. 11514, *Protection and Enhancement of Environmental Quality*.³ E.O. 11514 had directed the CEQ to promulgate regulations for implementing NEPA and required Federal agencies to comply with those regulations. On February 25, 2025, CEQ issued an interim final rule with an effective date of April 11, 2025,⁴ removing its existing NEPA implementing regulations at 40 CFR parts 1500 through 1508 (CEQ regulations), which CEQ adopted as final on January 8, 2026.⁵ E.O. 14154 also directed CEQ to issue guidance to Federal departments and agencies on revising their own internal NEPA implementing procedures (or establish such procedures if not already established) to expedite permitting approvals and for consistency with Title I of NEPA.

In 2023, Congress added substantial detail and direction in Title I of NEPA, including on procedural issues that CEQ

¹ 90 FR 8353 (January 29, 2025).

² 42 FR 26967 (May 24, 1977).

³ 35 FR 4247 (March 7, 1970).

⁴ 90 FR 10610.

⁵ 91 FR 618.

addressed in its regulations and that individual action agencies had previously addressed in their own NEPA implementing procedures. NASA recognized the need to update its regulations considering these significant legislative changes. Since NASA's regulations were originally written in accordance with CEQ's NEPA implementing regulations, NASA had been awaiting CEQ action before substantially revising its regulations,⁶ consistent with CEQ direction. *See* 40 CFR 1507.3(b) (2024); *see also* 86 FR 34154 (June 29, 2021). However, with CEQ's regulations now rescinded, it is exigent that NASA quickly conforms its procedures to the statute as amended.

Moreover, on May 29, 2025, the Supreme Court issued the landmark *Seven County Infrastructure Coalition* decision, in which it decried the “transform[ation]” of NEPA from its roots as “a modest procedural requirement,” into a significant “substantive roadblock” that “paralyze[s]” agency decision making. 605 U.S. at 173, 183). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a “course correction” mandating that courts give “substantial deference” to reasonable agency conclusions underlying their NEPA processes. *Id.* at 180, 184. But the Court also acknowledged, and through its course correction sought to address, the effect on “litigation-averse agencies” which, considering judicial “micromanagement,” had been “taking ever more time and preparing ever longer environmental impact statements for future projects.” *Id.* at 183.

Additionally, Congress again amended NEPA in 2025 through section 60026 of the One Big Beautiful Bill Act (OBBBA), Public Law 119–21 (July 4, 2025), adding section 112 of NEPA, entitled “Project Sponsor Opt-in Fees for Environmental Reviews.” This provision allows project sponsors to pay a fee to obtain shortened NEPA review.

NASA's existing NEPA implementing regulations are currently codified in 14 CFR 1216.3 (Procedures for Implementing the National Environmental Policy Act). In addition to reflecting the foregoing changes to the NEPA law and practice, NASA's revised

implementing regulations make the following changes: (1) They incorporate nineteen previously adopted categorical exclusions from the Federal Rail Administration (FRA), Department of Energy (DOE), National Telecommunications and Information Administration (NTIA), U.S. Coast Guard (USCG), U.S. Forest Service (USFS), U.S. Air Force (USAF), Department of the Air Force (DAF), Department of the Navy, Missile Defense Agency (MDA), Defense Threat Reduction Agency (DTRA), and Federal Bureau of Investigation (FBI). Notices of the NASA adoptions were published at 89 FR 31772 (Apr. 25, 2024) and 91 FR 7535 (Feb. 18, 2026). (2) They remove two administrative categorical exclusions, previously listed at § 1216.304(d)(1)(ii) and (v), which fall outside NEPA's definition for major Federal action. (3) They make conforming administrative changes to 14 CFR part 1216 to accurately reflect NASA's current environmental policy related to consideration of the environmental impacts of NASA, or non-Federal project sponsor, proposed actions.

Since NASA's last NEPA regulatory revision in 2024, NASA's mission, programs, and strategic goals have remained steadfast and focused on leading a new era of human space exploration, performing transformative aeronautics technology research, and continuing to study our planet and the solar system. The rapid pace of growth of NASA's commercial partners in the commercial space launch and exploration industry is driving an expansion of economic activity in Low Earth Orbit, with sights set on establishing a permanent human presence on the Moon and Mars. This dynamic space exploration environment dictates that NASA implements NEPA regulations that streamline the environmental review process but also ensure accurate and unbiased analysis which decision makers and the public can rely on.

The regulations in this interim final rule build upon decades of NASA NEPA experience and seek to better align the regulations with NASA's evolving technology and mission demands. NASA's NEPA regulations and policy will continue to be available on NASA's Public Portal at <http://www.nasa.gov/emd/nepa/> (under “NEPA Process”). Consistent with section 102(2)(B) of NEPA (42 U.S.C. 4332(2)(B)), which directs all agencies of the Federal Government to identify and develop methods and procedures, in consultation with CEQ, to conduct the environmental analysis that NEPA

requires, NASA consulted with CEQ throughout the development of this interim final rule.

II. Introduction

NASA is amending its regulations for implementing the requirements of NEPA. This revision to NASA's NEPA implementing regulations became necessary after the CEQ issued an interim final rule rescinding its NEPA implementing regulations (formerly 40 CFR parts 1500 through 1508) on February 25, 2025,⁷ which was subsequently finalized on January 8, 2026.⁸ NASA had incorporated CEQ's now-rescinded regulations by reference into its own NEPA implementing regulations at 14 CFR 1216.300(b). NASA also needed to revise the regulations to conform to the statutory requirements of NEPA as amended by the FRA and the OBBBA. In addition, these revisions reflect the Supreme Court's *Seven County* decision. The amended regulations help avoid potential confusion by providing regulatory certainty to NASA project proponents and non-Federal project sponsors who propose actions on NASA facilities and how NASA, or in some cases, non-Federal project sponsors, should undertake preparation of environmental documents that inform both Federal decision makers and the public on the potential environmental impacts of NASA and non-Federal project sponsor proposed actions.

III. Basis for Issuing an Interim Final Rule

A. Notice and Comment Rulemaking Is Not Required

Notice and comment are not required because this interim final rule falls within the APA's exception for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A). The legal authority for NASA to proceed with this regulatory action is found in the Space Act, 51 U.S.C. 20101 *et. seq.* Pursuant to 51 U.S.C. 20113, the NASA Administrator is authorized to “make, promulgate, issue, rescind, and amend rules and regulations governing the manner of NASA operations and the exercise of powers vested in it by law.” Further, the NEPA statute directs the Federal Government to “use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate federal plans, functions, programs, and resources” to

⁶ NASA updated these NEPA implementing regulations in 2024 to, among other things, revise and establish categorical exclusions. 89 FR 25497 (April 11, 2024). However, NASA proposed that revision prior to the enactment of the FRA, the rescission of the CEQ's regulations and the amendment from the OBBBA. *See* 88 FR 27804 (May 3, 2023). Therefore, the 2024 revision did not comprehensively address the recent changes and statutory amendments to NEPA.

⁷ 90 FR 10610 (Feb. 25, 2025).

⁸ 91 FR 618 (Jan. 8, 2026).

assure Americans will continue to live in a “safe, healthful, [and] productive” environment (42 U.S.C. 4331(b)). NEPA is a “purely procedural statute” which “simply prescribes the necessary process for an agency’s environmental review of a project—a review that is, even in its most rigorous form, “only one input into an agency’s decision and does not itself require any particular substantive outcome.” *Seven County*, 145 S. Ct. at 1507, 1511 (internal quotation omitted).

“NEPA imposes no substantive constraints on the agency’s ultimate decision to build, fund, or approve a proposed project,” and “is relevant only to the question of whether an agency’s final decision”—i.e., that decision to authorize, fund, or otherwise carry out a particular proposed project or activity—“was reasonably explained.” *Id.* at 1511. Thus, NASA’s regulations implementing NEPA do not dictate what outcomes such consideration must produce, nor do they impose binding legal obligations on private citizens. Rather, they prescribe the procedure by which NASA should conduct its NEPA reviews (e.g., detailing the structure of environmental impact statements, specifying procedural requirements, and directing the timing of public comment periods).

Although NASA is voluntarily providing notice and an opportunity to comment on the interim final rule, the agency has determined that notice and comment procedures are not required because this interim final rule falls within the APA exception for “rules of agency organization, procedure, or practice.” 5 U.S.C. 553(b)(A).

In addition, NASA’s regulations implementing NEPA’s procedural requirements may be characterized as rules of agency organization, procedure, or practice. NASA’s regulations prescribe how NASA action proponents and non-Federal project sponsors should conduct NEPA reviews: detailing the administrative process applicable to preparation of environmental documents. The NASA regulations do not prescribe substantive environmental policies or command particular outcomes. Promulgation of rules of agency organization, procedure, or practice does not require notice and comment. *See* 5 U.S.C. 553(b)(A).

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

The APA authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice and comment is “impracticable, unnecessary, or contrary to the public interest,” 5 U.S.C.

553(b)(B). NASA finds that, to the extent that prior notice and solicitation of public comment would otherwise be required, the need to expeditiously and unambiguously resolve potential internal agency mission planner, non-Federal project sponsor, and public confusion regarding NASA’s NEPA implementing procedures satisfies the “good cause” exception in 5 U.S.C. 553(b)(B).

NASA’s current NEPA implementing regulations, regulations at 14 CFR part 1216, “adopts CEQ’s regulations implementing NEPA (40 CFR parts 1500 through 1508) and supplements those regulations.” 14 CFR 1216.300(b). Thus, NASA’s regulations supplement a NEPA paradigm that no longer exists since the rescission of CEQ’s regulations. NASA thus far and as a temporary emergency measure, has been continuing to operate under its prior procedures as if the CEQ regulations still existed. This is not, however, tenable for the long term. Now that proper procedures are available, NASA must rescind its out-of-date regulations and update to conform to the recent statutory changes. Because E.O. 14154 rescinded E.O. 11991 and CEQ removed its regulations at 40 CFR parts 1500 through 1508, this interim final rule is a necessary but ministerial step to align NASA’s regulations with the current NEPA landscape. Rescinding the current NEPA implementing regulation without replacing it would create a vacuum that would inflict immense uncertainty and potentially grind all projects under NASA’s purview to a halt. Therefore, pairing the rescission with a new structure is critical.

Because of this need for speed and certainty, notice and comment are, to the extent required at all, impracticable and contrary to the public interest. To the extent that public comment may suggest further revisions are warranted, NASA’s solicitation of public comment for 30 days following the publication of the rule is intended to accommodate that possibility. But, to the extent that this interim final rule would otherwise require a proposal and solicitation of public comment, NASA’s view is that the “good cause” exception (5 U.S.C. 553(b)(B)) pertains here.

Though NASA seeks comments to obtain the public’s views, such comments could not alter the legal realities—most notably the repeal of the CEQ’s NEPA implementing regulations and the rescission of the E.O. that purported to authorize them, the rescission of the CEQ regulations and the statutory amendment from the OBBBA—that create the swift need for such a change. NASA will consider

comments submitted in response to this action and address them when issuing a final rule, with changes, if warranted, after consideration of the comments received. For these reasons and those above, NASA finds that “good cause” exists under 5 U.S.C. 553(d)(3) to forgo the 30-day delay of the effective date. Accordingly, this rulemaking will be effective immediately.

IV. Development Process

After the CEQ issued its Memorandum for Heads of Federal Departments and Agencies on February 19, 2025, and published an interim final rule to remove its NEPA implementing regulations (40 CFR parts 1500 through 1508) on February 25, 2025 (effective April 11, 2025), with final rule on January 8, 2026, NASA formed a working group to review 14 CFR part 1216, subparts 1216.1 and 1216.3 (subpart 1216.2 is “reserved”).⁹ The working group was comprised of current NASA environmental professionals with numerous years of NEPA planning and compliance history. NASA consulted with the CEQ throughout the development of this interim final rule to ensure consistency with the requirements of NEPA, Administration policy, and CEQ guidance and, to the extent practicable, standardize NEPA’s administrative process with other Executive branch agencies which are engaged in similar regulatory or policy making actions.

The revised regulations align NASA’s NEPA implementing procedures with the statutory requirements of NEPA. The changes promote regulatory certainty and administrative efficiency, which will result in environmental documents that inform NASA enterprise decision making on proposed actions related to space exploration and earth observation missions, aeronautics research, launch facilities and activities occurring thereon, sounding rocket and balloon campaigns, field campaigns, agency master planning, infrastructure, construction and maintenance activities, etc. The regulations also clarify non-Federal project sponsor procedures for preparation of environmental documents for actions that are proposed to occur on NASA jurisdictional property or for which NASA has final decision-making authority. Other changes include, but are not limited to, implementation of page and time limits

⁹ CEQ issued Memorandum for Heads of Federal Departments and Agencies on Implementation of the National Environmental Policy Act on September 29, 2025, that superseded the February 25, 2025, memorandum and issued a final rule on January 8, 2026, affirming the February 25, 2025, interim final rule.

for preparation of environmental assessments and environmental impact statements and an update to NASA's list of existing categorical exclusions to incorporate nineteen previously adopted categorical exclusions from the Federal Rail Administration (FRA), Department of Energy (DOE), National Telecommunications and Information Administration (NTIA), U.S. Coast Guard (USCG), U.S. Forest Service (USFS), U.S. Air Force (USAF), Department of the Air Force (DAF), Department of the Navy, Missile Defense Agency (MDA), Defense Threat Reduction Agency (DTRA), and Federal Bureau of Investigation (FBI). Notices of the NASA adoptions were published at 89 FR 31772 (April 25, 2024) and 91 FR 7535 (February 18, 2026). Specifically, NASA is removing the categorical exclusions for the two administrative activities listed at 40 CFR 1216.304(d)(1)(ii) and (v) for "issuing procedural rules, manuals, directives, and requirements" and "information-gathering exercises, such as inventories, audits, and studies." Consistent with the definition in section 111(10) of NEPA for major Federal action (42 U.S.C. 4336(e)(10)), NASA does not consider these categories of actions to be major Federal actions and therefore NEPA does not apply.

The NASA working group compared NASA's current regulations with NEPA's statutory requirements, past CEQ implementing regulations which would provide an improved administrative framework to promote regulatory certainty and administrative efficiency during the development of environmental documents, NASA's existing regulations, and NASA's underlying policies, procedures, programs, and missions to determine what specific updates to NASA's implementing regulations were required. The following is the structure of the new regulations:

- Part 1216 Environmental Quality
- Subpart 1216.1 Purpose and Policy
 - 1216.100 Purpose and policy
 - 1216.101 Applicability
- Subpart 1216.2 NEPA and Agency Planning
 - 1216.200 Determine when NEPA applies
 - 1216.201 Determine the appropriate level of NEPA review
 - 1216.202 NEPA and agency decision making
- Subpart 1216.3 Categorical Exclusions
 - 1216.300 Preparation of categorical exclusions
- Subpart 1216.4 Environmental assessments
 - 1216.400 Preparation of

- environmental assessments
- 1216.401 Findings of no significant impact
- Subpart 1216.5 Environmental Impact Statements
 - 1216.500 Preparation of environmental impact statements
 - 1216.501 Purpose and need
 - 1216.502 Analysis within the environmental impact statement
 - 1216.503 Page limits
 - 1216.504 Deadlines
 - 1216.505 Publication of the environmental documents
- Subpart 1216.6 Efficient Environmental Reviews
 - 1216.600 Lead, cooperating, and participating agencies
 - 1216.601 Public notice during the NEPA process
 - 1216.602 Programmatic environmental documents, tiering, reliance, and incorporation by reference
 - 1216.603 Combining documents
 - 1216.604 Supplements to environmental documents
 - 1216.605 Integrity and completeness of information
 - 1216.606 Integrating NEPA with other environmental requirements
 - 1216.607 Mitigation and monitoring
 - 1216.608 Elimination of duplication with State, Tribal, and local procedures
 - 1216.609 Emergencies
 - 1216.610 Classified actions
- Subpart 1216.7 Agency Decision Making
 - 1216.700 Decision documents
 - 1216.701 Filing requirements
- Subpart 1216.8 Procedures for Non-Federal Project Sponsor-prepared NEPA Documents
 - 1216.800 Procedures for non-Federal project sponsor-prepared environmental documents
- Subpart 1216.9 Definitions
 - 1216.900 Definitions
- Subpart 1216.10 Severability
 - 1216.1000 Severability

V. Regulatory Analysis

A. E.O. 12866—Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review

E.O. 12866 provides that the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) will review all significant rules. E.O. 13563 affirms the principles of E.O. 12866, calling for improvements in the Federal Government's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory objectives. E.O.s 13563 and 12866 direct agencies

to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). After conferring with OMB-OIRA, this interim final rule has been determined to meet the criteria under section 3(f) of E.O. 12866 for designation as a "significant regulatory action." The rule is also considered to be a deregulatory action under E.O. 14192.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the interim final rule is published. This requirement does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities" (5 U.S.C. 603). This interim final rule modifies existing policies and procedural requirements for NASA compliance with NEPA. The interim final rule does not regulate small entities. Rather, the rule applies to NASA proposed action proponents, and non-Federal project sponsors which may seek to undertake an activity over which NASA has approval authority and sets forth the procedural process for compliance with NEPA. The interim final rule makes no substantive changes to requirements imposed on applicants for licenses, permits, financial assistance, and similar actions as related to NEPA compliance. Therefore, NASA certifies this interim final rule does not have a "significant economic impact on a substantial number of small entities."

C. Review Under the Paperwork Reduction Act

This interim final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

D. Environmental Review Under the NEPA

The interim final rule revises agency procedures and guidance for implementing NEPA. NASA NEPA implementing procedures are procedural guidance to assist in the fulfillment of agency responsibilities under NEPA but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. NEPA does not require agencies to conduct NEPA

analyses or prepare NEPA documentation when establishing their own NEPA procedures. The determination that establishing agency NEPA procedures does not require supporting NEPA analysis and documentation has been upheld in *Heartwood, Inc. v. U.S. Forest Service*, 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd*, 230 F.3d 947, 954–55 (7th Cir. 2000).

E. Review Under E.O. 13132, Federalism

NASA has considered this interim final rule under the requirements of E.O. 13132, Federalism. The Agency has concluded that the interim final rule conforms with the federalism principles set out in this E.O., will not impose any compliance costs on the states, and will not have substantial direct effects on the states or the relationship between the National Government and the States or on the distribution of power and responsibilities among the various levels of government. Therefore, NASA has determined that no further assessment of federalism implications is necessary.

F. Review Under the Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1531–1538), NASA has assessed the effects of the interim final rule on State, local, and Tribal governments, and the private sector. This interim final rule would not compel the expenditure of \$100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, this interim final rule is not subject to the requirements of section 202 and 205 of the UMRA.

G. E.O. 13175, Consultation and Coordination With Indian Tribal Governments

E.O. 13175 requires agencies to have a process to ensure meaningful and timely input by Tribal officials in the development of policies that have Tribal implications. Such policies include regulations that 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 interim final rule is not a regulatory policy that has Tribal implications because it does not impose substantial direct compliance costs on Tribal governments (section 5(b)) and does not preempt Tribal law (section 5(c)).

H. E.O. 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

Agencies must prepare a Statement of Energy Effects for significant energy actions under E.O. 13211. This interim final rule 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.

I. E.O. 12988, Civil Justice Reform

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

J. Expected Impact of the Final Rule

NASA does not expect this interim final rule to have any economic impact on the overall economy of the United States; State, local, or Tribal governments or communities; or any private party involved in commercial space launch activities at NASA facilities. Given the most recent data NASA has available, most NASA actions fall within the scope of a categorical exclusion (98 percent categorically excluded, 1.4 percent had an environmental assessment/finding of no significant impact, and 0.16 percent had an environmental impact statement/record of decision). By implementing the requirements of NEPA and aligning NASA’s procedures with guidance provided by the CEQ, this interim final rule promotes more standardized, legally sufficient, and streamlined NEPA compliance.

The interim final rule does not raise novel legal or policy issues; rather it promotes consistency with the law, thereby providing more regulatory certainty concerning NEPA compliance obligations to both NASA programs and non-Federal project sponsors who may propose actions that would occur on NASA jurisdictional facilities. Therefore, this interim final rule is not expected to have any adverse effect, economically or otherwise, on NASA, any other Federal, State, local, or Tribal entity, or any private party who may propose an action that would occur at a NASA jurisdictional facility.

List of Subjects in 14 CFR Part 1216

Environmental impact statements, Flood plains, Foreign relations.

Nakia Marks,

Team Lead, NASA Directives and Regulations.

For the reasons given in the preamble, NASA revises 14 CFR part 1216 to read as follows:

PART 1216—ENVIRONMENTAL QUALITY

Sec.

Subpart 1216.1—Purpose and Policy

- 1216.100 Purpose and policy.
- 1216.101 Applicability.

Subpart 1216.2—NEPA and Agency Planning

- 1216.200 Determine when NEPA applies.
- 1216.201 Determine the appropriate level of NEPA review.
- 1216.202 NEPA and agency decision making.

Subpart 1216.3—Categorical Exclusions

- 1216.300 Preparation of categorical exclusions.

Subpart 1216.4—Environmental Assessments

- 1216.400 Preparation of environmental assessments.
- 1216.401 Findings of no significant impact.

Subpart 1216.5—Environmental Impact Statements

- 1216.500 Preparation of environmental impact statements.
- 1216.501 Purpose and need.
- 1216.502 Analysis within the environmental impact statement.
- 1216.503 Page limits.
- 1216.504 Deadlines.
- 1216.505 Publication of the environmental documents.

Subpart 1216.6—Efficient Environmental Reviews

- 1216.600 Lead, cooperating, and participating agencies.
- 1216.601 Public notice during the NEPA process.
- 1216.602 Programmatic environmental documents, tiering, reliance, and incorporation by reference.
- 1216.603 Combining documents.
- 1216.604 Supplements to environmental documents.
- 1216.605 Integrity and completeness of information.
- 1216.606 Integrating NEPA with other environmental requirements.
- 1216.607 Mitigation and monitoring.
- 1216.608 Elimination of duplication with State, Tribal, and local procedures.
- 1216.609 Emergencies.
- 1216.610 Classified actions.

Subpart 1216.7—Agency Decision Making

- 1216.700 Decision documents.
- 1216.701 Filing requirements.

Subpart 1216.8—Procedures for Non-Federal Project Sponsor-prepared NEPA Documents

1216.800 Procedures for non-Federal project sponsor-prepared environmental documents.

Subpart 1216.9—Definitions

1216.900 Definitions.

Subpart 1216.10—Severability

1216.1000 Severability.

Authority: 51 U.S.C. 20101 *et seq.*; 42 U.S.C. 4321 *et seq.*; 42 U.S.C. 7609 *et seq.*

Subpart 1216.1—Purpose and Policy

§ 1216.100 Purpose and policy.

(a) *Purpose.* The purpose of the procedures in this part is to integrate the National Environmental Policy Act (NEPA) into the National Aeronautics and Space Administration's (NASA) decision-making processes. The procedures in this part describe the process by which NASA determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensure that relevant environmental information is identified and considered early in the process in order to ensure informed decision making; enable NASA to conduct coordinated, consistent, predictable and timely environmental reviews; reduce unnecessary burdens and delays; and implement NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental documents.

(b) *Procedural and interpretive rule.* This part sets forth NASA's procedures for implementing NEPA and NASA's interpretation of certain key terms in NEPA. It does not, nor does it intend to, govern the rights and obligations of any party outside the Federal Government. It does, however, establish the procedures under which NASA will fulfill its requirements under NEPA.

(c) *Consultation with the Council on Environmental Quality (CEQ).* In accord with NEPA sec. 102(2)(B), 42 U.S.C. 4332(B), NASA will consult with CEQ while developing or revising proposed NEPA implementing procedures under this part, including establishment of new, or revision of existing, categorical exclusions as set forth in subpart 1216.3 of this part.

§ 1216.101 Applicability.

(a) *Applicability.* This part is applicable to all organizational elements of NASA.

(b) *Authority.* Nothing contained in this part is intended to or should be construed to limit NASA's existing authorities or legal responsibilities.

Subpart 1216.2—NEPA and Agency Planning

§ 1216.200 Determine when NEPA applies.

(a) NEPA applies to major Federal actions as defined in section 111(10) of NEPA, 42 U.S.C. 4336e (10). The terms "major" and "Federal action," each have independent force. NEPA applies only when both criteria are met. Such a determination is inherently bound up in the facts and circumstances of each individual situation and is thus reserved to the discretion of NASA in each instance.

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

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

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

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

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

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

(6) NEPA does not apply to response actions taken under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*).

§ 1216.201 Determine the appropriate level of NEPA review.

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

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

exclusion, if appropriate, pursuant to subpart 1216.3 of this part.

(2) If another agency has already established a categorical exclusion that covers the proposed action, NASA will commence the process to adopt that exclusion pursuant to § 1216.300(c) so that it can be applied to the proposed action at issue, and to future activities or decisions of that type.

(3) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, NASA will consider whether to establish or revise and then apply the categorical exclusion to the proposed action and to future activities or decisions of that type.

(4) If NASA or another Federal agency has already analyzed the proposed action in an existing environmental assessment or environmental impact statement, NASA will consider the options outlined in § 1216.602 and rely on the existing NEPA analysis.

(5) If NASA cannot apply a categorical exclusion to or rely on an existing NEPA analysis for the proposed action, NASA will consider the proposed action's reasonably foreseeable effects consistent with paragraph (b) of this section, and then will:

(i) If the proposed action is not likely to have reasonably foreseeable significant effects or the significance of the effects is unknown, develop an environmental assessment, as described in subpart 1216.4 of this part; or

(ii) If the proposed action is likely to have reasonably foreseeable significant effects, develop an environmental impact statement, as described in subpart 1216.5 of this part.

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

(1) In considering the potentially affected environment, NASA may consider, as appropriate to the specific action, the scope of affected area (national, regional, or local) and its resources (*e.g.*, natural, cultural, and socioeconomic resources; and environmental media).

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

(i) Both short- and long-term effects.

(ii) Both beneficial and adverse effects.

- (iii) Effects on public health and safety.
- (iv) Economic effects.
- (v) Effects on the quality of life of the American people.

§ 1216.202 NEPA and agency decision making.

(a) *Planning.* NEPA is a procedural statute intended to ensure Federal agencies consider the environmental impacts of their proposed actions in the decision-making process. Full and early integration of the NEPA process with NASA project and program planning improves agency decisions.

(b) *Limitations on actions during the NEPA process.* Except as provided in paragraph (c) of this section, until NASA issues a record of decision or finding of no significant impact, or makes a categorical exclusion determination, as applicable, NASA will take no action concerning a proposed action that would have an adverse environmental effect; or limit the choice of reasonable alternatives.

(c) *Actions developed by non-Federal project sponsor.* If NASA is considering a proposed action from a non-Federal entity and becomes aware that the non-Federal project sponsor is about to take an action within NASA's jurisdiction that would meet either of the criteria in paragraph (b) of this section, NASA will promptly notify the non-Federal project sponsor that NASA will take appropriate action to ensure that the objectives and procedures of NEPA are achieved. This section does not preclude development by non-Federal project sponsors of plans or designs or performance of other activities necessary to support an application for Federal, State, Tribal, or local permits or assistance. When considering a proposed action for Federal funding, NASA may authorize such activities, including but not limited to, acquisition of interests in land (e.g., fee simple, rights-of-way, and conservation easements), purchase of long lead-time equipment, and purchase options made by non-Federal project sponsors.

(d) *Non-Federal project sponsor preparation of environmental documents.* A non-Federal project sponsor may prepare an environmental assessment or environmental impact statement under NASA's supervision. NASA's requirements for third-party-prepared environmental assessments and environmental impact statements are included in subpart 1216.8 of this part. For proposed actions that are initially developed by non-Federal entities, NASA will:

- (1) Coordinate with the non-Federal project sponsor at the earliest reasonable

time in the planning process to inform the project sponsor what information NASA will need to comply with NEPA and establish a schedule for completing steps in the NEPA review process, consistent with NEPA's statutory deadlines and any internal agency NEPA schedule requirements.

(2) Begin the NEPA process by determining whether NEPA applies, as described in § 1216.200, and if it does, determine the appropriate level of NEPA review, as described in § 1216.201.

(e) *Real Estate Actions.* NASA must comply with this subpart when considering issuance of a permit, license, enhanced use lease (EUL), easement, right of way, or grant, to a Federal or a non-Federal party, as may be applicable, and seek such Federal or non-Federal party's assistance in obtaining necessary information and completing the NEPA process.

Subpart 1216.3—Categorical Exclusions

§ 1216.300 Preparation of categorical exclusions.

(a) *Generally.* This section describes the process NASA uses for establishing and revising categorical exclusions, for adopting other agencies' categorical exclusions, and for applying categorical exclusions to a proposed agency action. NASA's categorical exclusions are listed in paragraph (g) of this section.

(b) *Establishing and revising categorical exclusions.* To establish or revise a categorical exclusion, NASA will determine that the category of actions normally does not significantly affect the quality of the human environment. In making this determination, NASA will:

- (1) Develop a substantiation record containing information to support its determination.
- (2) Consult with CEQ on its proposed categorical exclusion, including the substantiation record, for a period not to exceed 30 days prior to providing public notice.

(3) Provide public notice in the **Federal Register** of NASA's establishment or revisions of the categorical exclusion, including the location (e.g., website) of availability of the substantiation record.

(c) *Adopting categorical exclusions from other Federal agencies.* Consistent with NEPA sec. 109, 42 U.S.C. 4336c, NASA may adopt a categorical exclusion listed in another agency's NEPA procedures. When adopting a categorical exclusion, NASA will:

- (1) Identify the categorical exclusion listed in another agency's NEPA

procedures that covers its category of proposed or related actions.

(2) Consult with the agency that established the categorical exclusion to ensure that the proposed adoption of the categorical exclusion is appropriate.

(3) Provide public notification of the categorical exclusion that NASA is adopting, including a brief description of the proposed action or category of proposed actions to which NASA intends to apply the adopted categorical exclusion.

(4) Document the adoption of the categorical exclusion on a public-facing website and include in future updates to this part.

(d) *Removal of categorical exclusions.* To remove a categorical exclusion from paragraph (g) of this section, NASA will:

- (1) Develop a written explanation for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including the written explanation (typically for a period of 30 days) prior to providing public notice; and

(3) Provide public notice of NASA's removal of the categorical exclusion and the written explanation in the **Federal Register**. NASA may provide notice of the availability of the explanation in the **Federal Register** (i.e., as a link to an agency website) if NASA prepares the explanation as a separate document.

(e) *Applying categorical exclusions.* A proposed action may be categorically excluded if the action fits within the categories listed in paragraph (g) of this section, and does not involve any extraordinary circumstances in which a normally excluded action may have a reasonably foreseeable significant effect. If NASA determines that it cannot apply a categorical exclusion to the proposed action, NASA will prepare an environmental assessment or environmental impact statement, as appropriate.

(1) If an extraordinary circumstance is not present, NASA will determine that the categorical exclusion applies to the proposed agency action and conclude review.

(2) If an extraordinary circumstance is present, NASA may nevertheless apply the categorical exclusion and conclude review if NASA either:

(i) Determines that, notwithstanding the extraordinary circumstance, the proposed agency action is not likely to result in reasonably foreseeable adverse significant effects; or

(ii) Modifies the proposed agency action to avoid those effects.

(3) Extraordinary circumstances include situations where the proposed action:

(i) Has a reasonable likelihood of having a significant effect on public health and safety.

(ii) Imposes uncertain or unique environmental risks.

(iii) Is of significantly greater scope or size than is normal for the category of action.

(iv) Has a reasonable likelihood of having effects that would violate Federal, State, Tribal, or local laws, or other enforceable requirements applicable to environmental protection.

(v) May significantly affect sensitive resources, such as, but not limited to, federally listed threatened or endangered species, their designated critical habitat, wilderness areas, floodplains, wetlands, aquifer recharge areas, coastal zones, wild and scenic rivers, and significant fish or wildlife habitat, unless the impact has been resolved through another environmental review process (e.g., the Clean Water Act (CWA) or the Coastal Zone Management Act (CZMA)).

(vi) May significantly affect national natural landmarks or cultural or historic resources, including, but not limited to, property listed on or eligible for listing on the National Register of Historic Places, unless the impact has been resolved through another review process (e.g., the National Historic Preservation Act (NHPA)).

(4) NASA may apply multiple categorical exclusions to the constituent parts of a single action but must consider whether the aggregate impacts of the constituent parts could give rise to an extraordinary circumstance or result in reasonably foreseeable significant effects.

(f) *Documentation of categorical exclusion determinations.* In cases where NASA has determined that a Record of Environmental Consideration (REC) is required, NASA will document its evaluation, which includes the extraordinary circumstance review.

(g) *List of categorical exclusions.* NASA has established or adopted the following categorical exclusions:

(1) Administrative Activities including:

(i) Personnel actions, organizational changes, and procurement of routine goods and services.

(ii) Program budget proposals, disbursements, and transfer or reprogramming of funds.

(iii) Preparing documents, including design and feasibility studies, analytical supply and demand studies, reports and recommendations, master and strategic plans, and other advisory documents.

(iv) Preparing and disseminating information, including document mailings, publications, classroom

materials, conferences, speaking engagements, websites, and other educational/informational activities.

(v) Software development, data analysis, and/or testing, including computer modeling.

(vi) Interpretations, amendments, and modifications to contracts, grants, or other awards.

(vii) Field studies, including water sampling, monitoring wells, cultural resources surveys, biological surveys, geologic surveys, modeling or simulations, routine data collection and analysis, and/or temporary equipment.

(2) Operations and Management Activities including:

(i) Routine maintenance, minor construction or rehabilitation, minor demolition, minor modification, minor repair, and continuing or altered operations at, or of, existing NASA or NASA-funded or approved facilities and equipment, such as buildings, roads, grounds, utilities, communication systems, and ground support systems (e.g., space tracking and data systems). This includes routine operations such as security, public health and safety, and environmental services.

(ii) Installing or removing equipment, including component parts, at existing government or private facilities.

(iii) Contributing equipment, software, technical advice, exchanging data, and consulting with other agencies and public and private entities.

(iv) NASA ceremonies, commemorative events, and memorial services.

(v) Routine packaging, labeling, storage, transportation, and disposal of materials and wastes, in accordance with applicable Federal, State, Tribal, or local laws or requirements. Examples include but are not limited to hazardous, non-hazardous, and other regulated materials and wastes.

(vi) Habitat and species management activities conducted within the boundaries of NASA-controlled properties in accordance with applicable Federal, State, or local requirements. Examples include but are not limited to restoration of unique or critical habitat; thinning or brush control to improve growth of natural habitat, reduce invasive species, or reduce fire hazard; prescribed burning to reduce natural fuel build-up, reduce invasive species, or improve native plant vigor; planting appropriate vegetation that does not include noxious weeds or invasive plants; or wildlife management activities (REC required).

(vii) Small-scale, short-term cleanup actions under the Resource Conservation and Recovery Act or other authorities to reduce risk to human

health or the environment from the release or imminent and substantial threat of release of a hazardous substance other than high-level radioactive waste and spent nuclear fuel, including treatment (such as incineration, encapsulation, physical or chemical separation, and compaction), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the action.

(viii) Replacement of existing energy sources with alternative or renewable energy sources that comply with existing permit conditions.

(ix) Routine maintenance, repair, and operation of vessels (including unmanned autonomous surface vessels), aircraft (including unmanned aircraft systems), overland/surface transportation vehicles, and other transportation systems as applicable. Examples include but are not limited to transportation or relocation of NASA equipment and hardware by barge, aircraft, or surface transportation system (e.g., tractor trailer or railroad); retrieval of spent solid rocket boosters by vessel; repair or overhaul of vessel, aircraft, or surface transportation systems that do not result in a change in the environmental impacts of their normal operation.

(x) Construction of electric powerlines approximately 10 miles in length or less, or approximately 20 miles in length or less within previously disturbed or developed powerline or pipeline rights-of-way.

(xi) Construction and subsequent operation of short (generally less than 20 miles in length) pipeline segments conveying materials (such as air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water) between existing source facilities and existing receiving facilities (such as facilities for use, reuse, transportation, storage, and refining), provided that the pipeline segments are within previously disturbed or developed rights-of-way.

(xii) The installation, modification, operation, or decommissioning of commercially available solar photovoltaic systems:

(A) Located on a building or other structure (such as rooftop, parking lot or facility, or mounted to signage, lighting, gates, or fences); or

(B) Located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as land use and zoning requirements) in the proposed project area and would be consistent with applicable plans for the management of wildlife and habitat,

including plans to maintain habitat connectivity, and incorporate appropriate control technologies and best management practices.

(xiii) Decisions to decommission or temporarily discontinue use of equipment:

(A) Decisions to decommission or temporarily discontinue use of vessels and aircraft. This does not preclude the need to review decommissioning under section 106 of the National Historic Preservation Act.

(B) Decisions to decommission or temporarily discontinue use of equipment, not including vessels or aircraft. This does not preclude the need to review decommissioning under section 106 of the National Historic Preservation Act (REC required).

(xiv) Environmental restoration, remediation, pollution prevention, and mitigation activities conducted in conformance with applicable laws, regulations and permit requirements, including activities such as noise mitigation, landscaping, natural resource management activities, replacement or improvement to storm water oil/water separators, installation of pollution containment systems, slope stabilization, and contaminated soil removal or remediation activities.

(xv) Assembly or construction of facilities or stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities, and result in approximately less than ten acres of surface disturbance, such as storage and maintenance facilities, freight or passenger loading and unloading facilities or stations, parking facilities, passenger platforms, canopies, shelters, pedestrian overpasses or underpasses, paving, or landscaping.

(xvi) Restoring wetlands, streams, riparian areas or other water bodies by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, drainage tiles, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable where valid existing rights or special use authorizations are not unilaterally altered or canceled. Examples include but are not limited to:

(A) Repairing an existing water control structure that is no longer functioning properly with minimal dredging, excavation, or placement of fill, and does not involve releasing hazardous substances;

(B) Installing a newly-designed structure that replaces an existing

culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change;

(C) Removing a culvert and installing a bridge to improve aquatic and/or terrestrial organism passage or prevent resource or property damage where the road or trail maintenance level does not change; and

(D) Removing a small earthen and rock fill dam with a low hazard potential classification that is no longer needed.

(xvii) Acquisition, installation, modification, routine repair and replacement, and operation of utility (e.g., water, sewer, and electrical) and communication systems, mobile antennas, data processing cable and similar electronic equipment that use existing rights-of-way, easements, distribution systems, facilities, or previously disturbed land (REC required).

(xviii) New construction or equipment installation or alterations (interior and exterior) to or construction of an addition to an existing structure that is like existing land use if the area to be disturbed has no more than five cumulative acres of new surface disturbance. The following conditions must be met:

(A) The structure and proposed use are compatible with applicable Federal, Tribal, State, and local planning and zoning standards.

(B) The site and scale of construction or improvement is consistent with those of existing, adjacent, or nearby buildings.

(C) The construction or improvement will not result in uses that exceed existing support infrastructure capacities (roads, sewer, water, parking, etc.).

(xix) Demolition of non-historic buildings, structures, or other improvements and repairs that result in disposal of debris therefrom, or removal of a part thereof for disposal, in accordance with applicable regulations, including those regulations applying to removal of asbestos containing materials, Polychlorinated biphenyls (PCBs) and lead based paint, and other special hazard items (REC required).

(xx) Routine installation and use of radars, telemetry systems, communications equipment, and other essentially similar facilities and equipment within a launch facility, mobile platform, military installation, training area, or previously disturbed area that conform to current American National Standards Institute/Institute of Electrical and Electronics Engineers (ANSI/IEEE) guidelines for maximum

permissible exposure to electromagnetic fields.

(xxi) Performing interior and exterior construction within the five-foot line of a building without changing the land use of the existing building.

(xxii) Installing, operating, modifying, and routinely repairing and replacing utility and communications systems, data processing cable, and similar electronic equipment that use existing rights of way, easements, distribution systems, or facilities.

(xxiii) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking, and sanitation systems) are required to accommodate all aspects of the event.

(xxiv) Abatement of hazardous materials from existing facilities, including asbestos and lead-based paint, conducted in compliance with all applicable laws, regulations, and requirements established for the protection of human health and the environment. Examples include containment, removal, and disposal of lead-based paint or asbestos tiles and asbestos-containing materials from existing facilities, and remediation of hazardous materials in accordance with all applicable laws, regulations, and requirements as part of facility and space management activities.

(xxv) Renovation, addition, repair, alteration, and demolition projects affecting buildings, roads, airfields, grounds, equipment, and other facilities, including subsequent disposal of debris, which may be contaminated with hazardous materials such as PCBs, lead, or asbestos. Hazardous materials shall be disposed of at approved sites in accordance with Federal, State, and local regulations.

(3) Research, Development, and Science Activities including:

(i) Research, development, testing, and evaluation in compliance with all applicable Federal, State, Tribal, or local laws or requirements and E.O.s. This includes the research, development, testing, and evaluation of scientific instruments proposed for use on spacecraft, aircraft (including unmanned aircraft systems), sounding rockets, balloons, laboratories, watercraft, or other outdoor activities.

(ii) Use of small quantities of radioactive materials used for instrument detectors, calibration, and other purposes. Materials may be associated with the proposed use on spacecraft, aircraft (including unmanned aircraft systems), sounding

rockets, balloons, laboratories, watercraft, or other outdoor activities.

(iii) Use of lasers for research and development, scientific instruments and measurements, and distance and ranging, where such use meets all applicable Federal, State, Tribal, or local laws or requirements and E.O.s. This includes lasers associated with spacecraft, aircraft (including unmanned aircraft systems), sounding rockets, balloons, laboratories, watercraft, or other outdoor activities.

(iv) Use of non-space nuclear system payloads on various platforms (*e.g.*, launch vehicle, sounding rocket, scientific balloon, and aircraft) (REC required).

(v) Return of samples from solar system bodies (*e.g.*, asteroids, comets, planets, dwarf planets, and planetary moons) to Earth when categorized as an Unrestricted Earth Return. NASA defines this activity as collecting extraterrestrial materials from solar system bodies, deemed by scientific opinion to have no indigenous life forms, and returning those samples to Earth (REC required).

(vi) Outdoor tests and experiments for the development, quality assurance, or reliability of materials and equipment under controlled conditions. Covered actions include, but are not limited to, burn tests (such as tests of electric cable fire resistance or the combustion characteristics of fuels), impact tests (such as pneumatic ejector tests using earthen embankments or concrete slabs designated and routinely used for that purpose), or drop, puncture, water-immersion, or thermal tests. Covered actions would not involve source, special nuclear, or byproduct materials, except encapsulated sources manufactured to applicable standards that contain source, special nuclear, or byproduct materials may be used for nondestructive actions such as detector/sensor development and testing and first responder field training.

(4) Real and Personal Property Activities including:

(i) Acquisition, transfer, or disposal of any personal property, or personal property rights or interests.

(ii) Granting or accepting easements, leases, licenses, rights-of-entry, and permits to use NASA property, or any non-NASA property, for activities that would be categorically excluded in accordance with this section (REC required).

(iii) Transfer or disposal of real property, property rights, or interests if a resulting change in use is a use that would be categorically excluded under this section (REC required).

(iv) Transferring real property administrative control to another Federal agency, including the return of public domain lands to the Department of the Interior (DoI) or other Federal agencies, and reporting of property as excess and surplus to the General Services Administration (GSA) for disposal, when the agency receiving administrative control (or GSA, following receipt of a report of excess) shall complete any necessary NEPA review prior to any change in land use (REC required).

(v) Acquisition of real property (including facilities) where the land use will not change substantially (REC required).

(vi) Change in the facility status of real property assets (*e.g.*, active or inactive).

(vii) Reductions, realignments, or relocation of personnel into existing federally owned or commercially leased space that does not involve a substantial change affecting the supporting infrastructure (*e.g.*, no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(viii) Determination by NASA that NASA controlled personal property, including vessels and aircraft, is “excess property”, as that term is defined in the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 102(3)), and any subsequent transfer of such property to another Federal agency’s administrative control or conveyance of the United States’ title in such property to a non-Federal entity.

(5) Aircraft and Airfield Activities including:

(i) Periodic aircraft (including unmanned aircraft systems) flight activities, including training and research and development, which are routine and comply with applicable Federal, State, Tribal, or local laws or requirements, and E.O.s.

(ii) Relocation of similar aircraft (including unmanned aircraft systems) not resulting in a substantial increase in total flying hours, number of aircraft operations, operational parameters (*e.g.*, noise), or permanent personnel or logistics support requirements at the receiving installation (REC required).

(iii) Supersonic flying aircraft operations over land and above 30,000 feet Mean Sea Level, or over water and above 10,000 feet Mean Sea Level and more than 15 nautical miles from land (REC required).

(h) *Reliance.* Reliance on categorical exclusion determination of other agencies. NASA may also rely on another agency’s determination that a categorical exclusion applies to a

particular proposed agency action if the agency action covered by that determination and NASA’s proposed action are substantially the same, or if NASA’s proposed action is a subset of the agency action covered by that determination. NASA will document its reliance on another agency’s categorical exclusion determination in a REC.

Subpart 1216.4—Environmental Assessments

§ 1216.400 Preparation of environmental assessments.

(a) *Generally.* If an action is subject to NEPA, and, unless NASA finds that the proposed action is excluded from having to prepare an environmental assessment or environmental impact statement pursuant to a categorical exclusion, or by another provision of law, NASA will prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown.

(b) *Elements.* For providing evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, environmental assessments will briefly discuss the:

(1) Purpose and need for the proposed agency action.

(2) Alternatives to the extent required by NEPA sec. 102(2)(H), 42 U.S.C. 4332(2)(H).

(3) The reasonably foreseeable effects of the proposed agency action for each of the alternatives considered.

(c) *Agency actions normally requiring an environmental assessment.* The following classes of actions normally require environmental assessments, but likely do not require an environmental impact statement:

(1) Altering the ongoing operations at a NASA Center where the significance of the environmental effect(s) is unknown.

(2) Construction or modifications of facilities that represent a major change to an existing master plan and could result in a change in the environmental effect(s).

(3) Actions that are expected to result in major changes to established land use that could potentially result in impacts to the environment.

(4) Launching a spacecraft containing a space nuclear system. Space nuclear systems include radioisotope power systems, such as radioisotope thermoelectric generators and radioisotope heater units, and fission systems used for surface power and spacecraft propulsion.

(d) *Page limits.* (1) The text of an environmental assessment will not exceed 75 pages, not including citations, appendices, explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information.

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

(3) Environmental assessments will be formatted for an 8.5"x11" page with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit when an item of graphical material is larger than 8.5"x11", each such item will count as one page.

(4) The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the environmental assessment, a re-certification will be incorporated into the environmental assessment certifying that NASA has considered the factors mandated by NEPA; that the environmental assessment represents NASA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects NASA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in NASA's judgment, comparatively not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed.

(e) *Deadlines.* NASA will complete the final environmental assessment not later than the date that is one year after the date on which NASA provides notice on a public-facing website that an environmental assessment will be prepared. The environmental assessment will be published, unless the deadline is extended, at the latest, on the day the deadline elapses in as substantially complete form as is possible.

(f) *Deadline extensions.* If NASA determines it cannot meet the deadline prescribed by NEPA sec. 107(g)(1)(B), 42 U.S.C. 4336a(g)(1)(B), it must consult with the non-Federal entity, if any, pursuant to NEPA sec. 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, it may establish a new deadline. Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which NASA determines it cannot meet the statutory deadline, that issuance would, in NASA's view, result in inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such environmental assessment. The announcement of the new deadline will specify the reason why the environmental assessment was not able to be completed under the statutory deadline and whether the non-Federal entity, if any, consented to the new deadline.

(g) *Certification related to deadline.* When the environmental assessment is published, a certification will be incorporated into the environmental assessment certifying that the resulting environmental assessment represents NASA's good-faith effort to fulfill NEPA's requirements within the congressional timeline; that such effort is substantially complete; that, in NASA's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in NASA's judgement, the analysis contained therein is adequate to inform and reasonably explain NASA's final decision regarding the proposed Federal action.

(h) *Scope of analysis.* (1) In preparing the environmental assessment, NASA will focus its analysis on whether the environmental effects of the action or project at hand are significant.

(2) Similarly, NASA will document in the environmental assessment where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action or project at hand that extend outside the geographical territory of the project or might materialize later in time.

§ 1216.401 Findings of no significant impact.

(a) NASA will prepare a finding of no significant impact if NASA determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action or project at hand will not have significant effects. The finding of no significant impact will:

(1) Include the environmental assessment or incorporate it by reference.

(2) Document the reasons why NASA has determined that the selected alternative will not have a significant adverse effect on the quality of the human environment.

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

(4) Identify any other environmental documents related to the finding of no significant impact.

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

(b) The agency will make the environmental assessment and finding of no significant impact available on a public-facing website.

Subpart 1216.5—Environmental Impact Statements

§ 1216.500 Preparation of environmental impact statements.

(a) NASA shall prepare an environmental impact statement for actions that are likely to significantly impact the quality of the human environment, including actions for which an environmental assessment demonstrates that significant environmental impacts will potentially occur which will not be reduced or eliminated by changes to the proposed action or mitigation of its potentially significant environmental impacts. Whether an impact rises to the level of "significant" is a matter of NASA's expert judgment. An environmental impact statement shall be prepared and published in accordance with 42 U.S.C. 4332(C) and § 1216.601.

(b) NASA actions normally requiring an environmental impact statement include:

(1) Development and operation of new NASA-developed launch vehicles or space transportation systems.

(2) Management, including recovery, transport, and curation, of sample returns to Earth from solar system bodies (such as asteroids, comets, planets, dwarf planets, and planetary moons) that would receive a Restricted Earth Return categorization. NASA requires such a mission to include additional measures to ensure any

potential indigenous life form would be contained so it could not adversely impact humans or Earth's environment.

(3) Substantial construction projects expected to result in significant adverse effect(s) on the quality of the human and natural environment when such construction and its effects are not within the scope of an existing master plan.

(c) During the process of preparing an environmental impact statement, NASA:

(1) Will obtain the comments of:

(i) Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact of the action or project at hand or is authorized to develop and enforce environmental standards that govern the action or project at hand.

(ii) Appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards.

(2) May request the comments of:

(i) State, Tribal, or local governments that may be affected by the proposed action.

(ii) Any agency that has requested it receive statements on actions of the kind proposed.

(iii) The non-Federal project sponsor, if any.

(iv) The public, including by affirmatively soliciting comments in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action.

(d) The process of obtaining and requesting comments in paragraph (c) of this section may be undertaken at any time that is reasonable in the process of preparing the environmental impact statement. NASA will ensure that the process of obtaining and requesting comments, and NASA's analysis of and response to those comments, does not cause NASA to violate the congressionally mandated deadline for completion of an environmental impact statement.

(e) NASA will address any substantive comments received consistent with paragraph (c) of this section in the environmental impact statement. Based on substantive comments and/or recommendations, NASA may consider such responses by:

(1) Modifying alternatives, including the proposed action.

(2) Developing and evaluating alternatives not previously considered.

(3) Supplementing, improving, or modifying analyses, to include consideration of science or literature not previously considered.

(4) Making factual corrections.

(5) The agency may provide brief rationale for taking no action, such as:

(i) The comment is outside the scope of what is being proposed.

(ii) There is no cause-effect relationship between the actions the agency is proposing and the issue raised and/or recommendation made.

(iii) The commenter misinterpreted the information provided.

(iv) The recommendation made does not comply with applicable laws or regulations and/or is not technically or economically feasible to implement.

(v) The comment was received outside the timeframe provided for such comments.

§ 1216.501 Purpose and need.

The environmental impact statement will include the purpose and need for the proposed agency action based on NASA's statutory authority. When the proposed agency action concerns a non-Federal project sponsor, the purpose and need for the proposed agency action will also be informed by the goals of the non-Federal project sponsor.

§ 1216.502 Analysis within the environmental impact statement.

(a) The environmental impact statement will include a detailed statement on:

(1) A reasonable range of alternatives to the proposed agency action, including an analysis of any adverse environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are, in NASA's expert judgment, technically and economically feasible and meet the purpose and need of the proposal.

(2) Reasonably foreseeable environmental effects of the proposed agency action and alternatives including the no action alternative.

(3) Any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented.

(4) The relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented.

(6) Any means identified to mitigate adverse environmental effects of the proposed action. NASA is mindful in this respect that NEPA itself does not require or authorize NASA to impose any mitigation measures in environmental impact statements.

(b) The environmental impact statement will define a scope of analysis.

(1) In preparing the environmental impact statement, NASA will focus its analysis on whether the environmental effects of the action or project at hand are significant.

(2) Similarly, NASA will document in the environmental impact statement where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the action or project at hand that extend outside the geographical territory of the project or might materialize later in time.

(c) Environmental impact statements will discuss effects in proportion to their significance. With respect to issues that are not of a substantive nature, lack a close causal connection, and do not meaningfully inform the consideration of environmental effects and the resulting decision on how to proceed, there will be no more than the brief possible discussion to explain why those issues are not substantive and therefore not worthy of any further analysis. Environmental impact statements will be analytic, concise, and no longer than necessary to comply with NEPA considering the congressionally mandated page limits and deadlines.

§ 1216.503 Page limits.

(a) Except as provided in paragraph (b) of this section, the text of an environmental impact statement will not exceed 150 pages, not including citations, appendices, explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information.

(b) An environmental impact statement for a proposed agency action of extraordinary complexity is strictly prohibited from exceeding 300 pages, not including any citations, appendices, explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. NASA will determine at the earliest possible stage of preparation of an environmental impact statement whether the conditions for exceeding the page limit in paragraph (a) of this section are present.

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

(d) Environmental impact statements will be prepared on 8.5" x 11" paper with one-inch margins using a word processor with 12-point proportionally

spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit when an item of graphical material is larger than 8.5" x 11", each such item will count as one page.

(e) The breadth and depth of analysis in an environmental impact statement will be tailored to ensure that the environmental impact statement does not exceed these page limits. In this regard, as part of the finalization of the environmental impact statement, a certification will be incorporated into the environmental impact statement certifying that NASA has considered the factors mandated by NEPA; that the environmental impact statement represents NASA's good-faith effort to prioritize documentation of the most important considerations required by the statute within the congressionally mandated page limits; that this prioritization reflects NASA's expert judgment; and that any considerations addressed briefly or left unaddressed were, in NASA's judgment, comparatively unimportant or frivolous.

§ 1216.504 Deadlines.

(a) NASA will complete the final environmental impact statement not later than the date that is two years after the date on which NASA provides notice of intent on a public-facing website that an environmental impact statement will be prepared.

(b) The environmental impact statement will be published (unless the deadline is extended) on the day the deadline elapses, in as substantially complete form as is possible.

(c) If NASA determines it cannot meet the deadline prescribed by NEPA sec. 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A), it must consult with the non-Federal project sponsor, if any, pursuant to NEPA sec. 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, it may establish a new deadline. Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which NASA determines it cannot meet the statutory deadline, that issuance would, in NASA's view, result in an inadequate analysis. Such new deadline must provide only so much additional time as is necessary to complete such environmental impact statement. The announcement of the new deadline will specify the reason why the environmental impact statement was not able to be completed

under the statutory deadline and whether the non-Federal project sponsor, if any, consented to the new deadline.

(d) When the environmental impact statement is published, a certification will be incorporated into the environmental impact statement certifying that the resulting environmental impact statement represents NASA's good-faith effort to fulfill NEPA's requirements within the congressional timeline; that such effort is substantially complete; and that, in NASA's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in NASA's judgment, the analysis contained therein is adequate to inform and reasonably explain NASA's final decision regarding the proposed Federal action.

§ 1216.505 Publication of the environmental documents.

NASA will publish the entire environmental impact statement and record of decision on a public-facing NASA website. During the process of preparing the environmental impact statement, NASA may publish such draft, pre-decisional materials as in its judgment may assist in fulfilling its responsibilities under NEPA and this subpart. NASA will also file with EPA as required under § 1216.701.

Subpart 1216.6—Efficient Environmental Reviews

§ 1216.600 Lead, cooperating, and participating agencies.

(a) NASA shall serve as the lead Federal agency for proposed actions which it proposes and over which no other Federal agency has jurisdiction by law to permit, approve, or authorize a required aspect of the proposed action. When serving as the lead agency, NASA is ultimately responsible for completing the NEPA process and will determine and document the scope of the project at hand. When a joint lead relationship is established pursuant to NEPA sec. 107(a)(1)(B), 42 U.S.C. 4336a(a)(1)(B), NASA and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

(b) If NASA shares responsibility with another Federal agency for NEPA compliance, NASA and the other agency shall, prior to issuing a notice to prepare an environmental assessment or environmental impact statement, determine by letter or memorandum, which agency shall be the lead agency based on consideration of the:

(1) Magnitude of each agency's involvement.

(2) Project approval or disapproval authority.

(3) Expertise concerning the proposed action's environmental effects.

(4) Duration of each agency's involvement.

(5) Sequence of each agency's involvement.

(c) In deciding under paragraph (b) of this section, NASA and other participating Federal agencies may agree to appoint such State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies determine to be necessary.

(d) When serving as the lead agency, NASA may, with respect to a proposed agency action, designate any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency. A cooperating agency may, not later than a date specified in the schedule established by NASA, submit comments on the environmental document being prepared for the proposed action.

(e) NASA may request other Federal, State, Tribal, or local agencies to serve as participating agencies in the NEPA process where the Federal, State, Tribal, or local agency has particularized knowledge regarding an aspect of the project that will beneficially inform development of the environmental document and subsequent final agency decision making on the proposed action. A participating agency may, not later than a date specified in the schedule established by NASA, submit comments on the environmental document being prepared for the proposed action.

(f) To the extent practicable, NASA will prepare a single, coordinated environmental document for NEPA actions with joint, cooperating, and participating agencies.

§ 1216.601 Public notice during the NEPA process.

(a) For every environmental impact statement prepared by NASA, the following requirements, at a minimum, shall be implemented:

(1) Publication of a notice of intent to prepare an environmental impact statement on a public-facing website. The notice of intent for an environmental impact statement will include a request for public comments on alternatives or effects and on relevant information, studies, or analyses with respect to the proposed agency action. In addition to a request for comment required for notices of intent for environmental impact statements, the notice of intent may include:

(i) The purpose and need for the proposed action;

(ii) A preliminary description of the proposed action and alternatives the environmental impact statement will consider;

(iii) A brief summary of expected effects;

(iv) Anticipated permits and other authorizations (*i.e.*, anticipated related actions);

(v) A schedule for the decision-making process;

(vi) A description of the public scoping process, including any scoping meeting(s);

(vii) Contact information for a person within NASA who can answer questions about the proposed action and the environmental impact statement; and

(viii) Identification of any cooperating and participating agencies and any information that such agencies require in the notice to facilitate their decisions or authorizations.

(2) Publication of a notice of availability and notice of additional public meetings, and/or additional request for comments (collectively, "NOA"), as applicable, for the environmental impact statement on a public-facing website.

(i) The NOA may solicit public comment on the sufficiency of the environmental analysis set forth in the environmental impact statement, and should announce the date, time, and location of any public meetings, either in-person or virtual, concerning the proposed action.

(ii) [Reserved]

(3) Publication of the record of decision, if applicable, on a public-facing website.

(b) For every environmental assessment prepared by NASA, the following requirements, at a minimum, shall be implemented:

(1) NASA will provide notice on a public-facing website that an environmental assessment will be prepared.

(2) NASA will make the environmental assessment and finding of no significant impact available on a public-facing website.

(c) NASA may use an early and open process to determine the scope of issues for analysis in an environmental document, including identifying substantive issues that meaningfully inform the consideration of environmental effects and the resulting decision on how to proceed, eliminating from further study non-substantive issues, and determining whether connected actions should be addressed in the same environmental document. Scoping may begin as soon as

practicable after the proposal for action is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures or work conducted prior to publication of the notice of intent.

§ 1216.602 Programmatic environmental documents, tiering, reliance, and including material by reference.

(a) For actions that require environmental assessments or environmental impact statements, NASA will undertake programmatic-level analysis for actions that are similar in nature, broad in scope, or likely to have similar environmental effects, as applicable. Programmatic NEPA analyses may take place in the form of an environmental assessment or environmental impact statement.

(b) Tiering from previously prepared environmental impact statements or environmental assessments is appropriate when it would eliminate repetitive discussions of the same issues and exclude from consideration issues already decided. Tiering from a programmatic-level NEPA document is appropriate for site- or project-specific actions that are included within the scope of the programmatic-level analysis.

(c) NASA may use programmatic environmental impact statements or environmental assessments without additional review for five years from the publication date unless there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.

(d) After five years, NASA may use programmatic environmental impact statements and environmental assessments after the analysis and assumptions in the environmental impact statement or environmental assessment are reevaluated to ensure reliance of the analysis is still valid. Reevaluation will be documented in a record of environmental consideration or memorandum to the file, including explanation for why the analysis remains valid considering any new and substantial information or circumstances.

(e) NASA may rely on another Federal agency's environmental impact statement or environmental assessment, or portion thereof, if NASA conducts an independent review of the document and concludes that it meets the standards for an adequate environmental impact review, pursuant to this part and 42 U.S.C. 4321 *et seq.* When relying on an environmental impact statement, environmental assessment, or portion thereof, NASA will cite, briefly describe the content

and relevance to the environmental document, and may make modifications that are necessary to render the relied-upon document, or portion thereof, fit for fulfilling NEPA's analytic requirements for the action at hand.

(1) If the actions covered by the original environmental impact statement or environmental assessment and the proposed action are substantially the same, NASA will republish the relied-upon statement or assessment.

(2) If the actions are not substantially the same, NASA may modify the statement or assessment as necessary to render the statement fit for fulfilling NEPA's analytic requirements for the action at hand, and publish the relied-upon statement or assessment, as modified. Where appropriate, NASA may solicit comment to the extent that solicitation of comment will assist NASA in expeditiously adapting the relied-upon statement or assessment so that it is fit for NASA's purposes.

(f) NASA shall include by reference material such as planning studies, analyses, or other relevant information, into an environmental impact statement or environmental assessment when the effect will be to cut down on bulk without impeding NASA and public review of the action. NASA shall cite the referenced material in the document and briefly describe its content. NASA shall not include material by reference unless it is reasonably available for inspection by potentially interested persons. NASA shall not include by reference material based on proprietary data that is not available for review and comment. NASA shall not use inclusion by reference to evade the statutory page limits.

§ 1216.603 Combining documents.

NASA will combine, to the fullest extent practicable, any NEPA document with any other Federal agency NEPA document to reduce duplication and paperwork.

§ 1216.604 Supplements to environmental documents.

(a) In cases where a major Federal action remains to occur, supplemental documentation may be required for previously prepared environmental assessments or environmental impact statements under the following circumstances:

(1) If substantial changes are made to the proposed action that are relevant to environmental concerns.

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action and its impacts.

(3) NASA determines that the purposes of NEPA will be furthered by doing so.

(b) The preparation of a supplemental environmental assessment or environmental impact statement shall be undertaken using the same procedural requirements as the initial document however, in the event a supplement to an environmental impact statement is required, public scoping shall not be required unless, at NASA's discretion, it is determined to be necessary or would otherwise further the purposes of NEPA.

(c) When it is unclear if an environmental assessment or environmental impact statement supplement is required, NASA may prepare a written reevaluation.

(1) The written reevaluation will discuss the circumstances that are pertinent to deciding whether to prepare a supplemental environmental assessment or environmental impact statement.

(2) The written reevaluation will contain sufficient information for NASA to determine whether:

(i) An existing environmental assessment or environmental impact statement should be supplemented;

(ii) A new environmental assessment or environmental impact statement should be prepared; or

(iii) No further NEPA documentation is required.

(3) NASA shall make the determination and the related written reevaluation available to the public for information.

(d) When applicable, NASA shall incorporate the determination and supporting written reevaluation into the administrative record related to the action that is the subject of the environmental assessment or environmental impact statement supplement or determination.

§ 1216.605 Integrity and completeness of information.

(a) NASA will not undertake new scientific and technical research to inform its analyses unless it is essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable. Rather, NASA will make use of reliable existing data and resources.

(b) When NASA is evaluating an action's reasonably foreseeable effects on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, NASA will make clear in the relevant NEPA document that such information is lacking.

§ 1216.606 Integrating NEPA with other environmental requirements.

(a) To the fullest extent possible, NASA will prepare NEPA documents concurrently with and integrated with analyses and related surveys and studies required by other Federal statutes.

(b) NASA will combine a NEPA document with any other agency document to reduce duplication and paperwork. Thus, NASA may combine a NEPA document with related plans, rules, or amendments as a single consolidated document.

(c) If comments on a notice of intent or other aspects of a scoping process identify consultations, permits, or licenses necessary under other environmental laws, the NEPA document may contain a section briefly listing the applicable requirements and how NASA or a non-Federal entity has or will meet them (e.g., permits applied for or received, consultations initiated or concluded).

§ 1216.607 Mitigation and monitoring.

(a) When the analysis proceeds to an environmental assessment or environmental impact statement and mitigation measures are assumed for the purpose of avoiding or reducing the significance of environmental impacts, such mitigation measures will be identified in the finding of no significant impact or the record of decision.

(b) NASA or the non-Federal project sponsor shall implement mitigation measures (including adaptive management strategies, where appropriate) consistent with applicable finding of no significant impact and/or record of decision and as required shall monitor their implementation and effectiveness.

(c) The NASA responsible official or non-Federal project sponsor shall ensure that funding for such mitigation measures is included in the program or project budget.

§ 1216.608 Elimination of duplication with State, Tribal, and local procedures.

(a) NASA will cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents.

(b) To the fullest extent practicable unless specifically prohibited by law, NASA will cooperate with State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Such cooperation may include:

(1) Joint planning processes.

(2) Joint environmental research and studies.

(3) Joint public meetings (except where otherwise provided by statute).

(4) Joint environmental documents.

§ 1216.609 Emergencies.

When NASA determines that emergency circumstances exist which make it necessary to take immediate response and/or recovery action(s) before preparing a NEPA analysis, then the following provisions apply:

(a) NASA may undertake immediate emergency response and/or recovery action(s) necessary to protect life, property, or important natural, cultural, or historic resources. When taking such action(s), NASA shall, to the extent practicable, mitigate reasonably foreseeable adverse environmental impacts.

(b) If NASA proposes emergency response and/or recovery actions that will continue beyond those needed to immediately protect life, property, and important natural, cultural, or historic resources, NASA shall determine the appropriate level of NEPA compliance.

(c) If continuation of the emergency actions will reasonably result in significant environmental impacts, NASA shall notify CEQ about alternative arrangements for compliance.

§ 1216.610 Classified actions.

(a) The classified status of a proposed action does not relieve NASA of the requirement to assess, document, and consider the environmental impacts of the proposed action.

(b) When classified information can reasonably be separated from other information and a meaningful environmental analysis can be produced, unclassified documents will be prepared and processed in accordance with this section. Classified portions will be kept separate and provided to properly cleared reviewers and decision makers in the form of a properly classified document that meets the requirements of this section to the extent permitted, given such classification.

Subpart 1216.7—Agency Decision Making

§ 1216.700 Decision documents.

At the time of its decision on its proposed action, NASA may prepare and timely publish a concise public decision document, notifying the public that the decision maker has certified that NASA has considered all relevant information raised in the NEPA process and that the NEPA process has closed,

pursuant to §§ 1216.400(e) and 1216.504.

§ 1216.701 Filing requirements.

NASA will file environmental impact statements together with comments and responses with the Environmental Protection Agency (EPA), for publication in the **Federal Register**.

Subpart 1216.8—Procedures for Non-Federal Project Sponsor-Prepared NEPA Documents

§ 1216.800 Procedures for non-Federal project sponsor-prepared environmental documents.

(a) A non-Federal project sponsor may request to prepare an environmental assessment or environmental impact statement. If the request is approved, the non-Federal project sponsor shall undertake preparation of the environmental document under the supervision of NASA.

(b) The non-Federal project sponsor shall ensure that the environmental document's analysis is sufficient to meet the requirements of NEPA and this part, including the potential impacts on the natural and human environments and sufficient information that complies with all applicable Federal, Tribal, and State requirements for the protection of the environment.

(c) The non-Federal project sponsor shall coordinate with NASA on communications to other Federal, State, local, and Tribal agencies with respect to permits, licenses, consultations, approvals, and authorizations associated with the proposed action.

(d) A non-Federal project sponsor must include a lifecycle analysis of the proposed action and alternatives (*i.e.*, construction, operation, and decommissioning of the proposed project).

(e) NASA must approve the scope of analysis (*e.g.*, natural, cultural, and socioeconomic resources; and environmental media) required for completion of the appropriate environmental document. NASA will provide appropriate guidance and assist in environmental document preparation, to the extent that NASA's resources and policy priorities admit. NASA will work with the non-Federal project sponsor to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(f) NASA will decide whether an environmental assessment or environmental impact statement requires public engagement. If required, the non-Federal project sponsor shall

coordinate with NASA in all aspects of the public engagement process, including, but not limited to, the publication of notices (intent, public meetings, availability of environmental documents) in publicly available media (*i.e.*, local, regional, national news outlets of broad circulation; social media outlets; public-facing websites); the preparation of a public engagement plan; the preparation of all public meeting materials or media packages; and any other materials that support public engagement in the NEPA process.

(g) The non-Federal project sponsor shall allow the participation of joint, cooperating, or participating agencies, as appropriate.

(h) The non-Federal project sponsor may prepare a "confidential business information" (CBI) or "proprietary information" annex to the environmental document which it prepares. Upon review and approval by NASA, this information may be withheld from public dissemination, but the CBI/proprietary information annex will be incorporated as part of the final administrative record.

(i) The non-Federal project sponsor shall meet all requirements of this part, including the timeframes for completion of the environmental document as set forth in §§ 1216.400(e) and 1216.504(a). Major changes to the schedule or related matters will be documented through written correspondence.

(j) NASA shall assist in the preparation of the non-Federal project sponsor's environmental document, independently evaluate the environmental document, and be responsible for the environmental document's analytical and legal sufficiency. NASA shall be responsible for issuing any record of decision or finding of no significant impact as may be required.

(k) Non-Federal project sponsors intending to pay a fee for an expedited environmental impact statement or environmental assessment deadline pursuant to section 112 of NEPA for which NASA would be the lead agency should consult with NASA before submitting a request to the CEQ. NASA will use such consultation to assist the non-Federal project sponsor in providing an accurate description of the project as it relates to the anticipated environmental impact statement or environmental assessment-associated government costs and understanding the anticipated scope of the environmental review including whether to prepare an environmental assessment or an environmental impact statement.

Subpart 1216.9—Definitions

§ 1216.900 Definitions.

As used in this part, terms have the meanings provided in NEPA sec. 111, 42 U.S.C. 4336e. In addition:

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

(b) *Connected action* means a separate Federal action within the authority of NASA that is closely related to the proposed agency action and should be addressed in a single environmental document because the proposed agency action:

(1) Automatically triggers the separate Federal action, which independently would require the preparation of additional environmental documents.

(2) Cannot proceed unless the separate Federal action is taken previously or simultaneously.

(3) Is an interdependent part of a larger Federal action that includes a separate Federal action, which mutually depends on the larger Federal action for their justification.

(c) *Council* or *CEQ* means the Council on Environmental Quality.

(d) *Effects* or *impacts* means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close geographic and temporal causal relationship to the proposed action or alternatives.

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

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

(e) *Human environment* means comprehensively the natural and physical environment and the relationship of present and future generations with that environment. (See

also the definition of *effects* in paragraph (d) of this section.)

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

(g) *Major Federal action*, as defined in 42 U.S.C. 4336e (10):

(1) *In general.* The term *major Federal action* means an action that the agency carrying out such action determines is subject to substantial Federal control and responsibility.

(2) *Exclusion.* the term *major Federal action* does not include:

(i) A non-Federal action—

(A) With no or minimal Federal funding; or

(B) With no or minimal Federal involvement where a Federal agency cannot control the outcome of the project;

(ii) Funding assistance solely in the form of general revenue sharing funds which do not provide Federal agency compliance or enforcement responsibility over the subsequent use of such funds;

(iii) Loans, loan guarantees, or other forms of financial assistance where a Federal agency does not exercise sufficient control and responsibility over the subsequent use of such financial assistance or the effect of the action;

(iv) Business loan guarantees provided by the Small Business Administration pursuant to section 7(a) or (b) and of the Small Business Act (U.S.C. 636(a)), or title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 *et seq.*);

(v) Bringing judicial or administrative civil or criminal enforcement actions;

(vi) Extraterritorial activities or decisions, which means agency activities or decisions with effects located entirely outside of the jurisdiction of the United States; or

(vii) Activities or decisions that are non-discretionary and made in accordance with the agency's statutory authority.

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

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

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

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

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

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

(i) *NASA Responsible Official* is the NASA official who will ensure that planning and decision-making for each proposed Agency action complies with the regulations in this subpart and with Agency NEPA policy and guidance.

(j) *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. 4321, *et seq.*).

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

(l) *Participating agency* means a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action.

(m) *Reasonable alternatives* mean a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposed action, and, where applicable, meet the goals of the agency or the non-Federal project sponsor.

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

(o) *Record of environmental consideration* is a brief document that is used to describe a proposed action and explain why further environmental analysis is or is not required.

(p) *Scope* consists of the range of actions, alternatives, and effects to be considered in an environmental document. The scope of a NEPA document may depend on its relationships to other NEPA documents.

(q) *Tiering* refers to the coverage of general matters in broader environmental impact statements or environmental assessments (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basin-wide program statements or ultimately site-specific statements) incorporating by reference the general discussion and concentrating solely on the issues specific to the statement subsequently prepared.

Subpart 1216.10—Severability

§ 1216.1000 Severability.

The subparts of this part are separate and severable from one another. If any

subpart or portion therein is stayed or determined to be invalid, or the applicability of any subpart or portion therein to any person or entity is held invalid, it is NASA's intention that the validity of the remainder of the subparts will not be affected, with the remaining subparts or portions therein to continue in effect.

[FR Doc. 2026–13245 Filed 6–30–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0553]

RIN 1625–AA00

Safety Zone; Lake Michigan, Michigan City, IN

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters on a portion of Lake Michigan and the Michigan City Harbor in Michigan City, Indiana. This action is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Lake Michigan, or their designated representative.

DATES: This rule is effective from 8:45 p.m. through 9:45 p.m. on July 4, 2026.

ADDRESSES: To view available documents, go to <https://www.regulations.gov> and search for USCG–2026–0553.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LT Kyle Goetz, Marine Safety Unit Chicago, Waterways Management Division, U.S. Coast Guard; telephone 630–341–8320, or email D09-SMB-MSUChicago-WWM@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

On July 4, 2026, the city of Michigan City will be hosting a fireworks display in Michigan City, IN. Hazards from fireworks displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Lake Michigan (COTP) has determined that potential hazards associated with this event (fireworks display) are a safety concern for anyone within an 800-foot radius of the fireworks display. 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 the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by July 4, 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 reason, 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 8:45 p.m. through 9:45 p.m. on July 4, 2026. The safety zone will cover all navigable waters of Lake Michigan and the Michigan City Harbor within an 800-foot radius of the approximate launch position at 41°43.700' N, 086°54.617' 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; DHS Delegation No. 00170.1, Revision No. 01.4.

■ 2. Add § 165.T09–0553 to read as follows:

§ 165.T09–0553 Safety Zone; Lake Michigan, Michigan City, IN.

(a) *Location.* The following area is a safety zone: All navigable waters of Lake Michigan and the Michigan City Harbor within an 800-foot radius of the approximate launch position at 41°43.700' N, 086°54.617' W. These coordinates are based on the North American Datum 83 (NAD 83).

(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 Lake Michigan (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (833) 900–2247. 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 8:45 p.m. to 9:45 p.m. on July 4, 2026.

R.N. Macon,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2026–13253 Filed 6–30–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0832]

RIN 1625–AA00

Safety Zone; Grand Traverse Bay, Traverse City, MI

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the West Arm of Grand Traverse Bay. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with an over water fireworks and air show display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Northern Great Lakes, or their designated representative.

DATES: This rule is effective from July 4, 2026 from 10 p.m. to 11 p.m.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–0832.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact LT Rebecca Simpson, Sector Northern Great Lakes Waterways Management Division, U.S. Coast Guard; telephone 906–635–3223, or email ssmprevention@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 Grand Traverse Bay near Traverse City, MI. In addition, there will

simultaneously be an airshow consisting of two planes and drones. The Captain of the Port (COTP) Sector Northern Great Lakes has determined that potential hazards associated with fireworks and air show are a safety concern for anyone within a box between the following points: 44°46'25.16" N 085°37'31.68" W; 44°46'16.25" N 085°36'37.51" W; 44°46'01.83" N 085°36'42.21" W; and 44°46'10.74" N 085°37'36.38" W. The barge for the fireworks display will be located within the box at 44°46.286' N 085°37.382' W. 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. The Coast Guard was notified of this event on June 17, 2026, but we must establish this safety zone by July 4, 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 reason, 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 on July 4, 2026 from 10 p.m. to 11 p.m. The safety zone will cover navigable waters in Grand Traverse Bay within the following points: Point 1 at 44°46'25.16" N 085°37'31.68" W, thence to Point 2 at 44°46'16.25" N 085°36'37.51" W, thence to Point 3 at 44°46'01.83" N 085°36'42.21" W, thence to Point 4 at 44°46'10.74" N 085°37'36.38" W; thence returning to Point 1. The barge for the fireworks display will be located within the box at 44°46.286' N 085°37.382' 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.T09–0832 to read as follows:

§ 165.T09–0832 Safety Zone; Grand Traverse Bay, Traverse City, MI.

(a) *Location.* The following area is a safety zone: All waters in West Arm of Grand Traverse Bay encompassed by a line connecting the following points beginning at 44°46′25.16″ N 085°37′31.68″ W, thence to 44°46′16.25″ N 085°36′37.51″ W, thence to 44°46′01.83″ N 085°36′42.21″ W, thence to 44°46′10.74″ N 085°37′36.38″ W; thence returning to back to the beginning point. The barge for the fireworks display will be located within the box at 44°46.286′ N 085°37.382′ W.

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

the Port Sector Northern Great Lakes (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (906) 635–3237. 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 10 p.m. to 11 p.m. on July 4, 2026.

W.C. Albright,

Captain, U.S. Coast Guard, Captain of the Port Sector Northern Great Lakes.

[FR Doc. 2026–13301 Filed 6–30–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1710319998630–02; RTID 0648–XF836]

Fisheries of the South Atlantic; 2026 South Atlantic Red Snapper Commercial Fishing Season

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

ACTION: Temporary rule; commercial fishing season.

SUMMARY: For the 2026 fishing year, NMFS announces the opening date of the red snapper commercial fishing season in the South Atlantic exclusive economic zone (EEZ). Announcing the opening date of the commercial season is an accountability measure (AM) for the commercial sector and allows fishers to maximize their opportunity to harvest the commercial annual catch limit (ACL).

DATES: The South Atlantic red snapper commercial fishing season opens at 12:01 a.m., local time, July 13, 2026, and remains open until 12:01 a.m., local time, January 1, 2027, unless changed by subsequent notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional

Office, 727–824–5305, mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The South Atlantic snapper-grouper fishery includes red snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and NMFS, was approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The South Atlantic red snapper commercial ACL is 102,951 pounds (lb) (46,698 kilograms (kg)), round weight. For the commercial sector, as described in the regulations at 50 CFR 622.183(b)(5), the red snapper commercial season opens annually on the second Monday in July. Therefore, for the 2026 fishing year, the red snapper commercial season opens at 12:01 a.m., local time, July 13, 2026, and will remain open until 12:01 a.m., local time, January 1, 2027, unless the commercial ACL is reached or projected to be reached prior to that date. In accordance with the commercial AM, NMFS will monitor commercial landings during the open season, and if commercial landings reach or are projected to reach the commercial ACL, then NMFS will file a notification with the Office of the Federal Register to close the red snapper commercial sector for the remainder of the fishing year (50 CFR 622.193(y)(1)).

During the red snapper commercial fishing season, the red snapper commercial trip limit is 75 lb (34 kg), gutted weight, and there is no red snapper minimum or maximum commercial size limit.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.183(b)(5)(i) and 622.193(y), which were issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary. Such procedures are unnecessary because the rule establishing the requirement to announce the red snapper commercial fishing season opening date and the red snapper commercial ACL and AM has already been subject to notice and

comment, and all that remains is to notify the public of the commercial fishing season opening date. Announcing the start of the commercial season as soon as practicable allows commercial sector participants and

businesses to better plan their activities to harvest red snapper.

For the aforementioned reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effectiveness of this action.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 26, 2026.

Kelly Denit,

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

[FR Doc. 2026–13267 Filed 6–29–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 125

Wednesday, July 1, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2026–2047]

RIN 3150–AL68

List of Approved Spent Fuel Storage Casks: NAC International, Inc., MAGNASTOR® Storage System, Certificate of Compliance No. 1031, Amendment Nos. 16 and 17 and Revisions to Amendment Nos. 0 Through 16

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its spent fuel storage regulations by revising the NAC International, Inc. (NAC) MAGNASTOR® System listing within the “List of approved spent fuel storage casks” to include Amendment Nos. 16 and 17 and revisions to Amendment Nos. 0 through 16 to Certificate of Compliance (CoC) No. 1031. Amendment No. 16 revises the CoC to permit alternate methods for determining the free volume inside a loaded canister and for measuring helium to ensure that Technical Specification limits are met. It also clarifies that mixed loadings of different assembly types or subtypes within a single Transportable Storage Cask are acceptable. Amendment No. 17 and revisions to Amendment Nos. 0 through 16 revise the CoC to incorporate changes to the design basis for the MAGNASTOR® storage system to correct an error with M5 fuel cladding material yield strength that was introduced in CoC No. 1031, Amendment No. 14 and the associated revisions to Amendment Nos. 0 through 13.

DATES: Submit comments by July 31, 2026. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure

consideration of only comments received on or before this date.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2026–2047, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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 public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on <https://www.regulations.gov> to view public comments.

You can read a plain language description of this proposed rule at <https://www.regulations.gov/docket/NRC-2026-2047>. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Caylee Kenny, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7150, email: Caylee.Kenny@nrc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Obtaining Information and Submitting Comments
- II. Rulemaking Procedure
- III. Background
- IV. Plain Writing
- V. Regulatory Planning and Review
- VI. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2047 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–2047. Address

questions about NRC dockets to Helen Chang, telephone: 301–415–3228, email: Helen.Chang@nrc.gov. For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- **NRC’s PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–2047 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment

submissions available to the public or entering the comment into ADAMS.

II. Rulemaking Procedure

Because the NRC considers this action to be non-controversial, the NRC is publishing this proposed rule concurrently with a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on September 14, 2026. However, if the NRC receives any significant adverse comment by July 31, 2026, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments in a subsequent final rule. In general, absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC to make a change (other than editorial) to the rule, CoC, or technical specifications.

For a more detailed discussion of the proposed rule changes and associated analyses, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

III. Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended, requires that “[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.” Section 133 of the Nuclear Waste Policy Act states, in part, that “[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule that added a new subpart K in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR) entitled “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L in 10 CFR part 72 entitled “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the NAC

MAGNASTOR® System design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance No. 1031.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885). The NRC requests comment on this proposed rule with respect to clarity and effectiveness of the language used.

V. Regulatory Planning and Review

Executive Order (E.O.) 12866

Executive Order (E.O.) 12866, as amended by E.O. 14215, provides that the Office of Information and Regulatory Affairs (OIRA) will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA determined that this proposed rule is not a significant regulatory action under E.O. 12866.

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

NRC has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154, “Unleashing American Energy,” E.O. 14192, “Unleashing Prosperity Through Deregulation,” E.O. 14215 “Ensuring Accountability for All Agencies,” and E.O. 14300, “Ordering the Reform of the Nuclear Regulatory Commission.” This proposed rule is not considered an E.O. 14192 deregulatory action.

VI. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS accession No./ web link/ Federal Reg- ister citation
Documents Related to Initial Certificate (Amendment No. 0), Revision 4	
Proposed CoC 1031 Amendment No. 0 Revision 4	ML26098A208
Proposed CoC 1031 Amendment No. 0 Revision 4 Technical Specifications (TS) Appendix A	ML26098A209
Proposed CoC 1031 Amendment No. 0 Revision 4 TS Appendix B	ML26098A210
Documents Related to Amendment No. 1, Revision 4	
Proposed CoC 1031 Amendment No. 1 Revision 4	ML26098A211
Proposed CoC 1031 Amendment No. 1 Revision 4 TS Appendix A	ML26098A212

Document	ADAMS accession No./ web link/ Federal Reg- ister citation
Proposed CoC 1031 Amendment No. 1 Revision 4 TS Appendix B	ML26098A213
Documents Related to Amendment No. 2, Revision 4	
Proposed CoC 1031 Amendment No. 2 Revision 4	ML26098A214
Proposed CoC 1031 Amendment No. 2 Revision 4 TS Appendix A	ML26098A215
Proposed CoC 1031 Amendment No. 2 Revision 4 TS Appendix B	ML26098A216
Documents Related to Amendment No. 3, Revision 4	
Proposed CoC 1031 Amendment No. 3 Revision 4	ML26098A217
Proposed CoC 1031 Amendment No. 3 Revision 4 TS Appendix A	ML26098A218
Proposed CoC 1031 Amendment No. 3 Revision 4 TS Appendix B	ML26098A219
Documents Related to Amendment No. 4, Revision 3	
Proposed CoC 1031 Amendment No. 4 Revision 3	ML26098A220
Proposed CoC 1031 Amendment No. 4 Revision 3 TS Appendix A	ML26098A221
Proposed CoC 1031 Amendment No. 4 Revision 3 TS Appendix B	ML26098A222
Documents Related to Amendment No. 5, Revision 3	
Proposed CoC 1031 Amendment No. 5 Revision 3	ML26098A223
Proposed CoC 1031 Amendment No. 5 Revision 3 TS Appendix A	ML26098A225
Proposed CoC 1031 Amendment No. 5 Revision 3 TS Appendix B	ML26098A227
Documents Related to Amendment No. 6, Revision 3	
Proposed CoC 1031 Amendment No. 6 Revision 3	ML26098A228
Proposed CoC 1031 Amendment No. 6 Revision 3 TS Appendix A	ML26098A229
Proposed CoC 1031 Amendment No. 6 Revision 3 TS Appendix B	ML26098A230
Documents Related to Amendment No. 7, Revision 3	
Proposed CoC 1031 Amendment No. 7 Revision 3	ML26098A231
Proposed CoC 1031 Amendment No. 7 Revision 3 TS Appendix A	ML26098A232
Proposed CoC 1031 Amendment No. 7 Revision 3 TS Appendix B	ML26098A233
Documents Related to Amendment No. 8, Revision 3	
Proposed CoC 1031 Amendment No. 8 Revision 3	ML26098A234
Proposed CoC 1031 Amendment No. 8 Revision 3 TS Appendix A	ML26098A235
Proposed CoC 1031 Amendment No. 8 Revision 3 TS Appendix B	ML26098A236
Documents Related to Amendment No. 9, Revision 3	
Proposed CoC 1031 Amendment No. 9 Revision 3	ML26098A237
Proposed CoC 1031 Amendment No. 9 Revision 3 TS Appendix A	ML26098A238
Proposed CoC 1031 Amendment No. 9 Revision 3 TS Appendix B	ML26098A239
Documents Related to Amendment No. 10, Revision 2	
Proposed CoC 1031 Amendment No. 10 Revision 2	ML26098A240
Proposed CoC 1031 Amendment No. 10 Revision 2, TS Appendix A	ML26098A241
Proposed CoC 1031 Amendment No. 10 Revision 2, TS Appendix B	ML26098A242
Documents Related to Amendment No. 11, Revision 2	
Proposed CoC 1031 Amendment No. 11 Revision 2	ML26098A243
Proposed CoC 1031 Amendment No. 11 Revision 2 TS Appendix A	ML26098A244
Proposed CoC 1031 Amendment No. 11 Revision 2 TS Appendix B	ML26098A245
Documents Related to Amendment No. 12, Revision 2	
Proposed CoC 1031 Amendment No. 12 Revision 2	ML26098A246
Proposed CoC 1031 Amendment No. 12 Revision 2 TS Appendix A	ML26098A247
Proposed CoC 1031 Amendment No. 12 Revision 2 TS Appendix B	ML26098A248
Documents Related to Amendment No. 13, Revision 2	
Proposed CoC 1031 Amendment No. 13 Revision 2	ML26098A249

Document	ADAMS accession No./ web link/ Federal Reg- ister citation
Proposed CoC 1031 Amendment No. 13 Revision 2 TS Appendix A	ML26098A250
Proposed CoC 1031 Amendment No. 13 Revision 2 TS Appendix B	ML26098A251
Documents Related to Amendment No. 14, Revision 1	
Proposed CoC 1031 Amendment No. 14 Revision 1	ML26098A252
Proposed CoC 1031 Amendment No. 14 Revision 1 TS Appendix A	ML26098A253
Proposed CoC 1031 Amendment No. 14 Revision 1 TS Appendix B	ML26098A254
Documents Related to Amendment No. 15, Revision 1	
Proposed CoC 1031 Amendment No. 15 Revision 1	ML26098A255
Proposed CoC 1031 Amendment No. 15 Revision 1 TS Appendix A	ML26098A256
Proposed CoC 1031 Amendment No. 15 Revision 1 TS Appendix B	ML26098A257
Documents Related to Amendment No. 16, Revision 0	
Proposed CoC 1031 Amendment No. 16, Revision 0	ML25217A298
Proposed CoC 1031 Amendment No. 16 Revision 0 TS Appendix A	ML25217A300
Proposed CoC 1031 Amendment No. 16 Revision 0 TS Appendix B	ML25217A302
Preliminary Safety Evaluation Report for CoC 1031 Amendment 16 Revision 0	ML25217A304
Initial Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 16, March 21, 2025.	ML25080A349
Supplement to NAC International's Request to Amendment MAGNASTOR® Cask System, Amendment No. 16, April 18, 2025	ML25108A159
Documents Related to Amendment No. 16, Revision 1	
Proposed CoC 1031 Amendment No. 16 Revision 1	ML26098A258
Proposed CoC 1031 Amendment No. 16 Revision 1 TS Appendix A	ML26098A259
Proposed CoC 1031 Amendment No. 16 Revision 1 TS Appendix B	ML26098A260
Documents Related to Amendment No. 17, Revision 0 and Revisions to Amendment Nos. 0 through 16	
Proposed CoC 1031 Amendment No. 17	ML26098A262
Proposed CoC 1031 Amendment No. 17 TS Appendix A	ML26098A263
Proposed CoC 1031 Amendment No. 17 TS Appendix B	ML26098A264
Preliminary Safety Evaluation Report, CoC No. 1031, Amendment 17 and Revisions to Amendments 0–16	ML26098A207
NAC International—Initial Submission of an Amendment Request for the NAC International MAGNASTOR® Cask System Amendment No. 17, July 30, 2025.	ML25211A197
Submission of a Supplement to Amendment Request No. 17 for the NAC International MAGNASTOR® Cask System, March 4, 2026.	ML26064A039
Submission of a Supplement to Amendment Request No. 17 for the NAC International MAGNASTOR® Cask System, March 13, 2026.	ML26075E865
Other Documents	
User Need Memorandum for Amendment No. 16	ML25217A296
User Need Memorandum for Amendment No. 17 and Revisions to Amendment Nos. 0 through 16	ML26098A206
Final Rule, “List of Approved Spent Fuel Storage Casks: MAGNASTOR® Addition,” published November 21, 2008	73 FR 70587
Revision to Policy Statement, “Agreement State Program Policy Statement; Correction,” published October 18, 2017	82 FR 48535
Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998	63 FR 31885

The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2026–2047. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2026–2047); (2) click the “Subscribe” link; and (3) enter an email address and click on the “Subscribe” link.

Dated: June 17, 2026.

For the Nuclear Regulatory Commission.

Michael King,

Executive Director of Operations.

[FR Doc. 2026–13261 Filed 6–30–26; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4666; Project Identifier AD–2025–01677–R]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, LLC Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain MD Helicopters, LLC (MDHI) Model 369D, 369E, 369F, 369FF, 369H, and 500N helicopters. This proposed AD was prompted by a report of mechanical damage to the main transmission drive shaft coupling (coupling). This proposed AD would require a one-time visual inspection of the couplings for cracks of the splines and, depending on the results, replacement of the couplings. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by August 17, 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–2026–4666; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For MD Helicopters material identified in this proposed AD, contact MDHI, 4555 East McDowell Road, Mesa, AZ 85215–9734; phone: (480) 346–6300; email: info@mdhelicopters.com; website: mdhelicopters.com/contact/.

- 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.

FOR FURTHER INFORMATION CONTACT: Binod Singh, Aviation Safety Engineer,

FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (562) 627–5228; email: binod.singh@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–2026–4666; Project Identifier AD–2025–01677–R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may revise 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 Binod Singh, Aviation Safety Engineer, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received a report that couplings part number (P/N) 369H5660

were found with mechanical damage to the root fillets, spline faces, and the major diameter on Model 369D, 369E, 369F, 369FF, 369H, and 500N helicopters. It was also reported that a new vendor improperly manufactured coupling P/N 369H5660, with a total of 148 shipped to customers between June 3, 2020, and May 1, 2022. The manufacturer reported that 86 affected couplings have been recovered, with the remaining 62 affected couplings at unknown locations.

This condition, if not addressed, could result in fatigue cracks that grow from the damaged root fillets and spline faces, which could lead to failure of the coupling with consequent loss of power to the main rotor blades and possible emergency autorotational landing.

FAA’s Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed MD Helicopters Service Bulletin SB369H–264R1 for Model 369H helicopters, SB369D–230R1 for Model 369D helicopters, SB369E–130R1 for Model 369E helicopters, SB369F–121R1 for Model 369F and 369FF helicopters, and SB500N–067R1 for Model 500N helicopters, dated May 26, 2023 (co-published as one document). This material specifies procedures for a one-time visual inspection of the couplings for mechanical damage or cracks of the splines and, if necessary, replacement of the couplings.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 568 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual inspection of the couplings	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$48,280

The FAA estimates the following costs to do any replacement that would be required based on the results of the

proposed inspection. The agency has no way of determining the number of

helicopters that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace coupling	2 work-hours × \$85 per hour = \$170	\$1,681 (per coupling)	Up to \$3,532.

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:

MD Helicopters, LLC: Docket No. FAA–2026–4666; Project Identifier AD–2025–01677–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 17, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MD Helicopters, LLC (MDHI) Model 369D, 369E, 369F, 369FF, 369H, and 500N helicopters, certificated in any category, with an installed main transmission drive shaft coupling (coupling) part number 369H5660, having serial numbers 8564–0001 through 8564–0308.

(d) Subject

Joint Aircraft System Component (JASC) Code 6310, Engine/transmission coupling.

(e) Unsafe Condition

This AD was prompted by a report of mechanical damage to the coupling. The FAA is issuing this AD to detect and address couplings with damage to the root fillets, spline faces, and major diameter. The unsafe condition, if not addressed, could result in fatigue cracks that grow from the damaged root fillets and spline faces, which could lead to failure of the coupling with consequent loss of power to the main rotor blades and possible emergency autorotational landing.

(f) Compliance

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

(g) Required Actions

Within 50 hours time-in-service (TIS) or 6 months after the effective date of this AD, whichever occurs first, using a bright light and 10X magnification, visually inspect each coupling for cracks to the spline.

Note 1 to paragraph (g): Examples of acceptable couplings with standard broaching tool marks and mechanical damage may be found in Figure 1 and Figure 2, as applicable, of MD Helicopters Service Bulletin SB369H–264R1, SB369D–230R1, SB369E–130R1, SB369F–121R1, and SB500N–067R1, dated May 26, 2023 (co-published as one document).

(1) If any cracks are found on any coupling, before further flight, remove the affected coupling from service and replace with a serviceable coupling.

(2) If there are no cracks on any coupling, within 300 hours TIS after the effective date of this AD, replace the affected coupling with a serviceable coupling.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, West Certification 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 West Certification Branch, send it to the attention of the person

identified in paragraph (i) 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.

(i) Additional Information

For more information about this AD, contact Binod Singh, Aviation Safety Engineer, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712; phone: (562) 627-5228; email: binod.singh@faa.gov.

(j) 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.

Note 1 to paragraph (j)(2): The material listed in paragraphs (j)(2)(i) through (v) of this AD is co-published as one document.

(i) MD Helicopters Service Bulletin (SB) SB369H-264R1, dated May 26, 2023.

(ii) MD Helicopters SB SB369D-230R1, dated May 26, 2023.

(iii) MD Helicopters SB SB369E-130R1, dated May 26, 2023.

(iv) MD Helicopters SB SB369F-121R1, dated May 26, 2023.

(v) MD Helicopters SB SB500N-067R1, dated May 26, 2023.

(3) For MD Helicopters material identified in this AD, contact MD Helicopters LLC, 4555 East McDowell Road, Mesa, AZ, 85215-9734; phone: (480) 346-6300; email: info@mdhelicopters.com; website: mdhelicopters.com/contact/.

(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 June 26, 2026.

Christopher R. Parker,

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

[FR Doc. 2026-13365 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 43, 61, 65, 91, and 147

[Docket No.: FAA-2026-6671; Notice Nos. 26-08]

RIN 2120-AM04

Mechanic Certification: Inspection Rating and Recent Experience Requirements

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FAA proposes to amend the regulations for certificated mechanics by replacing the inspection authorization with an inspection rating on a mechanic's certificate, similar to the existing airframe and powerplant ratings. The inspection rating would carry the same privileges and limitations as the inspection authorization but would not require renewal or have an expiration date, consistent with the other mechanic ratings. As a result, FAA proposes to require certificated mechanics with inspection ratings to complete rolling recent experience activities, maintained independently, to exercise the privileges of their rating, rather than the current requirements of presenting evidence of renewal activities each March of every odd-numbered year. These proposed changes are intended to align mechanic privileges, which would streamline and simplify the process for maintaining inspection privileges, increase FAA efficiency by reducing on-demand work tasks, and save critical hours for safety-focused missions. These proposed changes would be deregulatory since they would reduce the paperwork and resource burdens linked to complying with the existing regulations for both industry and FAA.

DATES: Send comments on or before August 31, 2026.

ADDRESSES: Send comments identified by docket number FAA-2026-6671 using any of the following methods:

- **Federal eRulemaking Portal:** Go to www.regulations.gov and follow the online instructions for sending your comments electronically.
- **Mail:** Send comments to Docket Operations; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, West Building, 5th Floor (W58-213), Washington, DC 20590-0001.
- **Hand Delivery or Courier:** Take comments to Docket Operations in

Room W58-213 of the West Building 5th Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• **Fax:** Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process better. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W58-213 of the West Building 5th Floor at 1200 New Jersey Avenue SE, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Colby Barron, AFS-320, Aircraft Maintenance Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20951; telephone (509) 398-1995; email Colby.barron@faa.gov.

SUPPLEMENTARY INFORMATION:

List of Abbreviations and Acronyms Frequently Used in This Document

Airframe and Powerplant (A&P)
Advisory Circular (AC)
Airmen Certification Standards (ACS)
Aviation Safety Inspector (ASI)
Flight Standards District Office (FSDO)
Inspection Authorization (IA)
International Field Office (IFO)
Inspection Rating (IR)
National Airspace System (NAS)

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I. Executive Summary

A. Overview of Proposed Rule

This proposed rule would amend 14 CFR part 65 by changing a mechanic inspection authorization (IA) into an inspection rating (IR). Currently, FAA certificated mechanics who hold airframe and powerplant (A&P) ratings and meet certain additional eligibility requirements may seek an IA, which provides additional privileges as set forth in § 65.95. The IA eligibility and renewal requirements would be largely retained and incorporated into the new IR requirements with some revision. Section IV.B of the preamble provides a table outlining the relocated provisions for ease of reference. The privileges and limitations of the new IR would align

with those of the current IA. As explained in section III.B. of the preamble, this proposal intends to reduce both individual and administrative costs and harmonize the IA with the other ratings available on a mechanic certificate and would not make any substantive changes to a current IA's job duties or responsibilities.

FAA proposes to replace the IA with a new IR. Currently, an IA expires and requires renewal in March of each odd-numbered year, requiring IA holders to submit a renewal package to the responsible Flight Standards District Office (FSDO) or International Field Office (IFO) for review. The renewal package consists of a completed FAA Form 8610–1, Mechanic's Application for Inspection Authorization, documentary evidence to support that the applicant still meets the initial eligibility requirements of § 65.91(c)(1) through (4), and evidence to show that the applicant completed one of the activities listed in § 65.93(a)(1) through (5) for each of the years of the two-year inspection authorization period. An Aviation Safety Inspector (ASI) or Aviation Safety Technician (AST) reviews the package and if approved, will issue a renewal letter to the IA holder indicating the new expiration date. This renewal process creates an unnecessary repetitive administrative burden and cost to FAA and mechanics, as discussed in section III.B of the preamble. This proposal would eliminate the expiration date, as the IR would be treated like the A&P ratings, which do not expire.

Instead of the onerous renewal process, this rule proposes to convert the annual activity requirements to renew an IA (currently set forth in § 65.93 (a)(1) through (5)) into recent experience requirements. All five of the activity options to renew an IA would be retained as activity options to meet recent experience requirements; no new options would be added. Therefore, to exercise the privileges of the IR, FAA proposes to require a person to meet the recent experience activity within the previous 12 calendar months. Maintaining the same eligibility requirements from the IA to the IR and converting the IA renewal requirements into IR recent experience requirements would ensure there is no increased risk to the National Airspace System (NAS).¹ In place of the renewal process and in light of the proposed conversion from renewal requirements to recent experience requirements, FAA proposes that inspection-rated mechanics keep records demonstrating recent experience for the previous 24 calendar months. To

note, mechanics with IAs already maintain these records to present evidence at the time of IA renewal; under this proposal, they would no longer have to complete renewal paperwork every two years but still would be required to maintain their records independently for the previous 24 calendar months.

Currently, when a certificated mechanic with an IA does not meet the renewal requirements, there is no process to reinstate their IA privileges. Once an IA expires, a mechanic must reapply for a new IA, which includes resubmitting the application and supporting documentation and retaking the written examination. FAA proposes to add methods for certificated mechanics with an inspection rating to reestablish inspection privileges if they fail to meet the recent experience requirements within the previous 12 calendar months and can no longer exercise the privileges of the IR. Certificated mechanics with an IR could reestablish inspection privileges by either attending eight hours of acceptable training or successfully passing an oral test given by an ASI, provided they continue to meet eligibility requirements.

Finally, FAA proposes to convert the existing IA testing standards into formalized Airman Certification Standards (ACS) for the mechanic certificate IR, aligning with the training and testing framework for a mechanic certificate with an airframe rating, a powerplant rating, or both. FAA proposes to incorporate these standards by reference, as explained in section IV.A.4 of the preamble.

B. Summary of the Costs and Benefits

Mechanics who hold an IA (to be replaced with an IR) would realize a net savings of \$1.01 million over 10 years, discounted, and FAA would realize a net savings of \$4.44 million over 10 years, discounted. These savings would result from reduced paperwork costs for mechanics with an IA replaced by an IR who would no longer need to fill out renewal forms and reduced time to FAA that would no longer need to process the renewals. The net savings include a minimal one-time cost of approximately \$0.22 million, discounted. This one-time cost covers the cost to the mechanics to submit a simple online form requesting a replacement mechanic certificate with an IR and to FAA for processing and sending out the replacement mechanic certificate with an IR.

There are other revisions in the proposed rule that would not have an impact on the existing industry

practices and would not result in any costs or benefits. Adjustments to knowledge requirements of this proposed rule would not impact the baseline as the written test is already required under the IA. These revisions reorganize the regulatory text to explain the tests required. In addition, the addition of IR specific privileges and limitations language would not affect the existing industry practices.

II. Authority for This Rulemaking

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

This rulemaking is issued under the authority described in subtitle VII, part A, subpart III, 44701(a)(2)(A) and (a)(5), General Requirements. Under that section, FAA is charged with prescribing regulations to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards in the interest of safety for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances, and for other practices, methods, and procedures necessary for safety in air commerce and national security. It is also issued under subtitle VII, part A, subpart III, section 44703, Airman Certificates, which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for and physically able to perform the duties related to the position authorized by the certificate. This regulation is within the scope of that authority.

III. Background

Part 65, subpart D sets forth the requirements for a mechanic certificate and associated ratings (*i.e.*, A&P). While not a rating under § 65.73, certificated mechanics may be eligible to receive an IA, which grants privileges beyond those associated with the mechanic certificate and its A&P ratings. A certificated mechanic with an airframe rating may approve for return to service an airframe, or any related part, after the mechanic has performed, supervised, or inspected its maintenance or alteration (excluding major repairs and major alterations) with the exception of § 65.85(b).² In addition, an airframe rated mechanic may perform the 100-hour inspection on an airframe or any related part or appliance as required by part 91 and approve it for return to service. Similarly, a certificated

mechanic with a powerplant rating may approve for return to service a powerplant, or propeller, or any related part after the mechanic has performed, supervised, or inspected its maintenance or alteration (excluding major repairs and major alterations) with the exception of § 65.87(b).³ Also, a powerplant rated mechanic may perform the 100-hour inspection on a powerplant or propeller, or any part thereof, as required by part 91 and approve it for return to service. A certificated mechanic with an airframe rating, powerplant rating, or both may exercise the privilege of their rating immediately after being issued a mechanic certificate under part 65 for the rating sought. However, an A&P mechanic must adhere to additional requirements to be eligible to apply for an IA.

The requirements for the IA are more rigorous than those of the ratings currently issued with a mechanic certificate because the privileges of the IA are associated with a higher risk to safety to the flying public. IA holders have the ultimate responsibility of ensuring that major repairs and major alterations have been performed properly and safely. Unlike mechanics with only A&P ratings, IA holders are able to approve aircraft or parts for return to service after major repairs and major alterations.⁴ While A&P rated mechanics are able to perform major repairs and major alterations, an IA holder is required to inspect their work to ensure it was performed to an acceptable level and approve the aircraft or part for return to service. In addition, IA holders may perform the aircraft annual inspection required by 14 CFR 91.409(a)(1), which mechanics with only A&P ratings may not perform. This annual inspection is a thorough examination of all aircraft systems and components to ensure the aircraft remains airworthy and meets all safety standards.

Currently, § 65.91(c) prescribes the IA applicant eligibility requirements. To be eligible for an IA, a certificated mechanic must currently have effective A&P ratings, in effect for at least three years, and have been actively engaged in exercising their certificate for at least the two-year period immediately preceding the application for authorization. In addition, an IA applicant must have a fixed base of operations where they can be located during a normal work week, with the equipment, facilities, and inspection data available to inspect airframes, powerplants, propellers, or any related appliance properly. If a mechanic meets the eligibility requirements described

above, they must then pass a written test to obtain the IA.⁵

To exercise the privileges of the IA, the IA holder's mechanic certificate (and both A&P ratings) must be currently effective. In addition, an IA itself expires on March 31 of each odd-numbered year; therefore, IA holders must renew their IA, specifically, in March of each odd-numbered year.⁶ To renew an IA, an IA holder must provide evidence of completion of one of the annual activities listed in § 65.93(a) for each year of the IA period. If an IA holder fails to renew their IA before the March 31 expiration date, there is no process to reinstate the expired IA; the IA holder must re-apply and meet the requirements of original issuance. Section IV.A.7. of this preamble further discusses the renewal methods, process, limitations, and resulting administrative burden to both industry and FAA that this rulemaking seeks to address.

FAA's process for issuing and renewing IAs in this manner has remained largely unchanged since the early 1960s. The preamble provides the relevant regulatory history of IAs in section III.A. and briefly discusses a related recent rulemaking that removed expiration dates from airman certificates, similar to this proposal, in section III.C.

A. History

The Civil Aeronautics Board originally codified the A&P ratings in § 24.43 of the Civil Air Regulations, which permitted a mechanic with both A&P ratings to have an IA.⁷ These regulations prescribed the eligibility and privileges for an IA, marking the formal beginning of the IA process. Over time, as the aviation industry and regulatory environment evolved, FAA issued further amendments and clarifications to the IA renewal process, including recodification to part 65 in 1962,⁸ but largely maintained the IA eligibility and renewal framework. For example, a 1977 final rule clarified in § 65.91(c)(1) that an applicant for an IA must hold a currently effective mechanic certificate with currently effective A&P ratings that have been continuously effective for no less than three-years.⁹

In addition, the 1977 final rule, in part, withdrew a proposed record keeping requirement that would have required IA holders to maintain current records of all inspections they performed.¹⁰ Proposed § 65.94 would have required IA holders to keep a record of every aircraft that they have inspected for a period of two years, including the registration number, name, and address of the registered owner, make and model of the aircraft,

the kind of inspection performed, the date, and if the aircraft was returned to service.¹¹ FAA acknowledged that most IA holders already maintain personal records of work completed to satisfy the annual renewal requirements. While the majority of the commenters favored the proposal, some contended that the proposed regulation would create an undue economic burden for IA holders and the records kept would not be beneficial.¹² Therefore, FAA decided to further evaluate the impact and withdrew the proposal.

FAA revisited the issuance and renewal of IAs in a 1985 final rule due to unintended effects upon an FAA enforcement short-term suspension, effectively rendering a person's IA revoked for three years upon short-term suspension of the underlying certificate, rating, or both for a minor offense.¹³ The 1985 final rule revised § 65.91(c)(1) to remove the continuous effectivity requirement with a requirement that the certificate and ratings each must be currently effective and have been in effect for a total of at least three years. FAA reasoned these revisions to § 65.91(c)(1) would provide a more equitable renewal process and a more flexible and fair enforcement program while maintaining satisfactory certification standards.

For almost three decades, IA regulations remained unchanged. However, in 2007 as an outgrowth of discussions between FAA and industry representatives, including the Professional Aviation Maintenance Association, FAA published a direct final rule amending the renewal period for IAs from March 31 of each year to March 31 of every odd-numbered year.¹⁴ Much like this proposal, the overall goal of the 2007 direct final rule was to reduce the administrative costs and burdens associated with the IA renewal process without affecting safety because changing the renewal duration from each year to every odd-numbered year did not change the requirement to complete annual currency activities listed in § 65.93(a)(1)–(5).

In 2010, FAA sought to clarify the term “actively engaged,” as used in § 65.91(c)(2), for the purposes of processing IA applications and renewals.¹⁵ FAA proposed to define “actively engaged” as exercising the privileges of A&P ratings on a mechanic certificate in the maintenance of civil aircraft. The 2010 notice sought to remedy confusion and inconsistent interpretation over the meaning of “actively engaged” among Aviation Safety Inspectors (ASIs) and aircraft maintenance personnel by providing a definition in FAA Order 8900.1. In

addition, both the notice and the eventual adoption of policy responding to comments provided a number of examples and guidance, including consideration of the difference between full time, part time, and occasional engagement.¹⁶

B. Need for the Rulemaking Action

As stated in the aforementioned history, FAA has not engaged in a substantive regulatory review of IA holders in almost three decades. Since that time, FAA and industry have enjoyed advances in technology and processes, which FAA finds to be conducive in streamlining procedural regulations for IA holders at this time. This section of the preamble first discusses the identified need for the proposals to the IA and proposed conversion to an IR.

When an initial IA application is approved under § 65.91, FAA distributes an IA card (FAA Form 8310–5), which includes the mechanic's name, certificate number, and the IA expiration date. As discussed further in this section, currently, an IA expires every March 31 of each odd-numbered year; this expiration and renewal process incurs substantial costs to both FAA and individual mechanics. IA holders must renew their IAs in March of each odd-numbered year either via the online Integrated Airman Certification and Rating Application (IACRA) or directly with a FSDO or an IFO. To renew an IA, an IA holder must fill out a Mechanic's Application for Inspection Authorization, FAA Form 8610–1, and provide evidence of completion of one of the annual activities listed in § 65.93(a) for each year of the prior 2-year period that they continue to meet the initial eligibility requirements of § 65.91(c)(1) through (4). The FSDO or IFO personnel must review the application, verify the IA holder has completed the renewal activities, and issue a renewal letter with the new expiration date. Currently, no process exists for reinstatement of an expired IA. If an IA holder fails to renew their authorization prior to the expiration date, the IA is discontinued, and the IA holder must reapply for the IA and meet all the same requirements for original issuance.

In June 2022, FAA conducted research on innovative ways of accomplishing on-demand work to free up resources for more safety critical work. The research identified the IA renewal process as a task that could be eliminated to reduce unnecessary, repetitive on-demand work for both industry and FAA with no adverse impact on safety. On-demand work

describes time-sensitive tasks an employee can expect to encounter, of which the quantity and scope cannot be prepared for in advance. Applications for IA renewals align with this definition. Upon receipt of a physical or digital IA renewal application, FAA personnel investigate and process the application in a timely manner. However, FAA personnel cannot anticipate the time needed to process an IA issuance or renewal application due to potential errors or the need for a more in-depth investigation. Though FAA currently conducts IA renewals in March of each odd-numbered year, FAA personnel cannot anticipate the workload because IA holders can submit renewal applications to any FSDO or IFO, regardless of their geographic location.

FAA estimates that approximately 21,500 renewal applications would be processed in every odd-numbered year at a total cost of approximately \$5.66 million over the next 10 years at a seven percent present value.¹⁷ In the 2023 renewal cycle, FAA processed 21,042 IA renewal applications.¹⁸ The IA renewal process is burdensome and costly to both FAA and mechanics, who must complete renewal paperwork every two years.

Therefore, FAA has determined that other procedural avenues exist to ensure IA holders' continuing proficiency and experience (as subsequently explained) while reducing the burden on government and industry resources. Upon further analysis of the IA regulations during the pendency of pre-rulemaking activity, FAA has also determined that replacing the IA with the IR would align the inspection privileges with those of the airframe rating, powerplant rating, or both, on a mechanic certificate, enabling streamlined regulations and expectations in part 65, subpart D—Mechanics. These proposed changes would be deregulatory since they would reduce the economic and resource burdens linked to complying with the existing regulations for both industry and FAA.

C. Related Regulatory Actions

This rulemaking is not unprecedented as FAA has recently taken similar actions to remove administrative burdens and convert renewal requirements into a rolling recent experience requirement framework. On October 1, 2024, FAA published the *Removal of Expiration Date on a Flight Instructor Certificate: Additional Qualification Requirements to Train Initial Flight Instructor Applicants; and Other Provisions* final rule.¹⁹ This rule

removed the expiration date on flight instructor certificates to align with other airman certificate ratings, converted renewal requirements to recent experience requirements, provided an additional recent experience activity option, and added a refresher course option to reinstate the privileges of a flight instructor certificate upon certain lapses in recent experience.

IV. Discussion of the Proposal

A. Inspection Authorization to Inspection Rating

1. Ratings and Display (§§ 65.73, 65.89, and 65.95)

i. Addition of Inspection Rating

Subpart D of part 65 contains the eligibility and certification requirements for persons seeking a mechanic certificate or rating. Specifically, § 65.71 sets forth the basic eligibility requirements for a person seeking a mechanic certificate with ratings as defined in § 65.73: an airframe rating, a powerplant rating, or both. To obtain each rating, a person must complete knowledge, experience, and skill requirements as set forth in §§ 65.75, 65.77, and 65.79, respectfully, and will then be authorized to carry out the privileges and limitations set forth in §§ 65.81 (general), 65.85 (airframe), and 65.87 (powerplant), respectfully. A certificate/rating holder must also meet those recent experience requirements set forth in § 65.83.

After a person receives a mechanic certificate with both A&P ratings, each of which is currently effective and has been in effect for a total of at least three years,²⁰ that person may pursue an IA. An IA allows a person to (1) inspect and approve for return to service any aircraft or related part or appliance (except any aircraft maintained in accordance with a continuous airworthiness program under part 121) after a major repair or major alteration to it in accordance with part 43, if the work was done in accordance with technical data approved by the Administrator, and (2) perform an annual, or perform or supervise a progressive inspection according to §§ 43.13 and 43.15.²¹

However, an IA is not a rating. While § 1.1 defines a rating as a part of a certificate that sets forth special conditions, privileges, and limitations, currently, under § 65.73, there are only two defined ratings issued with the mechanic certificate: airframe and powerplant. Conversely, the IA is not recognized as a rating (specifically called an “authorization”) and maintains separate requirements provided in §§ 65.91 through 65.95.

However, FAA finds that the bestowed privileges and limitations, regulatory requirements, and general application of the IA lends itself to meeting the definition of a rating, with certain revisions to the relevant regulations. Therefore, FAA proposes to replace the IA with an IR, first by adding “Inspection” to § 65.73(a) as one of the ratings issued with a mechanic certificate as new § 65.73(a)(3).

FAA proposes to apply current IA conditions, limitations, and privileges to the proposed IR, thereby maintaining an equivalent level of safety within the NAS while streamlining the privileges in part 65, subpart D as ratings rather than a mix of ratings and authorization. This would necessitate a reorganization of the relevant regulation sections to separate the requirements of the IR from the A&P rating requirements, discussed in the following sections of the preamble in detail.

If this proposed rule becomes effective, it would require a transition period for mechanics that have an IA to convert their IA into an IR. FAA emphasizes that holders of an IA before a final rulemaking action will not be placed at a disadvantage during the pendency of transition (compared to persons who can immediately apply for an IR after any final rule adoption) or subject to a rapid transition period unnecessarily. Rather, FAA proposes to add § 65.73(c) to allow certificated mechanics that have a valid IA when (and if) the proposed IR rule becomes effective to exercise the privileges of the IR with their issued-IA for up to 24 months from the effective date, provided that they comply with the limitations and recent experience requirements of proposed §§ 65.81(b) and 65.83(b).²² In other words, on the effective date of the rule, IA holders would be able to continue exercising inspection privileges without interruption and would not need to take immediate action to continue exercising inspection privileges so long as they (i) had a valid IA on the effective date; (ii) continue to hold a mechanic certificate with A&P ratings; (iii) have a fixed base of operations; and (iv) have the necessary equipment, facilities, and inspection data to inspect properly.²³ IA holders would also need to comply with the recent experience requirements of proposed § 65.83(b), but they would have a 6-month grace period from the final rule’s effective date to comply, as discussed in section IV.A.7.ii of the preamble. This new provision would only be necessary for 24 months after the effective date of the final rule, as IA holders would be required to obtain a replacement certificate with the IR to

continue exercising IR privileges, as discussed in the following paragraph. Therefore, FAA proposes amendatory language that would remove this provision after 24 months.

The IA holder would have a fixed time within which to replace their physical IA with a mechanic certificate with an IR with FAA. Therefore, FAA proposes to add § 65.73(d) to state that certificated mechanics that have a valid IA on the effective date of the final rule are entitled to a replacement mechanic certificate with the IR.²⁴ In addition, to exercise the privileges of the IR beyond 24 months from the effective date of the final rule, the mechanic would be required to request and obtain a replacement mechanic certificate with an IR. Replacement of the certificates would be at no charge to the mechanic. FAA Airman Registry currently maintains a system allowing a certificate holder to request a replacement mechanic certificate online; mechanics would use this same system to request a new mechanic certificate with an IR.²⁵

FAA would allow holders of an IA up to 24 months to exercise the privileges of an IR prior to obtaining the replacement mechanic certificate with an IR. The proposed 24-month period mirrors the current IA period between renewals. This would allow sufficient time for IA holders to complete the replacement process at their convenience; it would be at the IA holder’s discretion as to when in the 24 months the person requests replacement. In addition, this would not be an additional burden from the IA renewal time period, as under the current regulations the IA holder would have to submit their renewal request within 24 months. In addition, spreading the replacement process out over 24 months would lessen the burden placed on FAA personnel who would be processing and issuing the replacement certificates. During this period, the mechanic would still have to meet the recent experience requirements of § 65.83(b) to exercise the IR privileges regardless of if they have obtained the replacement certificate, as discussed in section IV.A.6 of the preamble. This would ensure there is no safety risk in allowing 24 months to obtain the replacement certificate.

Proposed § 65.73(e) would direct the next steps if a person does not obtain a replacement mechanic certificate with an IR within 24 months of the effective date of the rule. After the 24-month time period, a person that does not obtain a replacement would be restricted from exercising the privileges of an IR. However, they would have the ability to regain these privileges without needing

to go through a new application process. There would be no time limit to request a replacement certificate; a person with a valid IA on the effective date of the rule would be able to request a replacement mechanic certificate with an IR even after 24 months had passed. The difference between a new application process and the process set forth in proposed § 65.73(e) is that these re-applicants would not have to take the written test again. The written test is a computer-based fifty question multiple-choice test. The applicant is provided with a computer testing supplement to use during the test that contains excerpts from regulations, type certificate data sheets, airworthiness directives, advisory circulars, etc., that is used as a reference in answering the questions. The test is designed to ensure that the applicant possesses the baseline ability to locate, read, interpret, and apply data. FAA finds that a lapse in recency of experience would not affect this baseline ability and, therefore, it would be unnecessary for a mechanic who previously held an IA to take another written test when attempting to re-apply for their privileges (which would be via an IR).

To regain IR privileges, the person would be required to obtain the replacement certificate and comply with the limitations and recent experience requirements in proposed §§ 65.81(b) and 65.83(b). To comply with the limitations and recent experience requirements, the person must still hold a mechanic certificate with effective A&P ratings, have a fixed base of operations, have all of the necessary equipment, facilities, and data necessary to perform the work, have been actively engaged in maintaining aircraft for the two year period leading up to exercising the privileges, and either complete an eight hour refresher training course or successfully complete an oral test from an FAA inspector. Because a person would have to meet the aforementioned limitations and recent experience requirements in order to exercise the privileges of the IR, FAA does not find it necessary to impose further prerequisites on a person's ability to request a certificate with the converted IR.

Therefore, FAA finds that there are sufficient safeguards to allow a person who has a valid IA at the time this rule becomes effective to obtain a replacement certificate with an IR and regain their IR privileges at any point in time without having to reapply fully. FAA invites public comment on this determination. Specifically, FAA seeks comments on whether FAA should establish additional requirements or

limitations for a person to exchange an IA for a mechanic certificate with an IR and regain inspection privileges.

ii. Certificate Display

Currently, under § 65.89, each person who holds a mechanic certificate must keep it in the immediate area where they normally perform work and present it for inspection upon request of certain authorized individuals. Similarly, under current § 65.95(b), whenever an IA holder is exercising the privileges of the IA, they must keep it available for inspection and present it to certain authorized people. With this proposal to change an IA to an IR, the display requirement for the IR would be covered by § 65.89 and § 65.95(b) would no longer be necessary. Therefore, FAA proposes to eliminate § 65.95(b).

However, FAA recognizes that due to the 24-month period that IA holders have to replace their existing IA with a new mechanic certificate with an IR, there would be a period that the display requirement in § 65.89 would not require the IA holder to make the IA available for inspection and presentation if FAA completely eliminated § 65.95(b). For that reason, FAA proposes to create two subparagraphs under § 65.89. The current requirements of § 65.89 would become § 65.89(a) and remain unchanged. The proposal would also create § 65.89(b), which would require those individuals that have not yet replaced their IA with a new mechanic certificate with an IR to, upon request, present documentary evidence to the same authorized individuals as in current § 65.95(b) to show that they are eligible to exercise the privileges of the IR. This new provision would only be necessary for 24 months after the effective date of the final rule, as all mechanics must then be required to obtain a replacement certificate with the IR to continue exercising IR privileges, as previously discussed. Therefore, FAA proposes amendatory language that would remove this provision after 24 months.

iii. Appeal Rights

Currently, the denial, suspension, or revocation of an IA is appealable to the National Transportation Safety Board (NTSB).²⁶ Denials, suspensions, or revocations of the ratings on a mechanic certificate are also appealable to the NTSB.²⁷ Therefore, the conversion of the IA to the IR would not change the appeal rights for a denial, revocation, or suspension of inspection privileges.

FAA acknowledges that a 2011 notice of policy in the **Federal Register** incorrectly stated that the issuance or

renewal of an IA was not a certificate action, and therefore FAA did not have a formal appeal process.²⁸ Rather, it stated that an action on an IA application could be addressed through the Aviation Safety Consistency and Standardization Initiative. FAA finds this statement is incorrect; an action on an IA application is appealable to the NTSB.²⁹ FAA is issuing a **Federal Register** notice of policy correction to address this incorrect information along with this NPRM.³⁰ A copy of the notice of policy correction is available for review in the docket of this rulemaking.

2. Eligibility Requirements: General (§§ 65.71 and 65.91)

Section 65.71 sets forth the eligibility requirements for applicants seeking a mechanic certificate and associated ratings. To be eligible for a mechanic certificate, a person must be at least 18 years old, be able to read, write, speak, and understand the English language,³¹ have passed all prescribed tests within a period of 24 months, and comply with the sections of subpart D that apply to the rating sought. Section 65.71(b) requires mechanics who apply for additional ratings to meet the requirements in § 65.77 (Experience requirements), and within a period of 24 months, pass the tests prescribed by §§ 65.75 (Knowledge requirements) and 65.79 (Skill requirements) for the additional rating sought.

Similarly, § 65.91(c)(1) through (5) prescribe eligibility requirements for the IA. Currently, under § 65.91, an IA applicant completes an application (FAA Form 8610–1), which is reviewed by an ASI, to determine if all eligibility requirements have been met. As further explained in this section, four of these five eligibility requirements for an IA would be retained, revised, and integrated into revised § 65.71 as IR eligibility requirements in this rulemaking. The fifth, the written test requirement in current § 65.91(c)(5), would be integrated into current § 65.75, which already sets forth the knowledge requirements for a mechanic certificate and associated ratings. In changing the IA to an IR, FAA proposes to reorganize the requirements of § 65.71 to integrate IR eligibility requirements in with other ratings. As the IR has additional eligibility requirements beyond the A&P ratings, FAA generally proposes to reorganize the section so A&P requirements would be under paragraph (a) and IR requirements would be under paragraph (b).

The eligibility requirements as currently provided by § 65.71 apply to applicants for a mechanic certificate with an airframe or powerplant rating,

or both.³² These requirements would be retained and redesignated under proposed § 65.71(a), with minor non-substantive revisions. FAA proposes to add an “Airframe or Powerplant Rating” heading to paragraph (a) for clarity and add “airframe or powerplant” before any references to ratings in this paragraph. With the proposed addition of a paragraph (a) header, each current paragraph would be redesignated one paragraph level lower (e.g., current § 65.71(a)(1) would become § 65.71(a)(1)(i), § 65.71(a)(2) would become § 65.71(a)(2)(ii), etc.). Current §§ 65.71(a)(3) and 65.71(b) detail the amount of time that an applicant has to pass all of the required tests for a mechanic certificate with associated ratings, and for an additional rating, respectively. Section 65.71(a)(3) states that an applicant has 24 months, whereas § 65.71(b) states 24 calendar months. FAA has consistently drawn a distinction between months and calendar months.³³ Calendar months allow for a date in the future that corresponds to the last date of the month. For example, 24 calendar months from March 5, 2025, would be March 31, 2027. The practical application historically for the requirements in § 65.71 has been to use calendar months. Therefore, FAA proposes to specify “calendar” months in proposed § 65.71(a)(1)(iii) (which is currently § 65.71(a)(3)) for consistency with the language that is currently in § 65.71(b).

FAA proposes to place the IR eligibility requirements under paragraph (b), which would be revised to add an “Inspection Rating” heading. The IR eligibility requirements would largely consist of the current requirements for the IA. Specifically, the IA eligibility requirements currently in § 65.91(c)(1)–(4) would be relocated to § 65.71(b)(1)–(4), respectively, with minor revisions subsequently discussed.

Section 65.91(c)(1) currently states that, to be eligible for an IA, an applicant must hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been in effect for a total of at least three years. This would be relocated from current § 65.91(c)(1) to § 65.71(b)(1) with non-substantive revisions. This IA eligibility requirement would be retained, but the language would be modified to indicate that an IR applicant must hold a currently effective mechanic certificate with an airframe rating and a powerplant rating that is currently effective in accordance with § 65.15(a) of this part, and has been in effect for

a total of at least three years.³⁴ This modification is necessary to define what “currently effective” means. A mechanic certificate is currently effective if it has not been surrendered, suspended, or revoked, as provided in § 65.15(a).

Section 65.91(c)(2) currently requires that an IA applicant has been actively engaged³⁵ for at least the two-year period before the date of application in maintaining aircraft certificated and maintained in accordance with Chapter I of title 14. This requirement would be relocated from § 65.91(c)(2) to § 65.71(b)(2). FAA proposes changing the requirement from two years to 24 calendar months to align with the way time periods are specified with the other mechanic certificate ratings. In addition, FAA proposes a non-substantive revision to improve readability.

Section 65.91(c)(3) currently requires IA applicants to have a fixed base of operations where they may be located in person or by telephone during a normal working week (to note, the regulation does not require that the location be the place the person will exercise the IA). This requirement would be relocated from § 65.91(c)(3) to § 65.71(b)(3).

Section 65.91(c)(4) currently requires an IA applicant to have available the equipment, facilities, and inspection data necessary to inspect airframes, powerplants, propellers, or any related part or appliance properly. This would be amended for grammatical accuracy and relocated from § 65.91(c)(4) to § 65.71(b)(4).

Currently, under § 65.91(c)(5), an IA applicant must pass a written test on the ability to inspect according to safety standards for returning aircraft to service after major repairs and major alterations and annual and progressive inspections performed under part 43. This IA eligibility requirement, which would be retained for future IR new applicants, conveys testing requirements. A&P rating written testing requirements are located in § 65.75, Knowledge Requirements, rather than in § 65.71. As such, FAA proposes to integrate the IA written testing requirements from § 65.91(c)(5) as IR knowledge requirements under § 65.75(b), which would harmonize the rating eligibility framework under part 65, subpart D. Section IV.A.3 of this preamble further discusses proposed changes to § 65.75 and the IR written test. Passing the associated written test would remain an eligibility requirement for IR applicants under § 65.75(b). Therefore, FAA is proposing to add § 65.71(b)(5) to specify that IR applicants must comply with the sections of this subpart that apply to the

rating sought (mirroring the standing requirement in § 65.71(a)(4) for airframe or powerplant ratings, proposed as new § 65.71(a)(1)(iv)).

To account for these relocations, the docket to this NPRM contains a proposed revision to the IA application (FAA Form 8610–1) consistent with these proposed changes. FAA notes that, currently, § 65.11 sets forth the requirements for application and issue of certificates and ratings. The current requirement for an IA application to be in a form in manner prescribed by the Administrator in § 65.91(a) would be rendered redundant, as the IR application requirement would be covered by § 65.11. Therefore, FAA proposes to remove § 65.91(a).

FAA’s proposal would not carry forward the current § 65.91(b), which states that an applicant that meets all of the eligibility requirements for an IA is entitled to the IA. With the proposal to change the IA to an IR, this would be rendered redundant, as it would be covered by § 65.11(b), which states that an applicant who meets the requirements of part 65 is entitled to the appropriate certificate and rating.

3. Knowledge Requirements (§§ 65.75, 65.19, and 65.91)

As previously stated, § 65.75 contains knowledge requirements for applicants for a mechanic certificate and associated ratings: the required written test(s). Currently, after meeting the applicable experience requirements of § 65.77,³⁶ applicants for a mechanic certificate or rating must pass a written test appropriate to the rating sought, which includes the aeronautical knowledge subject areas contained in the Aviation Mechanic General, Airframe, and Powerplant Airmen Certification Standards (ACS), which is incorporated by reference via § 65.23(a)(3). Section 65.19 provides generalized retesting provisions for all tests (*i.e.*, written, oral, and practical) required of applicants for a certificate and rating and states that an applicant can apply for retesting 30 days after a failed test or meet the criteria outlined in § 65.19(b).

As discussed in the previous sections of this preamble, an applicant for an IA must have both an A&P rating, so an IA applicant must have previously passed the general, airframe, and powerplant written tests. Because an IA conveys additional privileges, § 65.91(c)(5) has required a separate written test in addition to the three base written tests that an IA applicant would have already passed. Pursuant to current § 65.91(c)(5), an IA applicant must pass a written test on their ability to inspect according to safety standards for

approving aircraft for return to service after major repairs and major alterations and annual and progressive inspections performed under part 43 for this chapter. In changing the IA to an IR, FAA finds it necessary to maintain the separate written test for the privileges of an IR to validate inspection proficiency, as the aeronautical subject areas specific to inspection privileges are not adequately tested in the three base written tests (*i.e.*, general, airframe, powerplant). Because § 65.75 already contains the written test requirements for the mechanic certificate, airframe rating, and powerplant rating, FAA proposes to reorganize the requirements of § 65.75 to integrate the written test requirements for an IR. First, the knowledge test standards as currently provided in § 65.75 would be retained for the A&P ratings and reorganized under § 65.75(a); current § 65.75(a) through (d) would be redesignated as § 65.75(a)(1) through (4), and the exception reference to paragraph (c) would be replaced with a reference to paragraph (a)(3). Paragraph (a) would add introductory text to include an “Airframe or Powerplant Rating” heading to specify the provisions in proposed subparagraphs (a)(1) through (4) apply to a mechanic certificate with an airframe or powerplant rating, or both. The written test standards for the IR would be relocated, with the subsequently discussed revisions, from § 65.75(b)(2) to § 65.75(b), which would be revised to add an “Inspection Rating” heading and introductory text. FAA proposes several revisions to the current IA written test requirements, as replaced by proposed IR written test requirements.

First, FAA proposes to add a requirement that IR applicants receive an endorsement from a representative of the Administrator validating their compliance with proposed eligibility requirements in § 65.71(b)(1) through (4) before they can take the written test. Currently, only FAA ASIs are authorized to endorse IA applicants to take the written test. With the adoption of the proposed rule, this would not change for the IR endorsement. FAA Order 8900.1 contains guidance for ASIs responsible for evaluating IA applications on determining who is eligible for the IA written examination.³⁷ An ASI reviews the IA application (FAA Form 8610–1) for completeness and accuracy and interviews the applicant to the extent necessary to determine that the responses provided regarding the eligibility requirements in § 65.91(c) are valid. If the ASI finds the applicant

meets the requirements of § 65.91, the ASI will endorse the application in Box 14, authorizing the applicant to test. After receiving the endorsement, the IA applicant must take FAA Form 8610–1 to an authorized testing center to take the IA written test. The endorsement on FAA Form 8610–1 states that it is only valid for 30 days. This is because the endorsement certifies that the applicant is actively engaged for the two years prior to the application; once 30 days pass, the ASI needs to reevaluate if this is still true. After 30 days, if the applicant has not taken the test, they must return to the FSDO or IFO to be reevaluated to ensure that they have remained actively engaged during that time. If they are still found to meet the eligibility requirements, a new FAA Form 8610–1 would be endorsed for them to test and it, too, would be valid for 30 days.

FAA’s proposal in § 65.75(b)(1) to add the endorsement requirement to the IR written test requirements would reflect the form and manner IA holders currently use when applying for an IA. Therefore, FAA is not creating an additional burden for the IR written test requirement by explicitly adding this form and manner into the regulations from the IA process; an equivalent level of safety would be maintained from the current IA written test process.

In addition, FAA has developed a new Aviation Mechanic Inspection Rating Airman Certification Standard (Inspection Rating ACS) that would replace the current IA written test standards. FAA proposes to specify in § 65.75(b)(2) that applicants for an IR must pass a written test which includes the aeronautical knowledge subject areas contained in the Inspection Rating ACS. Section IV.A.4 of this preamble provides a detailed discussion of the Inspection Rating ACS and incorporation by reference.

Finally, the undesignated paragraph in current § 65.91 states that an applicant that fails the IA written test may not reapply for testing until at least 90 days after the date they failed that test. FAA proposes to retain the 90-day retesting restriction from the IA written test for the IR written test by relocating this paragraph from § 65.91 into the proposed § 65.75(b)(1). The proposed subparagraph would state that applicants can only receive an endorsement for the IR written test if they have not attempted the IR written test in the previous 90 days.

This 90-day retesting restriction for the current IA written test, and future IR written test, is and would remain different from the retesting provisions for the other mechanic certificate

ratings. Under § 65.19(a), an applicant for a written, oral, or practical test for a certificate, rating, or additional rating under this part may apply for retesting 30 days after the date of the failed test. Under § 65.19(b), an applicant may retest after failure if before the 30 days have expired the applicant presents a signed statement from an airman holding the certificate and rating sought by the applicant certifying that the airman has given the applicant additional instruction in each of the subjects failed and that the airman finds the applicant ready for retesting.

FAA finds it important to maintain the 90-day retesting restriction for IR, rather than adopting the same retesting requirements as the other ratings. This requirement has been present since the creation of the IA regulations in 1956.³⁸ FAA supports this longer retesting restriction as appropriate because of the higher level of risk associated with the privileges and responsibilities³⁹ of the current IA and proposed IR. The 90-day restriction ensures and encourages enough time to allow the applicant to get enough training as necessary to be prepared for the responsibilities that come with the IR. In addition, since the applicant would still be required to remain actively engaged during that time, it would allow them to bolster their experience and learning through practical application.

Therefore, FAA finds a conforming amendment necessary to implement the 90-day restriction in alignment with proposed § 65.75(b)(1); proposed § 65.19 would specify that an applicant for an IR may not apply for retesting until 90 days after the date of the failed written test. The current text of § 65.19 would be reorganized under paragraph (a) (*i.e.*, current introductory text would be redesignated as § 65.19(a), current § 65.19(a) and (b) would be redesignated as § 65.19(a)(1) and (2)) with minor revisions in proposed paragraph (a) to note the new exception of paragraph (b), and paragraph (b) would be added to specify the 90-day standard for the IR.

4. Airmen Certification Standards and Incorporation by Reference (§ 65.23)

Currently, the knowledge areas for the aforementioned written test are contained in the Learning Statement Reference Guide for Airman Knowledge Testing.⁴⁰ This guide contains subject areas outlined in Learning Statement Codes that an applicant must demonstrate proficiency in to pass the written test for the IA. However, the Learning Statement Reference Guide is not a regulatory standard for the written test.

In addition to the IA written test, there is also an oral test associated with the IA. Under current § 65.93, there are two instances where an FAA inspector may give an oral test to an IA holder. Section 65.93(a)(5) allows for an IA holder to complete an oral test as one of the options for renewal activities. Section 65.93(c) applies to IA holders who do not complete the required activities in the first year of the IA period; if a person does not complete one of the activities set forth in § 65.93(a)(1) through (5) by March 31 of the first year of the two-year IA period, the person cannot exercise IA privileges after March 31 of that first year. However, the IA holder may pass the oral test during the second year and may resume exercising the privileges of the IA.

With the proposal to replace the IA with an IR, the oral test would be retained for both of these purposes, as is discussed at length in section IV.A.7 of this preamble. Under proposed § 65.83(b)(2)(v), a mechanic with an IR may complete an oral test to maintain recency. In addition, proposed § 65.83(b)(4)(ii) would allow a mechanic with an IR to reestablish recency of experience, if lapsed.

There are currently no regulatory testing standards for the oral test. FAA Order 8900.1 provides guidance to the FSDO or IFO conducting the test to develop test questions that are tailored to part 65 IA privileges and limitations the IA holder accomplishes routinely.⁴¹ FAA acknowledges that without regulatory testing standards, the tests created by the individual offices may vary and the testing standards are not legally enforceable. In addition, without testing standards, the IA or proposed IR applicants do not have a regulatory standard on which to base their preparation.

FAA has initiated a process to transition from the Learning Statement Reference Guide for the IR written test. In conjunction with this proposed rule, FAA has developed the Inspection Rating Airman Certification Standard (Inspection Rating ACS), which includes task-specific knowledge and risk management elements in the standards, resulting in a comprehensive presentation that integrates the knowledge standards to validate an applicant's proficiency. Specifically, the Inspection Rating ACS, which is included in the docket to this rulemaking for comment, would not be creating new standards, but rather expanding on and formalizing the existing standards from the Learning Statement Reference Guide.

FAA proposes to incorporate the new Inspection Rating ACS by reference into the written test and oral test framework and seeks comment on the proposed draft of the Inspection Rating ACS. To note, the ACS testing framework is not novel to mechanics under part 65; in 2022, FAA published the Aviation Maintenance Technician Schools interim final rule,⁴² which incorporated the Aviation Mechanic General, Airframe, and Powerplant Airman Certification Standard (Mechanic ACS) into 14 CFR part 65. Further, this ACS and PTS testing framework is aligned throughout the airman training and certification regulations in title 14. In 2024, FAA adopted a final rule incorporating by reference: 30 pilot and flight instructor ACSs and Practical Test Standards (PTS) in part 61, one PTS for flight engineers in part 63, and two aircraft dispatcher and parachute rigger PTSs in part 65.⁴³

Incorporation by reference is a mechanism that allows Federal agencies to comply with the requirements of the Administrative Procedure Act (APA)⁴⁴ to publish rules in the **Federal Register** and the Code of Federal Regulations by referring to material published elsewhere.⁴⁵ Material that is incorporated by reference has the same legal status as if it were published in full in the **Federal Register**. Because 5 U.S.C. 552(a) requires the Director of the Federal Register to approve material to be incorporated by reference, incorporation by reference is governed by the Office of the Federal Register and is promulgated in its regulations: 1 CFR part 51. Specifically, 1 CFR part 51 provides certain requirements that a regulatory incorporation by reference must contain.

In accordance with 5 U.S.C. 552(a) and 1 CFR part 51,⁴⁶ FAA would make the Inspection Rating ACS reasonably available to interested parties by providing free online public access to view on FAA Airman Certifications Standards website at: www.faa.gov/training_testing/testing/acs. In addition, the Inspection Rating ACS would be available for download, free of charge, at the provided web address.

To incorporate the three part 65 ACSs and PTSs, FAA previously adopted a centralized incorporation by reference section as § 65.23 and amended the requirements in §§ 65.75 and 65.79, which require an applicant for a mechanic certificate or rating to pass a knowledge, oral and practical test, respectively.⁴⁷ The Inspection Rating ACS would align the testing framework for the new IR with the A&P ratings and the Mechanic ACS and ensure the testing standards are legally enforceable.

Therefore, FAA proposes revisions to §§ 65.23, 65.75, and 65.83. FAA proposes to amend § 65.23 to include the Inspection Rating ACS in new paragraph (a)(4). Centralizing the Mechanic ACS and the Inspection Rating ACS under this one section streamlines the regulatory text to avoid repetitive information in the regulations and utilizes the regulatory framework already in place. Subsequent part 65 sections that require compliance with these respective standards (*i.e.*, §§ 65.75 and 65.83) would refer to § 65.23 for identification information and the incorporation by reference language required by 1 CFR part 51. In addition, FAA proposes to revise § 65.75 to incorporate the Inspection Rating ACS in the written test requirements for the IR. The proposed revision would require applicants to pass the written test within 30 days of endorsement, as previously discussed, which would include the aeronautical knowledge subject areas contained in the Inspection Rating ACS. The database of questions for the IR written test would be derived from the subjects identified in the Inspection Rating ACS.

Similarly, FAA proposes to revise § 65.83 to incorporate the Inspection Rating ACS into the oral test recent activity requirement (proposed § 65.83(b)(2)(v)), as well as into the oral test option for a mechanic to reestablish their IR privileges if they have not met recency of experience (proposed § 65.83(b)(4)(ii)). The oral test is discussed in more detail in section IV.A.7 of the preamble.

5. Experience Requirements and Skills Requirements (§§ 65.77 and 65.79)

Section 65.77 prescribes experience requirements for applicants for a mechanic certificate or added rating (*i.e.*, practical experience) and § 65.79 prescribes skill requirements for applicants for a mechanic certificate or rating (*i.e.*, oral test and practical test). The experience and skill requirements contained in these regulations are in addition to the basic eligibility requirements for a mechanic certificate and associated ratings contained in § 65.71. These requirements would continue to apply to A&P ratings, but the proposed IR would not have any additional skill or experience requirements that need to be integrated into § 65.71, as the proposed IR (and current IA) requires a mechanic to have both the A&P ratings for a minimum of three years and be actively engaged in maintaining aircraft certificated and maintained in accordance with 14 CFR for the two prior years.⁴⁸ This eligibility requirement would ensure that an

applicant for an IR continues to have several years of experience to gain the knowledge to be qualified to exercise the IR privileges (identical to the current IA framework).

While the A&P ratings require an oral and practical test to demonstrate skill, there has never been an oral and practical test requirement for the IA. The oral and practical test requirement is important for mechanic applicants applying for an initial certificate and ratings to demonstrate that they possess the necessary proficiency and mechanical skills to perform the applicable maintenance on aircraft. The privileges of the current IA and proposed IR, which are performing annual and progressive inspections and inspecting major repairs and major alterations and approving them for return to service, are knowledge-based as opposed to skill-based. For example, when a major repair is accomplished on an airframe component of an aircraft, the mechanic that physically performs the work is exercising the privileges of the airframe rating on the mechanic certificate. However, a mechanic with an IA must inspect the major repair after the work is completed to ensure that it was done satisfactorily and then issue the approval for return to service. The privileges of the IA (and proposed IR) are based on locating, reading, interpreting, and applying applicable standards to inspect major work performed or to perform annual or progressive inspections. For this reason, FAA finds that the written test requirement in proposed § 65.75(b)(2) is a sufficient proficiency validation and does not propose to add an oral and practical test requirement for the IR in this rulemaking.

Therefore, as the experience and skill requirements for the proposed IR will be covered in the eligibility requirements via proposed § 65.71, no additional experience or skill requirements need to be incorporated in §§ 65.77 and 65.79. Accordingly, FAA is proposing to amend the introductory text §§ 65.77 and 65.79 to specify that these requirements only apply to applicants for a mechanic certificate with airframe or powerplant rating, or both, or for an additional airframe or powerplant rating.

6. Privileges and Limitations (§§ 65.81, 65.88, 65.92, and 65.95)

Section 65.81 prescribes the general privileges and limitations for certificated mechanics. These general privileges and limitations are applicable regardless of the specific rating(s) the mechanic has associated with the certificate. As applicable to the specific

ratings, § 65.85 sets forth the privileges for the airframe rating, § 65.87 sets forth the privileges for the powerplant rating, and § 65.95 sets forth the IA privileges and limitations. Section 65.92 (Inspection Authorization: Duration) also contains IA limitations. FAA proposes to integrate the IA limitations as IR-specific limitations into current § 65.81 without substantive change. FAA proposes to create a new section for IR-specific privileges, § 65.88, where IA privileges would be revised and relocated. This would align the IR privileges and limitations regulatory framework with the other ratings available on the mechanic certificate.

The current general privileges and limitations listed in § 65.81 would continue to apply to the mechanic certificate. First, the section title for § 65.81 would be updated from “General privileges and limitations” to “Privileges and limitations,” as the section would contain some IR-specific limitations. In addition, FAA proposes to add a “General Privileges and Limitations” heading in paragraph (a) (indicating revised paragraph (a) applies to the mechanic certificate in general) and relocate the current text of § 65.81(a) and (b) as paragraphs (a)(1) and (2). Minor revisions would be made to update the paragraph and subparagraph designations consistent with the reorganization.⁴⁹

Because current paragraph (b) would become new paragraph (a)(2), FAA proposes to add a new paragraph (b) under the heading “Inspection Rating Limitations” that would provide the limitations associated with the proposed IR. These limitations would be relocated from the current IA limitations in §§ 65.92 and 65.95, with revisions subsequently discussed.

Currently, § 65.92(a) states that an IA expires on March 31 of every odd-numbered year and an IA holder may only exercise privileges of the IA while holding a currently effective mechanic certificate with both a currently effective airframe rating and powerplant rating. As discussed in section I.A of the preamble, FAA proposes to remove the expiration date, so the duration limitation in § 65.92(a) would be removed. However, the proposed IR would still require a mechanic to have a currently effective airframe rating and powerplant rating (*i.e.*, the second sentence of current § 65.92(a)), as these prerequisites remain essential to ensuring a base level of experience and skill before exercising inspection privileges. Therefore, this limitation would be relocated to § 65.81(b)(1). The language would be revised to state the A&P ratings must be effective in

accordance with § 65.15(a) to define clearly what “currently effective” means. A mechanic certificate or rating is currently effective as long as it has not been surrendered, suspended, or revoked, as provided in § 65.15(a).

Currently, § 65.92(b) sets forth the circumstances under which an inspection authorization ceases to be effective. Section 65.92(b)(1) states that an IA ceases to be effective whenever the authorization is surrendered, suspended, or revoked. In replacing the IA with the IR, this limitation is now covered by § 65.15(a). Therefore, FAA proposes to remove § 65.92(b)(1). Section 65.92(b)(2) states that an IA ceases to be effective when the holder no longer has a fixed base of operation. Section 65.92(b)(3) states that an IA ceases to be effective when an IA holder no longer has the equipment, facilities, and inspection data required by § 65.91(c)(3) and (4).⁵⁰ These provisions would still apply to the proposed IR, as these are initial eligibility requirements set forth by § 65.91(c)(3) and (4) (proposed as § 65.71(b)(3) and (4)) integrated into a rolling eligibility requirement. Therefore, FAA proposes to relocate § 65.92(b)(2) and (3) as streamlined text in § 65.81(b)(2); this provision would require that a certificated mechanic with an IR may not exercise the privileges of the rating if they do not meet the requirements of § 65.71(b)(3) and (4), thereby citing the direct rolling eligibility requirement instead of restating the requirement in multiple subparagraphs. In sum, this limitation would require a mechanic to continue to have a fixed base of operations and have available the equipment, facilities, and inspection data necessary to perform inspections properly to continue exercising IR privileges.

Section 65.95(c) contains an additional IA limitation. If an IA holder changes their fixed base of operation, they may not exercise the privileges of the IA until they have notified the responsible flight standards office or international field office for the area in which the new base is located, in writing, of the change. This limitation would be retained for the IR. FAA proposes to remove § 65.95(c) and relocate it to § 65.81(b)(3) with minor editorial revisions.

Finally, § 65.95(a) sets forth the privileges of an IA, enumerating that the holder of an inspection authorization may: (1) inspect and approve for return to service any aircraft or related part or appliance (except any aircraft maintained in accordance with a continuous airworthiness program under part 121) after a major repair or

major alteration to it in accordance with part 43, if the work was done in accordance with technical data approved by the Administrator; and (2) perform an annual, or perform or supervise a progressive inspection according to §§ 43.13 and 43.15. These privileges would be retained with minor revision for the proposed IR. FAA proposes to relocate § 65.95(a) to proposed § 65.88. A new section with specific IR privileges would align with the other mechanic certificate rating privileges, which are each located in their own section (*i.e.*, §§ 65.85 and 65.87).

Currently, § 65.95(a)(1) excludes inspection authorization privileges from applying to aircraft that are maintained in accordance with a continuous airworthiness program (CAMP) under part 121, which governs the operating requirements for domestic, flag, and supplemental operations. However, FAA finds it necessary to exclude certain aircraft in other parts, specifically those aircraft maintained in accordance with a CAMP under 14 CFR part 91, 121, 129, or 135.⁵¹ Personnel performing maintenance and approvals for return to service on aircraft that are maintained under a CAMP that go beyond the scope of the privileges of the IA, as well as the proposed IR, must meet specific requirements. The current regulations in parts 91, 121, 129, and 135 include limitations on who can perform maintenance and approvals for return to service on aircraft maintained under a CAMP. Specifically, aircraft maintained under a CAMP may only be approved for return to service by maintenance personnel that are trained and authorized for that program and working under the direct supervision of the air operator, pursuant to §§ 91.1413, 121.368, 129.14(b)(3), and 135.426. This is not a new general limitation on the inspection privileges. Therefore, proposed § 65.88(a) (which is current § 65.91(a)(1)) would be revised to add parts 91, 129, and 135 into the privilege's exception, which would align the IR privileges with the current inspection limitations for aircraft maintained under CAMP in each respective part.

Currently, § 65.95(a)(2) states that an IA holder may perform an annual, or perform or supervise a progressive inspection in accordance with §§ 43.13 and 43.15. In replacing the IA with an IR, a certificated mechanic with an IR would retain these privileges. Therefore, FAA proposes to relocate § 65.95(a)(2) to new § 65.88(b) with a minor editorial revision.

7. Recent Experience Requirements (§§ 65.83 and 65.93)

i. Recent Experience Activities

Section 65.83 sets forth recent experience requirements for certificated mechanics with an airframe rating, powerplant rating, or both. Currently, under § 65.83, to continue exercising the privileges of the certificate and rating, a mechanic must, within the previous 24 months, be found able to do the work by the Administrator or meet one of the four experience requirements provided in § 65.83(b) for at least six months.⁵² Conversely, an IA does not have recent experience requirements. Rather, § 65.93 requires IA holders to renew their certificate by continuing to meet the eligibility requirements and completing renewal activities each year of the two-year IA period.

In sum, this proposal would convert the current IA renewal requirements to IR recent experience requirements (mirroring recent experience requirements for the A&P ratings), which would eliminate the unnecessary administrative burden associated with the renewal process. Changing the IA to an IR would reduce administrative burdens without degrading safety because the current renewal requirements to validate ongoing proficiency would remain in effect, but as recent experience requirements, which FAA would require inspection rated mechanics to continue to meet to exercise their privileges. As further discussed, the proposal would require mechanics with an IR to keep records to demonstrate that they have met at least the previous 24 calendar months of recent experience to retain IR privileges in lieu of submission of an FAA form evidencing activity completion every two years.

FAA recognizes that there may appear to be a decrease in the level of safety by eliminating the requirement for renewal every two years; however, FAA generally views this as a procedural revision rather than a substantive revision pertaining to ongoing proficiency and experience requirements. Currently, IA holder oversight is assigned to either a FSDO or IFO, depending on the geographic location of the IA holder's fixed base of operations. Within the FSDO or IFO, an ASI is assigned to each individual IA holder. It is the responsibility of the assigned ASI to provide oversight of the IA holder, which includes surveillance (spot inspections, site visits, etc.), monitoring, providing support, enforcement activities, etc. FAA does not intend to change the current system of oversight in place for IA holders with

the proposal to replace the IA with the IR. Maintaining this system of oversight, along with the recordkeeping requirement, would not result in a decrease in the level of safety.

FAA considered two alternative actions to reduce the administrative burden related to the IA renewal process in the transition to an IR. The first alternative was to leave the general framework of renewal as it is (*i.e.*, require a certificated mechanic with an IR to submit evidence of an activity per year during the month of March of each odd-numbered year). As this option ignores the administrative burdens and cost associated with the IR renewal for both FAA and individual mechanics, FAA declined to use this alternative. FAA is committed to decreasing administrative burden, as well as FAA and individual costs, when possible, where there is no adverse impact on safety.

The second alternative would have retained the renewal requirements, but allowed additional flexibility by permitting a certificated mechanic with an IR to renew their IR outside the month of March expiration date. This alternative would require FAA to determine a different renewal schedule. For example, instead of requiring IA renewals in March of every odd-numbered year, IR renewals could be submitted every two years based on the quarter and a defining characteristic—for example, the mechanic's last name (*e.g.*, quarter 1 renewal period (Jan–Mar)—Last Names A–J would submit renewals, etc.). Though this alternative provides a remedy for the influx of renewals submitted in a single month, it does not address the administrative costs associated with processing renewal applications and issuing renewal letters every two years. It also does not address the individual mechanics' costs of submitting the renewal paperwork every two years. Instead, the burden of these on-demand work tasks would simply be dispersed throughout the year. As this alternative would not result in a reduction of administrative burdens and costs, FAA declined to elect this alternative.

FAA's general proposal to replace the IA with an IR would align all of the privileges available to an FAA-certificated mechanic as ratings under the mechanic certificate. Mechanic certificate ratings currently issued under part 65 do not have expiration dates or renewal requirements,⁵³ therefore, eliminating the expiration requirements and converting the renewal requirements to recency of experience requirements would provide consistency in how FAA administers

mechanic privileges on a mechanic certificate.

FAA proposes to reorganize current § 65.83 to integrate the IA renewal requirements as new IR recent experience requirements. The current recent experience requirements would still apply to mechanics with A&P ratings and would be retained and reorganized under § 65.83(a) under the heading of “Airframe or Powerplant Rating” without any substantive changes. Minor edits would be made to update the paragraph and subparagraph designations consistent with the reorganization (e.g., proposed § 65.83(a)(iv)). The proposed IR recent experience requirements would be integrated under paragraph (b) under the heading of “Inspection Rating.”

Section 65.93(a) states that, to be eligible for an IA renewal for a two-year period, an applicant must show that they still meet the requirements of current § 65.91(c)(1)–(4). First, as previously discussed in section IV.A.2 of the preamble, this proposal would revise and relocate the eligibility provisions of § 65.91(c)(1)–(4) to § 65.71(b)(1)–(4). To reiterate, these initial eligibility provisions require a mechanic to: currently hold an effective mechanic certificate with A&P ratings, have been actively engaged in maintaining aircraft for the two years prior to the application, maintain a fixed base of operation, and have available the necessary equipment, facilities, and inspection data. While all four of these provisions would be retained as initial eligibility requirements in proposed § 65.71(b)(1)–(4), three have also been integrated into the IR limitations in § 65.81(b) as rolling requirements, as discussed in section IV.A.6 of the preamble: holding effective airframe and powerplant ratings, maintaining a fixed base of operations, and having necessary equipment, facilities, and inspection data. This means that under the proposal, a mechanic would continuously meet these requirements to exercise the privileges of the proposed IR, therefore, they do not need to be integrated into the recent experience requirements. However, the requirement for a mechanic with an IA to be actively engaged in maintaining aircraft for the two-year period prior to the application date would not be integrated into § 65.81 (which sets forth rating limitations) because it is more appropriately categorized as a recent experience requirement. Therefore, FAA proposes to integrate the requirement into § 65.83(b)(1). This provision ensures that a mechanic has had an active role in exercising the privileges of

the A&P ratings in the two years prior to exercising IR privileges.

FAA proposes to modify the language to indicate that the person must be actively engaged for the 24-calendar month period prior to when they exercise their IR privileges, rather than two years prior to the application date (as is required by eligibility requirements in proposed § 65.71(b)(2)). This modification is necessary as a person would only apply for the IR once, and they would not need to file a renewal application under this proposal. In addition, the proposal would change the language from two years to 24 calendar months to provide consistency to the time periods associated with the other mechanic ratings. Therefore, to maintain an equivalent level of safety, the actively engaged requirement would apply for a rolling period of two years prior to exercising the IR, rather than two years from the application date. For example, assuming this rule became effective in August 2026, if a certificated mechanic with an IR who meets all the other requirements wants to exercise their privilege in September 2026, they would have to have been actively engaged in maintaining aircraft since September 2024.

Section 65.93(a)(1)–(5) currently describes the renewal activity options that IA holders must complete at least one of annually to renew their IA. Currently, an IA holder must complete one of five activities annually: (1) at least one annual inspection for each 90 days that the applicant has held the current authority; (2) at least two major repairs or alterations for each 90 days the applicant has held the authority; (3) performed or supervised and approved at least one progressive inspection; (4) attended and successfully completed a refresher course of not less than eight hours of instruction; or (5) passed an oral test conducted by an FAA inspector. FAA proposes that these requirements would be largely retained and converted into recent experience requirements for the proposed IR as new § 65.83(b)(2)(i)–(v), with some revisions.

Because the proposed IR will not have a fixed period pursuant to an expiration, like the current IA, FAA proposes that these requirements be completed in the 12 calendar months prior to exercising the IR privileges to maintain the experience and validation of proficiency currently expected. FAA emphasizes this would not substantially increase the burden on a certificated mechanic with an IR as opposed to the current framework for an IA holder, as an IA holder must complete one activity in the first year and one in the second year, the

person just isn’t required to submit evidence of such until the second year under the current framework.

For example, under this proposal, if a certificated mechanic with an IR who meets all the other requirements wants to exercise their privileges in June 2027, they must have completed one of the recent experience activities enumerated between June 2026 and June 2027.⁵⁴ The 12 calendar month period would be a rolling look-back period from the time a certificated mechanic with an IR exercises their privileges.

First, § 65.93(a)(1) and (2) would be relocated with revision to § 65.83(b)(2)(i) and (ii). Currently, two of the activity options to renew are one annual inspection or two major repairs or major alterations for each 90 days the applicant has held the IA. Under the current regulations, these can be done at any time throughout the year. For example, if a mechanic has an IA for a year, they can meet the renewal activity requirements for the year by doing four annual inspections within December of the year; one inspection does not have to be done every 90 consecutive days. Similarly, two major repairs or major alterations do not have to be done every 90 consecutive days; all eight could be done in the last month of the year. Since the IR would not expire or have a fixed period, the recent experience requirements of § 65.83(b)(i) and (ii) would be modified to require at least four annual inspections in the previous 12 calendar months or any combination of eight major repairs or major alterations in the previous 12 calendar months. This maintains the same number of inspections or major repairs and major alterations in a 12-calendar month period to exercise the proposed IR privileges as required to renew the IA.

FAA’s proposal would modify § 65.83(b)(ii) to add “any combination of” eight major repairs or major alteration. This is necessary to clarify that a mechanic does not have to perform either eight major repairs or eight major alterations, but rather, may complete any combination to a total of eight. For example, three major repairs and five major alterations would satisfy the recent experience requirement of § 65.83(b)(ii). While the current requirements in § 65.93(a)(2) do not contain this language, FAA has issued a legal interpretation stating that a combination of major repairs and major alternations may be used.⁵⁵ Therefore, this proposal is not changing any requirements from the IA to the IR, but rather formalizing the current requirements, as clarified in legal interpretation, into regulation.

Next, § 65.93(a)(3) and (4) would be relocated to § 65.83(b)(2)(iii) and (iv). These two sections would set forth the two activity options of progressive inspection and an 8-hour refresher course. The progressive inspection and refresher course activities are relocated without revision.

Finally, § 65.93(a)(5) would be relocated to § 65.83(b)(2)(v) with revision. Currently, an IA holder can complete an oral test conducted by an FAA inspector to determine that the applicant's knowledge of applicable regulations and standards is current. As discussed in section IV.A.4 of the preamble, there is no current regulatory standard for the oral test; rather, FAA provides guidance to inspectors as to the conduct of the test. The requirements for the oral test would be modified to state that the oral test would include the aeronautical knowledge subject areas contained in the Inspection Rating ACS, which would be incorporated by reference in proposed § 65.23 to determine that the applicant's knowledge of applicable regulations and standards is current. The oral test in proposed § 65.83(2)(v), should a mechanic with IR choose that activity, would continue to be administered by the FSDO or IFO, but all questions for the oral test would be developed from the Inspection Rating ACS. This revision would ensure the oral test is standardized and those taking the test are aware of the specific subject areas enumerated in the ACS (*i.e.*, what they are subject to demonstrating knowledge on).

Notably, the retesting provisions of § 65.19 do not apply to the oral test as they do to the written test as described in section IV.A.3. of the preamble. Section 65.19 is only applicable to tests for a certificate or rating. The purpose of both the current IA oral test and the IR oral test in FAA's proposal is to determine that the applicant's knowledge of applicable regulations and standards is current after the person already holds the IA. The oral test does not have specific retesting provisions because the intent is to provide the ASI giving the test flexibility in determining appropriate follow-up activities after a failed test. For example, if the test consists of 20 questions, the applicant would need to answer 14 of them correctly to meet the seventy percent minimum passing score. If they only answered 13 of them correctly, missing a passing score by one question, it might be appropriate for the ASI to offer a retest with a different set of questions. Alternatively, if the applicant only answered 5 of the questions correctly, the ASI might believe that indicates a

significant lack of qualifications on the part of the IR holder and find it necessary to initiate a reexamination under 49 U.S.C. 44709 to determine whether the individual is competent or qualified to hold the rating.

ii. Exceptions to Recent Experience Requirements

Given the transition from expiration and renewal to recent experience requirements, FAA acknowledges two scenarios where a person would need an exception from the first year of recent experience requirements. First, if a person has just received their IR, the person would have just passed the written test to obtain the IR, demonstrating proficiency to exercise the IR privileges. In addition, by virtue of just receiving their IR, the person could not meet the recent experience requirements in the 12 calendar months prior to the original IR issuance, as the person did not have the privileges to perform annual inspections, major repairs or alterations, or perform or supervise and approve progressive inspections. Further, the requirement for a refresher course or oral test would be redundant in the first 12 calendar months, as a certificated mechanic with a newly issued IR would have recently passed the written test as required in proposed § 65.75(b). Therefore, proposed § 65.83(b)(3) would except a newly rated person from meeting the recent experience requirements during the 12 calendar months following the original issuance of their IR. For example, if a person receives their IR in March 2026, they would not have to meet the experience requirements for the next 12 calendar months and they would be able to exercise the privileges of the IR through March 2027. However, beginning in April 2027, to continue exercising the privileges of the IR, they would need to have completed one of the recent experience activities during the previous 12 calendar months. The proposed language would also clarify that obtaining a replacement mechanic certificate with an inspection rating under proposed § 65.73(d) or (e) (which is required for a person holding a valid IA at the time of the effective date of this rule if they want to continue exercising inspection privileges) is not considered an original issuance of the IR, as the aforementioned considerations would not apply to a person who may already conduct inspection privileges.

Second, FAA acknowledges the unique timeline considerations characterized by the transition of an authorization with an expiration date to a rating with no expiration date and recent experience requirements.

Without relief, the timing of the final rule may mean a person with a valid IA is compliant under the current rules, but they would not be compliant with the proposed regulations if they became final. For example, all IA holders renewed their IA in March 2025. To fulfill the current renewal activity requirements for the first year, suppose an IA holder completes a refresher course in June 2025. The IA holder then plans to complete their renewal activity in February 2027 for the second year of the IA period. If this final rule became effective in August 2026 and the mechanic wanted to exercise IR privileges in September 2026, they would look back one year to September 2025. In this example, if the only renewal activity the IA holder completed was the June 2025 refresher course, they would not be in compliance with the newly effective § 65.83(b)(2) and could not exercise the IR privileges. This results in a scenario where the mechanic with an IA could be compliant under the current rules, but they would become non-compliant with the recent activity requirements on the date the new rules would be effective.

FAA acknowledges this outcome would be unfair to current IA holders who would be compliant under the current rules, but would become non-compliant on the effective date of a future final rule. Therefore, in proposed § 65.83(b)(7), FAA proposes a six-month grace period for a certificated mechanic with a valid IA on the effective date of the proposed rule to become compliant with the recent experience requirements for the IR. FAA intends for this six-month grace period to alleviate the immediate burden of complying with the new requirements when a mechanic has a valid IA on the effective date of the rule. During this six-month period, a mechanic who had a valid IA on the effective date of the rule could exercise the IR privileges without meeting the requirements of proposed § 65.83(b)(2).

FAA determined that the six-month grace period is an adequate amount of time for a mechanic to complete one of the required recent experience activities if they have not done so in the prior 12 calendar months. FAA acknowledges that each individual mechanic's circumstances are different, and for some it may take several months to satisfy the annual inspection or major repair and major alteration activities. However, there are acceptable IA (which with this proposal would become IR) refresher trainings that are available year-round, many of which are available on demand, which can be completed to satisfy the recent activity requirement. Many of the refresher training courses

are offered at no cost. FAA maintains a master list of courses that have been reviewed and accepted that can be found at: www.faa.gov/gslac/ALC/lib_categoryview.aspx?categoryId=27. In addition, FAA.safety.gov offers online courses that can be taken for IA (with the adoption of FAA's proposal would become IR) refresher credit. Therefore, due to the availability of refresher courses, six months provides sufficient time for a mechanic to find and schedule a refresher course to meet the recent experience requirements.

In addition, FAA finds that there would be no added risk in allowing the one-time grace period. Under the current regulations, it is possible for an IA holder to go beyond twelve months without an activity and remain current. For example, an IA holder could complete their required first year activity in June of 2025 and then not complete the required second year activity until March of 2027. In this example, the IA holder would be in compliance the entire time, however, there would have been twenty-one months between activities. Therefore, in most circumstances, a six-month grace period would not allow for a greater amount of time between required activities than currently allowed in the regulations. FAA emphasizes that, if finalized, the final rule will give due consideration to the timeline of the final rule and current expiration date requirements. In addition, FAA seeks comment on additional methods that would facilitate a seamless transition from IA to IR.

Importantly, § 65.83(b)(7) could be removed six months after the effective date of the rule (if adopted), as all mechanics with a valid IA would have to be compliant with the recent experience requirements at that time. Amendatory instructions would remove this provision six months after the effective date of the final rule, as well as remove the reference to paragraph (b)(7) from § 65.83(b)(2), as no longer be necessary.

iii. Reinstatement of Privileges After Recent Experience Lapse

Currently, if an IA expires and is not renewed, there is no way to reinstate privileges without going through the entire application process and written test again. FAA proposes to add a method by which certificated mechanics with an IR who have not completed their recent experience requirements in the prior 12 calendar months can reestablish privileges. This relieving provision would allow greater flexibility and lower cost to mechanics with an IR to reinstate privileges than the process

of reapplying from the beginning, as is currently required to regain IA privileges after IA expiration, while maintaining safety as subsequently discussed.

FAA proposes to add § 65.83(b)(4), which would allow a certificated mechanic with an IR that has not completed their recent experience requirements to reinstate their privileges by attending a refresher course (proposed § 65.83(b)(4)(i)) or passing an oral test from an FAA inspector (proposed § 65.83(b)(4)(ii)). In addition, proposed § 65.83(b)(5) would permit a mechanic with an IR who completes the requirements of proposed § 65.83(b)(4) deemed as having completed the recent experience requirements of proposed § 65.83(b)(2).

For example, assuming the provisions proposed are adopted, suppose a certificated mechanic with an IR wants to exercise their IR privileges in June 2027.⁵⁶ However, the person has not completed any of the recent experience requirements from § 65.83(b)(2) in the prior 12 calendar months. To reestablish privileges, the person could either take a refresher course or an oral test. Once the person completes the course or passes the oral test, and assuming the person meets all other applicable requirements, the person can exercise IR privileges and would be deemed to have met the recent experience requirements for the next 12 calendar months.

The refresher course and the oral test are both designed to ensure current mechanic knowledge of applicable regulations and standards. In addition, as previously stated, a mechanic with an IR would be required to meet all other applicable requirements to exercise the privileges of the IR. This means that even if the mechanic has not met the IR recent experience for a considerable amount of time, even after completing the refresher course or successfully completing the oral test, they would be required to hold an effective mechanic certificate with both A&P ratings, have a fixed base of operations, have the necessary equipment, facilities, and inspection data, and have been actively engaged in maintaining aircraft for at least the two-year period before exercising the privileges of the IR.

For these reasons, FAA finds there would be no negative impact on safety and does not consider it necessary to establish a time limit for mechanics to reestablish recent experience requirements for the IR. FAA invites public comment on this determination. Specifically, FAA seeks comment on whether there are additional requirements or limitations that FAA should establish for a certificated

mechanics to reestablish recent experience for the IR.

iv. Record Keeping Requirement

Currently, when an IA holder renews their IA, the person submits FAA Form 8610–1 and presents evidence that the person still meets the initial eligibility requirements of § 65.91(c)(1) through (4).⁵⁷ In addition, an applicant must show completion of one of the renewal activities.⁵⁸ This evidence is submitted with the renewal application and reviewed by FAA personnel before the IA is formally renewed. Therefore, under the current regulations, IA holders are functionally required to keep records to show that they have been actively engaged in the two-year period prior to the date of the application in maintaining certificated aircraft under § 61.91(c) and records to show that they have met the requirements for completing a renewal activity under § 61.93(a).

Because this proposal would eliminate the renewal process for an IA, applicants for an IR would only have to submit FAA Form 8610–1 on initial application. Certificated mechanics with an IR would not be required to submit any evidence indicating that they continue to meet the eligibility requirements or that they have completed the recent experience requirements. However, the proposed regulations would require mechanics with an IR to maintain eligibility requirements and complete the recent experience requirements. Therefore, to maintain an equivalent level of safety as the IA, FAA proposes to add a record keeping requirement to § 65.83(b)(6). FAA finds that, despite the enumerated requirement, this would be a reduced burden on future individual mechanics with IR from the current IA renewal process.

This proposal would require a certificated mechanic with an IR to maintain records to demonstrate completion of the recent experience requirements as outlined in § 65.83(b)(1)–(4) for at least two years. These would be substantially similar records to those IA holders currently maintain and submit with FAA Form 8610–1 when renewing their IA. The proposed rule would change the requirement from an active submission of evidence every two years for verification to a mechanic keeping the records and verifying compliance with the recent experience requirements themselves, allowing flexibility for the mechanic with an IR. FAA estimates that burden imposed by this proposed recordkeeping requirement would be minimal, approximately five minutes

per year. Some examples of acceptable recordkeeping would be: saving a copy of a certificate of training to a computer, making a copy of a maintenance record entry for a completed annual inspection, or making an entry into a mechanic's logbook indicating a completed FAA Form 337 for a major repair.

However, an equivalent level of safety would be maintained through surveillance and monitoring. ASIs are charged with surveillance and monitoring of IA holders as part of their annual work program. These general responsibilities would not change with the proposal to replace the IA with IR and renewal requirements to recent experience requirements. FAA recognizes that, by eliminating the renewal requirement, inspection rated mechanics would no longer be submitting their evidence of activity every two years on IA renewal. However, the proposed record keeping requirement would ensure that ASIs are able to verify that mechanics have met their recent experience requirements as the records would be subject to inspection given FAA's general inspection authority and the specific authority set forth in proposed § 65.83(b)(6). Section V.E. discusses the applicability of the Paperwork Reduction Act and the burden associated with these requirements.

Of note, the proposed recordkeeping requirement is different from the recordkeeping requirement proposed in 1973 and discussed in section III.A of the preamble. The 1973 proposal would have required IA holders to keep a record of every aircraft that they had inspected for a period of two years, to include the registration number, name and address of the registered owner, make and model of the aircraft, the kind of inspection performed, the date, and if the aircraft was returned to service.⁵⁹ The recordkeeping requirement proposed in this rulemaking is significantly narrower. Certificated mechanics with an IR would only have to keep records for activities that demonstrate compliance with the proposed recent experience requirements. As previously discussed, IA holders already maintain these records and, overall, the burden for mechanics with an IR would be decreased because they would no longer need to fill out the application to renew every two years with evidence of those activities. Therefore, the concern regarding an undue economic burden, which prompted the removal of this proposed requirement from the 1977

final rule, is not applicable in this proposal.⁶⁰

v. Removed Requirements From § 65.93

Given the proposed revisions discussed in this section, FAA finds it necessary to propose removing § 65.93(b), (c), and (d). Section 65.93(b) provides an exception to required renewal activities when an IA is in effect for less than 90 days before the expiration date and provides the expectations when an IA is in effect for less than 90 days before March 31 of an even numbered year. These provisions are no longer necessary as the IR would not have an expiration date and the intent of relief for newly acquired IAs would be captured in proposed § 65.83(b)(3).

Section 65.93(c) sets forth the restrictions for an IA holder who does not complete one of the renewal activities in the first year of the IA period. As the proposed IR would no longer have a fixed period, this paragraph would be removed. Proposed § 65.83(b)(4), which was previously discussed in this section of the preamble, would provide the restrictions and requirements to reinstate privileges for certificated mechanics that do not complete their recent activity requirements.

Finally, § 65.93(d) is currently in place to align with § 61.40 to allow relief for certain qualifying people to be eligible to renew an expired IA if they were deployed overseas and unable to renew during the month of March of the odd-numbered year. With the proposal to eliminate the expiration date and renewal requirement, this relief would no longer be necessary. In addition, proposed § 65.83(b)(4) would specifically allow for mechanics to reestablish IR privileges if they are unable to meet the recent experience requirements, rather than have to start over with an initial IR application as is currently required, so no additional relief is required for those deployed overseas. Section IV.C.2 of the preamble contains a discussion of § 61.40.

vi. Advisory Circular, FAA Form 8610–1, and FAA Form 8610–6

FAA publication FAA–G–8082–19, Inspection Authorization Information Guide⁶¹ currently provides general guidance for mechanics who hold an IA. It discusses the important role and responsibilities that IA holders have in air safety and the renewal requirements and process. With the proposal to replace the IA with the IR and eliminate the expiration and requirement for

renewal, FAA has drafted a new AC to replace the IA information Guide. The most significant difference between the Information Guide and the AC, as drafted for this proposed rule, is the discussion of the recent experience and recordkeeping requirements that are introduced in this proposal. FAA seeks comment on the proposed draft of the AC, which is available in the docket for this rulemaking.

In addition, the proposal to eliminate the renewal requirement would necessitate revisions to FAA Form 8610–1, Mechanic's Application for Inspection Authorization (14 CFR part 65). The form is currently used for initial application and application for renewal. The revision would remove all blocks that are used for the renewal process, as well as change all references of "Inspection Authorization" to "Inspection Rating." As the proposed IR would no longer require renewal, this application would now only be required for initial application for an IR. FAA also seeks comment on this updated application, which is available in the docket for this rulemaking.

Also, this proposal would require revisions to FAA Form 8610–6, IA Refresher Course Acceptance Request. While the form would remain the same substantively, all references to "IA" and "Inspection Authorization" would be changed to "IR" and "Inspection Rating," respectively. In addition, the regulatory reference in Section E that currently references § 65.93(a)(4) would be changed to § 65.83(b)(iv). FAA also seeks comment on this updated application, which is available in the docket for this rulemaking.

Finally, throughout the pendency of this rulemaking, FAA would also perform a quality control check of related materials to the IA, to include legal interpretations. If adopted as proposed, FAA would handle these materials as appropriate, to include rescinding or revising any legal interpretations that are no longer valid, and FAA would address these changes in the final rule.

B. Proposed Changes to Affected Sections

The following table provides an overview of proposed changes to specific IA sections in part 65 (§§ 65.91, 65.92, 65.93, and 65.95): which removed paragraphs and subparagraphs would be covered by other sections, which would be integrated into other sections, and which would be removed entirely.

TABLE 1—PROPOSED REVISION AND INTEGRATION OF INSPECTION AUTHORIZATION PROVISIONS FOR INSPECTION RATING

Current citation (14 CFR)	Proposed action (14 CFR)
§ 65.91(a)	Remove, covered by § 65.11(a).
§ 65.91(b)	Remove.
§ 65.91(c)(1)–(4)	Revise and integrate into § 65.71 as new §§ 65.71(b)(1)–(4).
§ 65.91(c)(5)	Revise and integrate into § 65.75 as new § 65.75(b).
§ 65.91 undesignated paragraph	Revise and integrate into § 65.19 as new § 65.19(b).
§ 65.92(a)	Partially remove, partially revise and integrate into § 65.81 as new § 65.81(b)(1).
§ 65.92(b)(1)	Remove, covered by § 65.15(a).
§ 65.92(b)(2)–(3)	Revise and integrate into § 65.81 as new § 65.81(b)(2).
§ 65.92(c)	Remove, covered by § 65.15(c).
§ 65.93(a)	Revise and integrate into § 65.81 as new §§ 65.81(b)(1)–(2) and 65.83(b)(1).
§ 65.93(a)(1)–(5)	Revise and integrate into § 65.83 as new §§ 65.83(b)(2)(i)–(v).
§ 65.93(b)	Remove.
§ 65.93(c)	Remove.
§ 65.93(d)	Remove.
§ 65.95(a)	Revise and add as new § 65.88.
§ 65.95(b)	Revise and integrate into § 65.89 as new § 65.89(b).
§ 65.95(c)	Revise and integrate into § 65.81 as new § 65.81(b)(3).

C. Miscellaneous and Conforming Amendments (§§ 43.7, 61.40, 65.11, 91.409, and 147.5)

1. Conforming Amendment to Part 43 (§ 43.7)

Part 43 prescribes certain rules governing maintenance, preventive maintenance, rebuilding, and alteration. Section 43.7 prescribes requirements for persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventative maintenance, rebuilding, or alteration. Currently, under § 43.7(b), the holder of a mechanic certificate or an IA may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service as provided under part 65. As this proposal would remove the IA, any reference to an IA would need to be removed in other sections.

A mechanic with the proposed IR would be able to approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service. As discussed in section IV.A.6 of this preamble, the privileges of the IR are substantively unchanged from the IA. FAA would not need to replace “inspection authorization” with “inspection rating” in § 43.7(b), as the proposed IR would already be covered under the current language. The proposed IR is a rating on a mechanic certificate; therefore, a mechanic with an IR would be covered under “holder of a mechanic certificate” as currently authorized in § 43.7(b). Accordingly, certificated mechanics with the proposed IR would also be authorized under the language of § 43.7(b) despite removing “inspection authorization.” Therefore, FAA proposes to revise § 43.7(b) by removing “or an inspection

authorization” to conform to the changes proposed in part 65.

2. Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations (§ 61.40)

Section 61.40 prescribes relief given to U.S. Military and civilian personnel assigned outside of the United States in support of U.S. Armed Forces operations, allowing these individuals additional time to renew a flight instructor certificate, establish recent flight instructor experience, take a practical test, or renew an IA. FAA proposes to revise § 61.40 by removing references to IA to conform to the changes proposed in part 65.

Section 61.40 codified Special Federal Aviation Regulations No. 100–2 to ensure military and civilian personnel deployed outside the United States have an adequate opportunity to renew an IA if they meet the criteria under § 61.40(b)(2)(i).⁶² With the proposed conversion of the IA to the IR, the IR would not expire, and a provision providing adequate opportunity to renew for deployed individuals would not be necessary. In addition, proposed § 65.83(b)(4) would allow all mechanics to reestablish IR privileges at any time if they are unable to meet the recent experience requirements.⁶³ This provision would equally provide deployed individuals with the same opportunity to reestablish privileges under proposed § 65.83(b)(4). Therefore, the relief provided by § 61.40 would not be necessary for the proposed IR. Accordingly, FAA proposes to remove the references to IA in § 61.40(a), 61.40(a)(6), 61.40(b)(2)(i), and 61.40(b)(3).

3. Application and Issue (§ 65.11)

Section 65.11 prescribes the general application requirements for certificates under part 65. Currently, § 65.11(a) states that application for a certificate and appropriate class rating, or for an additional rating, under this part must be made on a form and in a manner prescribed by the Administrator. FAA proposes to remove the word “class” from paragraph (a) because none of the ratings that are issued on airmen certificates under part 65 are class ratings as defined in § 1.1.

Class, with respect to the certification, rating, privileges and limitations of airmen, means a classification of aircraft within a category having similar operating characteristics.⁶⁴ Class is also defined with respect to the certification of aircraft as meaning a broad grouping of aircraft having similar characteristics of propulsion, flight, or landing.⁶⁵ Certifications for air traffic control operators, aircraft dispatchers, mechanics, repairmen, and parachute riggers are not class ratings; none of the ratings limit airmen under part 65 to a specific class of aircraft within a category.

FAA acknowledges that “class” is currently used in § 65.107 with regard to repairmen for light-sport aircraft. However, the MSAIC rulemaking proposed to replace references to “class” of aircraft in § 65.107 with “category”⁶⁶ of aircraft in proposed § 65.109.⁶⁷ Under § 65.107, the references to “class” are used in the context of classes of aircraft certification, not airmen certification. FAA has determined using the term “category” in the context of airman certification as defined in § 1.1, is more appropriate because § 65.107 specifically prescribes repairman certification, ratings, privileges, and

limitations. Therefore, given that airmen certificates issued under part 65 do not have class ratings, FAA proposes to remove this term from § 65.11(a).

4. Inspections (§ 91.409)

Section 91.409 prescribes the requirements for inspections if operating under part 91; paragraph (d) describes the requirements of an aircraft owner or operator that wishes to utilize a progressive inspection program for their aircraft. Section 91.409(d)(1) states, in part, that the owner or operator must provide a certificated mechanic with an inspection authorization to supervise or conduct the progressive inspection. FAA proposes to revise § 91.409(d)(1) to change the use of “inspection authorization” to “eligible to exercise the privileges of an inspection rating” to conform to the changes proposed in part 65 and to account for those persons who will hold inspection authorizations but will not have converted their authorization to a rating after a final rule is effective. As explained in section IV.A.6 of the preamble, the IR would have the same privileges as the IA, which would be relocated from § 65.95(a)(2) to § 65.88(b). Therefore, this proposed change would simply update this section to require an owner or operator to provide a certificated mechanic holding an IR to use the progressive inspection program, consistent with the proposed conversion of the IA to an IR.

5. Application Requirements (§ 147.5)

Part 147 prescribes the requirements and the general operating rules for

issuing aviation maintenance technician school certificates (AMTS). Section 147.5 prescribes application requirements for AMTS certificate applicants. Currently, § 147.5(b)(2) requires an AMTS applicant to include a description of the manner in which the school’s curriculum will ensure the student has the knowledge and skills necessary for attaining a mechanic certificate and associated ratings under subpart D of part 65. The proposed inspection rating is not a rating that is available to an AMTS, as the available ratings are enumerated in § 147.11 as airframe, powerplant, or airframe and powerplant. Therefore, FAA proposes to revise § 147.5(b)(2) by specifying the associated ratings as airframe or powerplant ratings (or both). FAA acknowledges that part 147 was significantly revised pursuant to section 135 of the Aircraft Certification, Safety, and Accountability Act in Public Law 116–260, the Consolidated Appropriations Act of 2021, including § 147.5. This proposed amendment is not a substantive change to the statutory requirements.

V. Regulatory Notices and Analyses

A. Regulatory Impact Analysis

Executive Order 12866 (E.O.) (“Regulatory Planning and Review”) and E.O. 13563 (“Improving Regulation and Regulatory Review”) require agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose

the least burden on society.” The Office of Management and Budget has determined that this proposed rule is not a significant regulatory action as defined in section (3)(f) of E.O. 12866.

This proposal would eliminate the requirement that mechanics holding an IA renew their IAs in March of every odd-numbered year. FAA would replace the current mechanic certificate and IA with a new mechanic certificate with an IR, which would not require renewal and would reduce administrative burden to both FAA and mechanics. The proposal would maintain safety by retaining the same initial qualifications and converting the renewal activity requirements to recent experience requirements.

There are a few other minor revisions in the proposed rule that would not have an impact on existing industry practices. The existing industry practices are the baseline for this analysis and thus the minor proposed changes would not result in any costs or benefits. Adjustments to knowledge requirements of this proposed rule would not impact current industry practices as the written test is already required under the IA. These revisions reorganize the regulatory text to explain the tests required. In addition, the addition of IR specific privileges and limitations language would not affect the current practices. The following table summarizes the economic impact by provision change.

TABLE 2—REGULATORY IMPACT BY PROPOSED REVISION

Current citation (14 CFR)	Proposed action (14 CFR)	Economic impact
§ 65.91(a)	Remove, covered by § 65.11(a)	No impact.
§ 65.91(b)	Remove	No impact.
§ 65.91(c)(1)–(4)	Revise and integrate into § 65.71 as new § 65.71(b)(1)–(4).	No impact.
§ 65.91(c)(5)	Revise and integrate into § 65.75 as new § 65.75(b).	No impact.
§ 65.91 undesignated paragraph	Revise and integrate into § 65.19 as new § 65.19(b).	No impact.
§ 65.92(a)	Partially remove, partially revise and integrate into § 65.81 as new § 65.81(b)(1).	No impact.
§ 65.92(b)(1)	Remove, covered by § 65.15(a)	No impact.
§ 65.92(b)(2)–(3)	Revise and integrate into § 65.81 as new § 65.81(b)(2).	No impact.
§ 65.92(c)	Remove, covered by § 65.15(c)	No impact.
§ 65.93(a)	Revise and integrate into § 65.81 as new § 65.81(b)(1)–(2) and 65.83(b)(1).	The change results in cost savings of \$5.66 million at a 7% present value (pv).
§ 65.93(a)(1)–(5)	Revise and integrate into § 65.83 as new § 65.83(b)(2)(i)–(v).	No impact.
§ 65.93(b)	Remove	No impact.
§ 65.93(c)	Remove	No impact.
§ 65.93(d)	Remove	No impact.
§ 65.95(a)	Revise and add as new § 65.88	No impact.
§ 65.95(b)	Revise and integrate into § 65.89 as new § 65.89(b).	One-time replacement cost of \$218,954 at a 7% pv.

TABLE 2—REGULATORY IMPACT BY PROPOSED REVISION—Continued

Current citation (14 CFR)	Proposed action (14 CFR)	Economic impact
§ 65.95(c)	Revise and integrate into § 65.81 as new § 65.81(b)(3).	No impact.

The following table summarizes the net cost savings to 21,264 mechanics and to FAA from reducing the

paperwork requirements associated with the current two-year renewal cycle.

TABLE 3—10 YEAR NET SAVINGS

[in \$millions]

	3% Present value	7% Present value
Mechanics	\$1.22	\$1.01
FAA	5.31	4.44
Total *	6.53	5.44

* Totals may differ due to rounding.

At a seven percent discount rate, mechanics who hold an IA would realize a net savings of \$1.01 million over 10 years and FAA would realize a net savings of \$4.44 million over 10 years. These savings result from reduced paperwork costs for IA holders, who would no longer need to fill out renewal forms, and reduced labor costs to FAA, which would no longer need to process

the renewals. The net savings subtracts out a one-time cost of approximately \$0.22 million at a seven percent discount rate. This one-time cost includes the cost to the mechanics to submit a simple online form requesting a replacement mechanic certificate with an IR and to FAA for processing and sending out the replacement mechanic certificate with an IR.

Table 3 shows the savings from eliminating the two-year IA renewal requirement relative to the baseline. In other words, Table 3 contains the eliminated estimated discounted cost for renewals that would occur without the elimination of the renewal requirement.

TABLE 4—10 YEAR SAVINGS FROM ELIMINATING IA TWO YEAR RENEWAL REQUIREMENT

Year	Baseline IA renewals forecast	Mechanic savings (3% PV)	Mechanic savings (7% PV)	FAA savings (3% PV)	FAA savings (7% PV)
2027	21,264	\$291,362	\$280,470	\$1,207,325	\$1,162,192
2029	21,394	276,318	246,473	1,144,984	1,021,315
2031	21,524	262,040	216,588	1,085,822	897,482
2033	21,654	248,491	190,320	1,029,680	788,635
2035	21,784	235,635	167,232	976,404	692,964
Total	107,620	1,313,846	1,101,084	5,444,216	4,562,589

The analysis assumes that the final rule would be issued in December 2026. Therefore, the cost savings from elimination of the renewal requirement

would begin with the renewals that would have occurred in 2027 without the proposal. The baseline renewals forecast uses the renewals data over the

14 years presented in Table 4 to forecast in the average number of biannual renewals baseline renewals that would occur without the proposal.

TABLE 5—HISTORICAL IA RENEWALS

Year	2009	2011	2013	2015	2017	2019	2021	2023
Renewals	20,094	20,003	20,522	21,076	21,160	20,800	20,662	21,042

Source: National Program Tracking and Reporting Subsystem (NPTRS) accessed 9–10–2024 through Safety Performance Analysis System (SPAS).

To estimate the cost savings of eliminating the renewal requirement, FAA assumes that mechanics with an IA would save approximately 15 minutes due to this proposal. FAA assumes mechanics with an IA have a

compensation rate of \$56.45 per hour,⁶⁸ including wages and benefits. Thus, FAA estimates the cost savings per renewal for IA holders of \$14.11 (\$56.45 multiplied by 0.25 hours). The total undiscounted cost savings for 2027 is

then calculated by multiplying the cost savings per renewal for an IA holder (\$14.11) by the number of renewals in 2027 (21,264), or \$300,035. Table 4 shows this value discounted at three and seven percent.

FAA also assumes that a GS–13 step 5 FAA employee would spend 45 minutes processing an IA renewal application at a total compensation rate of \$77.98 per hour. Thus, FAA estimates FAA cost per renewal of \$58.48.⁶⁹ Similar to the total undiscounted cost

savings for mechanics in 2027 calculation, the cost savings per renewal to FAA of \$58.48 is multiplied by the number of renewals in 2027 (21,264) to arrive at \$1,243,518. Table 4 also shows this value discounted at three and seven percent.

These cost savings are netted with one time cost of issuing a replacement mechanic certificate with IR. Table 6 shows the one-time cost of replacing the mechanic certificate with a mechanic certificate with an IR that would not require renewal under this proposal.

TABLE 6—ONE-TIME COST OF ISSUING REPLACEMENT MECHANIC CERTIFICATE WITH IR

Year	New IRs	Cost per IR	IR costs undiscounted	IR costs (3% PV)	IR costs (7% PV)
2027	21,264	\$11.02	\$234,281	\$227,457	\$218,954

Though the proposal allows mechanics with IAs two years to request a replacement mechanic certificate, for simplicity, FAA assumes that all 21,264 replacement mechanic certificates with an IR would be requested in 2027. FAA estimates the cost of the physical mechanic certificate with an IR would be approximately \$2.20 per certificate.⁷⁰ FAA assumes it would take a mechanic approximately five minutes to learn about and request the replacement mechanic certificate with IR. The cost estimate uses the same mechanic hourly compensation rate discussed above. Further, FAA assumes it spends five minutes of document examiner time to review the application and issue the replacement mechanic certificate with IR. The cost for this labor time is \$4.69. FAA calculated its labor cost of \$4.13 per mechanic certificate with IR based on an hourly compensation rate of \$49.79 for a GS–10 step 5 in the 2025 locality pay tables for the rest of the U.S., including benefits equal to 36.25 percent of wages, multiplied by 0.08 hours.⁷¹ Therefore, the total cost per renewal is \$11.02.⁷² The undiscounted total cost for renewal, shown in Table 6, is arrived at by multiplying the cost per renewal, \$11.02, by the total renewals, 21,264, or \$234,281. The discounted cost totals are also shown in Table 6.

FAA finds that mechanics who hold an IA would realize a net cost savings of \$1.01 million over 10 years, discounted, and FAA would realize a net cost savings of \$4.44 million over 10 years, discounted. These savings result from reduced paperwork costs for mechanics with an IA replaced by an IR who would no longer need to fill out renewal forms and reduced labor costs to FAA that would no longer need to process the renewals. The net cost savings includes a minimal one-time cost of approximately \$0.22 million, discounted. This one-time cost covers the cost to the mechanics to submit a simple online form requesting a replacement mechanic certificate with an IR and to FAA for processing and

sending out the replacement mechanic certificate with an IR.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), 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.

FAA expects that the proposed replacement of an IA that requires renewal every two years with an IR, which would not require renewal, would not have a “significant impact on a substantial number” of small entities. This proposal would save mechanics holding an IA time by eliminating the administrative process associated with the renewal requirement, which results in modest cost savings for each affected mechanic. Therefore, FAA proposes to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. FAA welcomes comments on this cost assessment and proposed certification.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United

States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

FAA does not anticipate that this proposal would create an unnecessary obstacle to foreign commerce.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. FAA determined that the proposed rule would not result in the expenditure of \$193,000,000 or more (\$100,000,000 adjusted for inflation using the most current Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This action proposes a new one-time information collection under OMB Control Number 2120–0022 as an online form for IA holders to request a replacement mechanic certificate with an IR. This action also proposes to

amend OMB Control Number 2120–0022 to reflect the elimination of the IA renewal requirement and the addition of a recent experience record-keeping requirement. After receipt of any comments, FAA will submit the proposed information collection amendments to OMB as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Summary

The proposal would eliminate the requirement for mechanics with an IA to renew their IA in March of every odd-numbered year. Under current procedures, IA holders must be able to provide evidence with the renewal application that they continue to meet the initial eligibility requirements, as well as show fulfillment of the activity requirements.⁷³ The proposal would

replace IAs with a mechanic certificate with an IR, converting the IA renewal requirement to recent experience requirements, thereby eliminating the renewal administrative process. To replace the IA with a mechanic certificate with an IR, the mechanic would fill out a one-time online form within two years of the effective date of the final rule. The mechanic would continue to maintain records of required recent experience for two years; however, they would no longer have to submit this evidence with a renewal application every two years.

As discussed in the preamble, the proposed changes would ensure safety while reducing paperwork burdens.

Respondents (Including Number of)

- 21,264 Mechanics with IAs would request replacement mechanic certificates with IRs.

- An average of 21,500 mechanics with IRs would need to maintain records for recent experience.

Frequency

- Mechanic certificate with IR request would be one-time between the effective date of the final rule and 24 months after.
- Recent experience record keeping every year.

Annual Burden Estimates

The annual burden estimate for the one-time mechanic certificate with IR request is listed in Table 6. It includes an estimated five minutes of mechanic time, five minutes of FAA document examiner time, and \$2.20 materials cost per mechanic certificate with IR. The wage data used for the calculations is presented with sources in Table 5.

TABLE 7—ONE-TIME ANNUAL BURDEN FOR MECHANIC CERTIFICATE WITH IR

Year	Mechanic cost undiscounted	FAA cost undiscounted	Total cost undiscounted
2027	\$99,634	\$134,647	\$234,281

Table 3 presents the cost-savings from elimination of the IA renewal requirement. Table 7 presents the burden estimate for the remaining

recordkeeping requirement. As detailed previously in section IV.A.7. of the preamble, the estimate assumes that mechanics with IR ratings would still

spend five minutes annually on record-keeping. The estimate uses the same hourly compensation rate for mechanics used in Table 3.

TABLE 8—CONTINUING RECORDKEEPING REQUIREMENTS

Average number of mechanics with IR	Time burden per mechanic (hours)	Hourly compensation rate	Total annual burden
21,500	0.08	\$56.45	\$101,146

FAA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of FAA, including whether the information would have practical utility;

(2) Evaluate the accuracy of FAA's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement to the address listed in the ADDRESSES section at the beginning of this preamble by August 31, 2026. Comments also should be submitted to the Office of Management

and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Office Building, Room 10202, 725 17th Street NW, Washington, DC 20053.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

The Department has analyzed the environmental impacts of this notice of proposed rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*).

FAA has determined this proposal rule is categorically excluded pursuant to FAA Order 1050.1G. Categorical exclusions are categories of actions FAA has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).⁷⁴ In analyzing the applicability of a categorical exclusion, FAA must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.⁷⁵ This rulemaking, which would change a mechanic inspection authorization into an inspection rating, is categorically excluded pursuant to FAA Order 1050.1G, Appendix B, Paragraph B–2.6(f), which categorically excludes issuance of regulatory documents. FAA does not anticipate any environmental impacts, and there are no extraordinary

circumstances present in connection with this rulemaking.

VI. E.O. Determinations

A. E.O. 13132, *Federalism*

FAA has analyzed this proposed rule under the principles and criteria of E.O. 13132, *Federalism*. FAA has determined this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. E.O. 13175, *Consultation and Coordination With Indian Tribal Governments*

Consistent with E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*,⁷⁶ and FAA Order 1210.20, *American Indian and Alaska Native Tribal Consultation Policy and Procedures*,⁷⁷ FAA ensures Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this proposed rule.

C. E.O. 13211, *Regulations That Significantly Affect Energy Supply, Distribution, or Use*

FAA analyzed this proposed rule under E.O. 13211, *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (May 18, 2001). FAA has determined it would not be a “significant energy action” under the E.O. and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. E.O. 13609, *Promoting International Regulatory Cooperation*

E.O. 13609, *Promoting International Regulatory Cooperation*, promotes international regulatory cooperation to (1) meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or (2) prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609 and has determined this action would have no effect on international regulatory cooperation.

E. E.O. 14192, *Unleashing Prosperity Through Deregulation*

This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

VII. Additional Information

A. *Comments Invited*

FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rule. Before acting on this proposal, FAA will consider all comments it receives on or before the closing date for comments. FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. FAA may change this proposal in light of the comments it receives.

B. *Confidential Business Information*

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.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 is relevant or responsive to this NPRM, it is important you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” 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 the person in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary FAA receives which is not specifically

designated as CBI will be placed in the public docket for this rulemaking.

C. *Electronic Access and Filing*

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at www.regulations.gov using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register’s website at www.federalregister.gov and the Government Publishing Office’s website at www.govinfo.gov. A copy may also be found at FAA’s Regulations and Policies website at www.faa.gov/regulations_policies.

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Requesters must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

D. *Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104 121, 110 Stat. 857, Mar. 29, 1996) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit www.faa.gov/regulations_policies/rulemaking/sbre_act/.

Endnotes

¹ See section IV.A.7. for greater detail about FAA’s risk evaluation in converting the renewal requirements into recent experience requirements.

² 14 CFR 65.85(a).

³ 14 CFR 65.87(a).

⁴ 14 CFR 1.1. A major repair is a repair that, (1) if improperly done, might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness; or (2) that is not done according to accepted practices or cannot be done by elementary operations. A major

alteration is an alteration not listed in the aircraft, aircraft engine, or propeller specifications that (1) might appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness; or (2) that is not done according to accepted practices or cannot be done by elementary operations.

⁵ Undesignated text in § 65.91 also restricts an applicant who fails such written test from applying for retesting until at least 90 days after the date of failure.

⁶ 14 CFR 65.92(a).

⁷ *Part 24-Mechanic and Repairman Certificates, Elimination of Annual Inspection of General Aircraft*, 21 FR 2586 (Apr. 20, 1956).

⁸ *Addition of Subchapter*, 27 FR 7954 (Aug. 6, 1962).

⁹ *Part 65—Certification: Airmen Other Than Flight Crewmembers, Inspection Authorization*, 42 FR 46278 (Sep. 15, 1977).

¹⁰ *Id.* at 46279.

¹¹ *Inspection Authorization, Eligibility and Operational Requirements, NPRM*, 38 FR 3410 (Feb. 6, 1973).

¹² 42 FR at 46279.

¹³ *Issuance and Renewal of Inspection Authorization, final rule*, 50 FR 15700 (Apr. 19, 1985).

¹⁴ *Inspection Authorization 2-Year Renewal direct final rule; confirmation of effective date*, 72 FR 35151 (Jun. 27, 2007). See also, *Inspection Authorization 2-Year Renewal direct final rule, request for comments*, 72 FR 4400 (Jan. 30, 2007).

¹⁵ *Policy Clarifying Definition of “Actively Engaged” for Purposes of Inspector Authorization notice of proposed policy*, 75 FR 68249 (Nov. 5, 2010).

¹⁶ *Policy Clarifying Definition of “Actively Engaged” for Purposes of Inspector Authorization notice of policy; disposition of comments*, 76 FR 47058 (Aug. 4, 2011).

¹⁷ Table 2:10 Year Net Savings in Millions of Dollars. See regulatory impact analysis discussion in section V.A of the preamble.

¹⁸ Source: FAA Airmen Certification Branch.

¹⁹ *Removal of Expiration Date on a Flight Instructor Certificate: Additional Qualification Requirements to Train Initial Flight Instructor Applicants; and Other Provision, final rule*, 89 FR 80020 (Oct. 1, 2024).

²⁰ 14 CFR 65.91(c)(1).

²¹ 14 CFR 65.95(a).

²² Proposed § 65.81(b) would set forth IR limitations; proposed § 65.83(b) would set forth the IR recent experience requirements. These proposals are further discussed in section IV.A.6 and IV.A.7 of this preamble, respectively.

²³ 14 CFR 65.81(b).

²⁴ The reinstatement of privileges after recent experience lapse is further discussed in section IV.A.7.iii of this preamble.

²⁵ See www.amsrvs.registry.faa.gov/amsrvs.

²⁶ 49 U.S.C. 44703, 44709. The Pilots Bill of Rights provided with the IA application, FAA Form 8610–1, states that the information submitted on this form will be used by the Administrator of FAA as part of the basis for issuing an airmen certificate, rating, or inspection authorization under 49 U.S.C. 44703(a).

²⁷ 49 U.S.C. 44703, 44709.

²⁸ 76 FR 47058.

²⁹ The NTSB has reviewed actions on IA applications in the past. See, e.g., *Whetsel*, 4 NTSB 1863 (1984), *Petition of Deville*, NTSB Order No. EA–5095 (2004). In addition, FAA Order 2150.3C, FAA Compliance and Enforcement Program, treats an action on an IA application as appealable to the NTSB.

³⁰ The primary purpose of the notice of policy was to provide notice that FAA clarified the definition of “actively engaged” for the purposes of application and renewal of an IA and update FAA Order 8900.1 to reflect the clarified definition. This clarified definition remains correct. Therefore, FAA is only correcting the portion of the notice as it applies to the discussion of actions on an IA application.

³¹ 14 CFR 65.71(a)(2). An applicant for a mechanic certificate that does not read, write, speak, or understand English, but is employed outside of the United States by a U.S. air carrier, have his certificate endorsed “Valid outside the United States.”

³² As previously stated, an applicant for an IA must hold a currently effective mechanic certificate with both an airframe rating and a powerplant rating, each of which is currently effective and has been in effect for a total of at least 3 years; therefore, applicants for an IA will have de facto met eligibility requirements in current § 65.71.

³³ See Legal Interpretation to Sean Conlin (Feb. 2000).

³⁴ The three years do not have to be consecutive; the 1985 rulemaking revised the regulation to remove the prior continuously effective requirement, discussed in section III.A of the preamble. For example, a suspension in the prior 3 years is not disqualifying for an IA so long as the applicant’s mechanic certificate and A&P ratings are currently effective and have been in effect for a cumulative total of three years.

³⁵ FAA Order 8900.1, volume 1, chapter 5, provides a definition of “actively engaged.” See 76 FR 47058. “Actively engaged” means having an active role in exercising the privileges of a mechanic certificate with A&P ratings in the maintenance of certificated aircraft. Applicants who inspect, overhaul, repair, preserve, or replace parts on aircraft, or who supervise (*i.e.*, direct and inspect) those activities, are actively engaged. FAA will continue to use the same definition of “actively engaged” as outlined in this notice of policy and revised in FAA Order 8900.1. FAA recognizes the notice refers to an inspection authorization and the associated regulations, which this proposal would eliminate. However, the definition of “actively engaged” would apply without revision to the proposed inspection rating, and FAA Order 8900.1 would be updated for the updated terminology of “inspection rating.”

³⁶ 14 CFR 65.75(c) permits an applicant for a mechanic certificate or rating to take the mechanic general written test prior to meeting the applicable experience requirements of § 65.77, provided the applicant presents an authenticated document from a certificated aviation maintenance technician school that demonstrates satisfactory completion of the

general portion of the school’s curriculum and specifies the completion date.

³⁷ FAA Order 8900.1, volume 5, chapter 5, section 7.

³⁸ 14 CFR 24.43–1 (1956).

³⁹ The privileges and responsibilities of the IA in comparison to the A&P ratings is discussed in the introduction to section III of the preamble.

⁴⁰ *Learning Statement Reference Guide for Airmen Knowledge Testing*, available at www.faa.gov/training_testing/testing/media/LearningStatementReferenceGuide.pdf.

⁴¹ FAA Order 8900.1, volume 5, chapter 5, section 8, paragraph 5–1314C.

⁴² *Aviation Maintenance Technician Schools, interim final rule*, 87 FR 31391 (May 24, 2022).

⁴³ Airman Certification Standards and Practical Test Standards for Airmen; Incorporation by Reference final rule, 89 FR 22482 (Apr. 1, 2024).

⁴⁴ The APA includes requirements for publishing notices and providing opportunities for public comment of proposed and final rules in the **Federal Register**. See 5 U.S.C. 553(b).

⁴⁵ 5 U.S.C. 552(a), which states, “except to the extent that a person has actual or timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the **Federal Register** and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register.”

⁴⁶ Section 552(a) requires that matter incorporated by reference be “reasonably available” as a condition of its eligibility. Further, 1 CFR 51.5(b)(2) requires that agencies seeking to incorporate material by reference discuss in the preamble of the final rule, the ways that the material it incorporates by reference are reasonably available to interested parties, and how interested parties can obtain the material.

⁴⁷ See 87 FR 31391 (adopting new § 65.23 with the Mechanic ACS and PTS) and 89 FR 22482 (adding the Aircraft Dispatcher PTS and Parachute Rigger PTS).

⁴⁸ See § 61.91.

⁴⁹ FAA acknowledges that the Modernization of Special Airworthiness Certification (MOSAIC) rulemaking also proposes amendments to § 65.81. See *MOSAIC*, NPRM, 88 FR 47650 (Jul. 24, 2023). If adopted, this final rule will reconcile any changes to this regulation consistent with those made with in the MOSAIC final rule.

⁵⁰ This proposal would relocate § 65.91(c)(3) and (4) to § 65.71(b)(3) and (4), discussed in section IV.A.2 of the preamble.

⁵¹ Part 91 governs the general operating and flight rules, part 129 governs the operations of foreign air carriers and foreign operators of U.S.-registered aircraft engaged in common carriage, and part 135 governs the operations and persons on board commuter and on demand operations.

⁵² These options are: served as a mechanic under his certificate and rating; technically supervised other mechanics; supervised, in an executive capacity, the maintenance or

alteration of aircraft; or been engaged in a combination of any of those options.

⁵³ As previously stated, this is also consistent with other airman certificates, such as recent flight experience requirements for pilots in command (§ 61.57) and certificated flight instructors (§ 61.197).

⁵⁴ This hypothetical assumes that the certificated mechanic has had their IR for more than a year and the proposed rule became effective more than six months prior to June 2027.

⁵⁵ Legal Interpretation to Jerry Rhein (March 17, 1995).

⁵⁶ In this hypothetical, FAA assumes that the final rule has been in effect for more than a year.

⁵⁷ 14 CFR 65.93(a).

⁵⁸ *Id.*

⁵⁹ 38 FR 3410.

⁶⁰ See 42 FR 46278.

⁶¹ Inspection Authorization Information Guide, available at www.faa.gov/training_testing/testing/ia_info_guide.pdf.

⁶² 89 FR 80020.

⁶³ See section IV.A.7 of the preamble for a detailed discussion.

⁶⁴ Section 1.1. Examples include: single engine; multiengine; land; water; gyroplane; helicopter; airship; and free balloon.

⁶⁵ *Id.* Examples include: airplane; rotorcraft; glider; balloon; landplane; and seaplane.

⁶⁶ Section 1.1 defines category, as used with respect to the certification, ratings, privileges, and limitations of airmen, as a broad classification of aircraft. Examples include: airplane; rotorcraft; glider; and lighter-than-air.

⁶⁷ 88 FR 47650, 47694.

⁶⁸ Source: U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics, May 2024, 49–3011 Aircraft Mechanics and Service Technicians. Accessed 4–10–2025 at: www.bls.gov/oes/2024/may/oes493011.htm. To calculate hourly compensation, FAA used the BLS estimate that benefits are 29.5% of total compensation. Accessed 4–10–2025 at: www.bls.gov/news.release/archives/ecec_03142025.pdf.

⁶⁹ Based on GS–13 step 5 hourly wage of \$57.23 in the 2025 locality pay table for the rest of the U.S. To obtain the total hourly compensation rate the analysis multiplies the hourly wage by 1.3625 to reflect government benefits equal to 36.25% of wages. www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/25Tables/html/RUS_h.aspx. Memorandum for the Heads of Executive Departments and Agencies, Office of Management and Budget, March 11, 2008. www.obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/memoranda/fy2008/m08-13.pdf.

⁷⁰ These cost estimates are based off data from FAA's Comprehensive Airmen Information System.

⁷¹ Based on GS–10 step 5 hourly wage of \$36.54 in the 2025 locality pay table for the rest of the U.S. To obtain the total hourly compensation rate the analysis multiplies the hourly wage by 1.3625 to reflect government benefits equal to 36.25% of wages. www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/25Tables/

html/RUS_h.aspx.

www.obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/memoranda/fy2008/m08-13.pdf Memorandum for the Heads of Executive Departments and Agencies, Office of Management and Budget, March 11, 2008.

⁷² \$2.20 + \$4.69 + \$4.13 = \$11.02.

⁷³ Section 65.93(a).

⁷⁴ See DOT Order 5610.1D § 9.

⁷⁵ *Id.* § 9(b).

⁷⁶ 65 FR 67249 (Nov. 6, 2000).

⁷⁷ FAA Order No. 1210.20 (Jan. 28, 2004), available at www.faa.gov/documentLibrary/media/1210.pdf.

List of Subjects

14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 65

Air traffic controllers, Aircraft, Airmen, Airports, Alcohol abuse, Aviation safety, Drug abuse, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 91

Afghanistan, Agriculture, Air carriers, Air taxis, Air traffic control, Aircraft, Airmen, Airports, Alaska, Aviation safety, Canada, Charter flights, Cuba, Drug traffic control, Ethiopia, Freight, Iran, Iraq, Libya, Mexico, Noise control, North Korea, Political candidates, Reporting and recordkeeping requirements, Security measures, Somalia, Syria, Transportation, Yemen, Yugoslavia.

14 CFR Part 147

Aircraft, Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Proposed Amendment

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

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

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(f), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

■ 2. Amend § 43.7 by revising paragraph (b) to read as follows:

§ 43.7 Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

* * * * *

(b) The holder of a mechanic certificate may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service as provided in Part 65 of this chapter.

* * * * *

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 3. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302; Sec. 2307, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); sec. 318, Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44703 note); sec. 820, Pub. L. 118–63, 138 Stat. 1330 (49 U.S.C. 44939 note); secs. 815 and 828, Pub. L. 118–63, 138 Stat. 1328, 1336 (49 U.S.C. 44703 note).

■ 4. Amend § 61.40 by revising paragraphs (a), (a)(6), (b)(2)(i), and (b)(3) to read as follows:

§ 61.40 Relief for U.S. Military and civilian personnel who are assigned outside the United States in support of U.S. Armed Forces operations.

(a) *Relief.* A person who satisfies the requirements of paragraph (b) of this section may use the following documents to demonstrate eligibility to renew a flight instructor certificate, establish recent flight instructor experience, or take a practical test, as appropriate:

* * * * *

(6) An expired written test report to show eligibility to take a practical test required under part 65 of this chapter.

(b) * * *

(2) * * *

(i) The person's flight instructor certificate issued before December 1, 2024, or airman written test report expired; or

(ii) * * *

(3) The person complies with § 61.197 of this chapter, as appropriate, or completes the appropriate practical test within 6 calendar months after returning to the United States.

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 5. The authority citation for part 65 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 6. Revise § 65.11(a) to read as follows:

§ 65.11 Application and issue.

(a) Application for a certificate and appropriate rating, or for an additional rating, under this part must be made on a form and in a manner prescribed by the Administrator. Each person who applies for airmen certification services to be administered outside the United States or for any certificate or rating issued under this part must show evidence that the fee prescribed in appendix A of part 187 of this chapter has been paid.

* * * * *

■ 7. Revise § 65.19 to read as follows:

§ 65.19 Retesting after failure.

(a) Except as specified in paragraph (b) of this section, an applicant for a written, oral, or practical test for a certificate and rating, or for an additional rating under this part, may apply for retesting—

(1) After 30 days after the date the applicant failed the test; or

(2) Before the 30 days have expired if the applicant presents a signed statement from an airman holding the certificate and rating sought by the applicant, certifying that the airman has given the applicant additional instruction in each of the subjects failed and that the airman considers the applicant ready for retesting.

(b) An applicant who fails the written test for an inspection rating prescribed by § 65.75(b) of this part may not apply for retesting until at least 90 days after the date of the failed test.

■ 8. Amend § 65.23 by adding paragraph (a)(4) to read as follows.

§ 65.23 Incorporation by reference.

* * * * *

(a) * * *

(4) FAA–S–ACS–34, Aviation Mechanic Inspection Rating Certification Standards, (insert approval date), IBR approved for §§ 65.75 and 65.83.

* * * * *

■ 9. Revise § 65.71 to read as follows:

§ 65.71 Eligibility requirements: General.

(a) Airframe or Powerplant Rating.

(1) To be eligible for a mechanic certificate with an airframe or powerplant rating, or both, a person must—

(i) Be at least 18 years of age;

(ii) Be able to read, write, speak, and understand the English language, or in the case of an applicant who does not meet this requirement and who is

employed outside of the United States by a U.S. air carrier, have his certificate endorsed “Valid only outside the United States;”

(iii) Have passed all of the prescribed tests within a period of 24 calendar months; and

(iv) Comply with the sections of this subpart that apply to the rating the applicant seeks.

(2) A certificated mechanic who applies for an additional airframe or powerplant rating must meet the requirements of § 65.77 and, within a period of 24 calendar months, pass the tests prescribed by §§ 65.75(a) and 65.79 for the additional rating sought, except as provided in § 65.75(a)(4).

(b) Inspection Rating. To be eligible for an inspection rating on a person’s mechanic certificate, a person must—

(1) Hold a mechanic certificate with both an airframe rating and a powerplant rating currently effective in accordance with § 65.15(a) of this part and has been in effect for a total of at least 3 years;

(2) Have been actively engaged, for at least the 24 calendar month period before the date of application, in maintaining aircraft certificated and maintained in accordance with this chapter;

(3) Have a fixed base of operations where he may be located in person or by telephone during a normal working week but it need not be the location where the privileges of the inspection rating will be exercised;

(4) Have available to him the equipment, facilities, and inspection data necessary to inspect airframes, powerplants, propellers, or any related part or appliance properly; and

(5) Comply with the sections of this subpart that apply to the rating the applicant seeks.

■ 10. Amend § 65.73 by adding paragraphs (a)(3), (c), (d), and (e) to read as follow:

§ 65.73 Ratings.

(a) * * *

(3) Inspection.

(b) * * *

(c) A certificated mechanic with an inspection authorization that was valid on [EFFECTIVE DATE OF THE FINAL RULE] may exercise the privileges of an inspection rating in accordance with § 65.88 until [24 MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE] if they comply with the limitations and recent experience requirements prescribed in §§ 65.81(b) and 65.83(b).

(d) A certificated mechanic with an inspection authorization valid on [EFFECTIVE DATE OF THE FINAL

RULE] is entitled to a replacement mechanic certificate with an inspection rating.

(e) A certificated mechanic with an inspection authorization that was valid on [EFFECTIVE DATE OF THE FINAL RULE] that has not obtained a replacement mechanic certificate as described in paragraph (d) of this section may not exercise the privileges of an inspection rating after [24 MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE]. After this date, a person may resume exercising the privileges of an inspection rating once they have obtained a mechanic certificate with an inspection rating and comply with the limitations and recent experience requirements prescribed in §§ 65.81(b) and 65.83(b).

■ 11. Effective [24 MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE], amend § 65.73 further by:

■ a. removing paragraph (c); and

■ b. redesignating paragraphs (d) and (e) as paragraphs (c) and (d) to read as follows:

§ 65.73 Ratings.

* * * * *

(b) * * *

(c) A certificated mechanic with an inspection authorization valid on [EFFECTIVE DATE OF THE FINAL RULE] is entitled to a replacement mechanic certificate with an inspection rating.

(d) A certificated mechanic with an inspection authorization that was valid on [EFFECTIVE DATE OF THE FINAL RULE] that has not obtained a replacement mechanic certificate as described in paragraph (d) of this section may not exercise the privileges of an inspection rating after [24 MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE]. After this date, a person may resume exercising the privileges of an inspection rating once they have obtained a mechanic certificate with an inspection rating and comply with the limitations and recent experience requirements prescribed in §§ 65.81(b) and 65.83(b).

■ 12. Revise § 65.75 to read as follows:

§ 65.75 Knowledge requirements.

(a) Airframe or Powerplant Rating. Applicants for a mechanic certificate with an airframe or powerplant rating, or both, or applicants for an additional airframe or powerplant rating:

(1) Must, except as specified in paragraph (a)(3) of this section, after meeting the applicable experience requirements of § 65.77, pass a written test, appropriate to the rating sought, which includes the aeronautical knowledge subject areas contained in

the Aviation Mechanic General, Airframe, and Powerplant Airman Certification Standards (incorporated by reference, see § 65.23), as appropriate to the rating sought.

(2) Must pass each section of the test before applying for the oral and practical tests prescribed by § 65.79. A report of the written test is sent to the applicant.

(3) May take the mechanic general written test prior to meeting the applicable experience requirements of § 65.77, provided the applicant presents an authenticated document from a certificated aviation maintenance technician school that demonstrates satisfactory completion of the general portion of the school's curriculum and specifies the completion date.

(4) Are eligible to take a practical test for a mechanic certificate or rating under this part with an expired written test report in accordance with § 61.40 of this chapter.

(b) Inspection Rating. Applicants for an inspection rating must—

(1) Receive an endorsement from a representative of the Administrator that the applicant meets the requirements of § 65.71(b)(1) through (4) and has not attempted the inspection rating written test within the previous 90 days; and

(2) Within 30 days of receiving the endorsement set forth in paragraph (b)(1) of this section, pass a written test, which includes the aeronautical knowledge subject areas contained in the Aviation Mechanic Inspection Rating Airman Certification Standards (incorporated by reference, see § 65.23).

■ 13. Amend § 65.77 by revising the introductory text to read as follows:

§ 65.77 Experience requirements.

Each applicant for a mechanic certificate with an airframe or powerplant rating, or both, or an additional airframe or powerplant rating must present either—

* * * * *

■ 14. Revise § 65.79 to read as follows:

§ 65.79 Skills requirements.

Each applicant for a mechanic certificate with an airframe or powerplant rating, or both, or an additional airframe or powerplant rating must pass an oral test and a practical test, as appropriate to the rating sought, by demonstrating satisfactory understanding of the knowledge, risk management, and skill elements for each subject contained in the Aviation Mechanic General, Airframe, and Powerplant Airman Certification Standards (incorporated by reference, see § 65.23), as appropriate to the rating sought.

■ 15. Revise § 65.81 to read as follows:

§ 65.81 Privileges and limitations.

(a) General Privileges and Limitations.

(1) A certificated mechanic may perform or supervise the maintenance, preventive maintenance or alteration of an aircraft or appliance, or a part thereof, for which he is rated (but excluding major repairs to, and major alterations of, propellers, and any repair to, or alteration of, instruments), and may perform additional duties in accordance with §§ 65.85, 65.87, and 65.88. However, he may not supervise the maintenance, preventive maintenance, or alteration of, or approve for return to service, any aircraft or appliance, or part thereof, for which he is rated unless he has satisfactorily performed the work concerned at an earlier date. If he has not so performed that work at an earlier date, he may demonstrate the ability to do it by performing it to the satisfaction of the Administrator or under the direct supervision of a certificated and appropriately rated mechanic, or a certificated repairman, who has had previous experience in the specific operation concerned.

(2) A certificated mechanic may not exercise the privileges of his certificate and rating(s) unless he understands the current instructions of the manufacturer, and the maintenance manuals, for the specific operation concerned.

(b) Inspection Rating Limitations.

(1) A certificated mechanic with an inspection rating may exercise the privileges of that rating only while he holds a mechanic certificate with both airframe and powerplant ratings that are effective in accordance with § 65.15(a).

(2) A certificated mechanic with an inspection rating may not exercise the privileges of the rating if that person does not meet the requirements of § 65.71(b)(3) and (4).

(3) If a certificated mechanic with an inspection rating changes his fixed base of operation required by § 65.71(b)(3), he must notify, in writing, the responsible Flight Standards office or International Field Office for the area in which the new base is located before exercising the privileges of the inspection rating.

■ 16. Revise § 65.83 to read as follows:

§ 65.83 Recent experience requirements.

(a) Airframe or Powerplant Rating. A certificated mechanic may not exercise the privileges of his certificate and rating unless, within the preceding 24 months—

(1) The Administrator has found that he is able to do that work; or

(2) He has, for at least 6 months—
(i) Served as a mechanic under his certificate and rating;

(ii) Technically supervised other mechanics;

(iii) Supervised, in an executive capacity, the maintenance or alteration of aircraft; or

(iv) Been engaged in any combination of paragraph (a)(2)(i), (ii), or (iii) of this section.

(b) Inspection Rating.

(1) A person may not exercise the privileges of the inspection rating unless they have been actively engaged in maintaining aircraft certified and maintained in accordance with this chapter for the 24 calendar month period prior to when they exercise their inspection rating privileges.

(2) Except as provided in (b)(3) and (7) of this section, no person may exercise the privileges of the inspection rating unless within the previous 12 calendar months one of the following activities has been completed:

(i) Performed at least four annual inspections;

(ii) Performed at least eight major repairs or major alterations, including any combination thereof;

(iii) Performed or supervised and approved at least one progressive inspection in accordance with standards prescribed by the Administrator;

(iv) Attended and successfully completed a refresher course, acceptable to the Administrator, of not less than 8 hours of instruction; or

(v) Passed an oral test by an FAA inspector, which includes the aeronautical knowledge subject areas contained in the Aviation Mechanic Inspection Rating Airman Certification Standards (incorporated by reference, see § 65.23), to determine that the applicant's knowledge of applicable regulations and standards is current.

(3) A person does not have to meet the requirements of paragraph (b)(2) of this section to exercise the privileges of the inspection rating during the 12 calendar months following original issuance of the inspection rating. Replacement of a mechanic certificate for a mechanic certificate with an inspection rating under § 65.73(d) or (e) is not considered an original issuance of the inspection rating.

(4) A certificated mechanic with an inspection rating who does not meet the requirements set forth in paragraph (b)(2) of this section may not exercise the privileges of the rating, until they have:

(i) Attended and successfully completed a refresher course(s), acceptable to the Administrator, of not less than 8 hours of instruction; or

(ii) Passed an oral test from an FAA inspector, which includes the aeronautical knowledge subject areas contained in the Aviation Mechanic Inspection Rating Airman Certification Standards (incorporated by reference, see § 65.23), to determine that the applicant's knowledge of the applicable regulations and standards is current.

(5) A certificated mechanic with inspection rating who completes the requirements of paragraph (b)(4) of this section is deemed to have completed the requirements of paragraph (b)(2) of this section.

(6) A certificated mechanic with inspection rating must maintain records to demonstrate completion of the recent experience requirements in paragraphs (b)(1) through (b)(4) of this section, as applicable, and present them to a representative of the Administrator upon request. The records must be retained for at least 2 years.

(7) If a person holds a valid inspection authorization on [EFFECTIVE DATE OF THE FINAL RULE], the person is not required to meet the requirements of paragraph (b)(2) until [SIX MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE].

■ 17. Effective [SIX MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE], amend § 65.83 further by:

- a. removing “and (7)” from paragraph (b)(2); and
- b. removing paragraph (b)(7) to read as follows:

§ 65.83 Recent experience requirements.

* * * * *

(b) * * *

(2) Except as provided in (b)(3) of this section, no person may exercise the privileges of the inspection rating unless within the previous 12 calendar months one of the following activities has been completed:

* * * * *

- 18. Add § 65.88 to read as follows:

§ 65.88 Inspection rating; additional privileges.

A certificated mechanic with an inspection rating may—

(a) Inspect and approve for return to service any aircraft or related part or appliance (except any aircraft maintained in accordance with a continuous airworthiness maintenance program under parts 91, 121, 129, or 135 of this chapter) after a major repair or major alteration to it in accordance with part 43 of this chapter, if the work was done in accordance with technical data approved by the Administrator; and

(b) Perform an annual inspection, or perform or supervise a progressive inspection according to §§ 43.13 and 43.15 of this chapter.

- 19. Amend § 65.89 by redesignating the introductory text as paragraph (a) and adding paragraph (b) to read as follows:

§ 65.89 Display of certificate.

(a) Each person who holds a mechanic certificate shall keep it within the immediate area where he normally exercises the privileges of the certificate and shall present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

(b) Each person exercising the privileges of a mechanic certificate with an inspection rating that has not yet obtained a replacement mechanic certificate with inspection rating per § 65.73(d) must, upon request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer, present documentary evidence of an inspection authorization that was valid on [EFFECTIVE DATE OF THE FINAL RULE].

■ 20. Effective [24 MONTHS AFTER EFFECTIVE DATE OF THE FINAL RULE], amend § 65.89 further by:

- a. removing paragraph (b); and
- b. redesignating paragraph (a) as an independent paragraph under § 65.89 to read as follows:

§ 65.89 Display of certificate.

Each person who holds a mechanic certificate shall keep it within the immediate area where that person normally exercises the privileges of the certificate and shall present it for inspection upon the request of the Administrator or an authorized representative of the National Transportation Safety Board, or of any Federal, State, or local law enforcement officer.

- 21. Remove and reserve § 65.91.

§ 65.91 [Removed and Reserved]

- 22. Remove and reserve § 65.92.

§ 65.92 [Removed and Reserved]

- 23. Remove and reserve § 65.93.

§ 65.93 [Removed and Reserved]

- 24. Remove and reserve § 65.95.

§ 65.95 [Removed and Reserved]

PART 91—GENERAL OPERATING AND FLIGHT RULES

- 25. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701,

44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534; Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); Sec. 828 of Pub. L. 118–63, 138 Stat. 1330 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

- 26. Amend § 91.409 by revising paragraph (d)(1) to read as follows:

* * * * *

(d) * * *

(1) A certificated mechanic eligible to exercise the privileges of an inspection rating, a certificated airframe repair station, or the manufacturer of the aircraft to supervise or conduct the progressive inspection;

* * * * *

PART 147—AVIATION MAINTENANCE TECHNICIAN SCHOOLS

- 27. The authority citation for part 147 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44702, 44707–44709; Sec. 135, Pub. L. 116–260, 134 Stat. 1182.

- 28. Amend § 147.5 by revising paragraph (b)(2) to read as follows:

* * * * *

(b) * * *

(1) * * *

(2) A description of the manner in which the school's curriculum will ensure the student has the knowledge and skills necessary for attaining a mechanic certificate and associated airframe or powerplant rating, or both, under subpart D of part 65 of this chapter;

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

Hugh J. Thomas,

Executive Director, Flight Standards Service.

[FR Doc. 2026–13282 Filed 6–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Amendment of Class C Airspace at Ontario International Airport, CA; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a fact-finding informal airspace meeting regarding a plan to amend the Class C

airspace at Ontario International Airport, CA (KONT). The purpose of the meeting is to provide relevant information about the proposal and solicit aeronautical comments on its effects on local aviation operations. All comments received during the meeting and the subsequent comment period will be considered prior to the issuance of any notice of proposed rulemaking (NPRM).

DATES: The meeting will be held virtually on Wednesday, August 19, 2026, from 5:00 p.m. to 7:00 p.m. (Pacific Daylight Time). Comments must be received on or before September 18, 2026.

ADDRESSES: Send comments on the proposal to: Byron G. Chew, Group Manager, Operations Support Group, Western Service Center, Mission Support Services, Federal Aviation Administration, 2200 S 216th Street, Des Moines, WA 98198; or via email to: 9-AJO-ONT-Airspace@faa.gov with "ONT Class C" included in the email subject line.

FOR FURTHER INFORMATION CONTACT: Paul J. Higgins, Team Manager, Operations Support Group, Western Service Center, Mission Support Services, Federal Aviation Administration, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231-2264.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

The meeting will provide interested parties with an opportunity to present views, recommendations, and comments on the proposed airspace. This will be a virtual informal airspace meeting using the Zoom teleconferencing tool. The meeting will also be recorded and available to watch on the FAA YouTube channel.

(a) *Registration:* To make a presentation at the meeting, you must register on or before August 14, 2026. To attend the meeting without making a presentation, the public can register here at any point prior to the start of the meeting within the space constraints: https://airportnetwork.zoom.us/webinar/register/WN_yHDu6EoST-5lSw7Y1uNdA. The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(b) The meeting will be informal in nature and will be conducted by one or more representatives of the FAA's Air Traffic Organization Western Service Area. A representative from the FAA will present a briefing on the planned airspace prior to opening the meeting to public comments.

(c) Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed. Only comments concerning the plan to amend the Ontario International Airport Class C airspace area will be accepted.

(d) Each person wishing to make a presentation will be asked to note their intent when registering for the meeting so appropriate time limits, if any, can be established. This meeting will not be adjourned until everyone registered to speak has had an opportunity to address the panel. This meeting may be adjourned at any time if all persons present have had an opportunity to speak.

(e) Position papers or other handout material relating to the substance of the meeting will be accepted. Participants submitting papers or handout materials should send them to the physical mail or email address noted in the **ADDRESSES** section above. To be considered, such material must be received on or before the September 18, 2026, comment deadline noted in the **DATES** section above.

(f) This meeting will be formally recorded and available on the FAA YouTube channel. A summary of the comments made at the meeting will be filed in the rulemaking docket.

Information gathered through this meeting will assist the FAA in drafting any NPRM that would be published in the **Federal Register**. The public will be afforded the opportunity to comment on any NPRM published on this matter.

Additional archived information and information from the informal airspace meeting may be viewed at the following URL: www.faa.gov/air_traffic/community_engagement/ont.

Agenda for the Meeting

- Presentation of Meeting Procedures
- Informal Presentation of the Proposed Class C Airspace Area
- Public Presentations
- Discussions and Questions
- Closing Comments

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

Issued in Washington, DC, on June 29, 2026.

Alex Nelson,

Manager, Rules and Regulations Group.

[FR Doc. 2026-13300 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[Docket No. DOT-OST-2025-0831]

RIN 2105-AF37

Enhancing Flexibility of Air Fare Price Advertising

AGENCY: Office of the Secretary (OST), Department of Transportation.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The U.S. Department of Transportation (Department or DOT) is proposing to amend its rule on air fare advertising to allow the total fare, including taxes and fees, to be displayed with the same prominence as any individual components. The current rule states that individual components of air fare, like taxes and fees, may not be displayed prominently. The Department is also proposing to eliminate a prescriptive advertising regulation stating that components of a fare may not be presented in the same or larger size as the total price. These proposed changes would ensure greater flexibility in how air fare is displayed while ensuring information is presented clearly to consumers, and in conformity with the intent of Congress as articulated in a provision of the Internal Revenue Code establishing standards for the display of taxes in advertisements for air transportation. In addition, the Department is proposing to rescind nine air fare price advertising guidance documents. They have become outdated and unnecessary because entities are bound by statute and regulatory text; furthermore, in certain cases, these documents improperly functioned as *de facto* regulations without adhering to the notice-and-comment procedures required by the Administrative Procedure Act.

DATES: Comments should be filed by July 31, 2026. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT-OST-2025-0831 by any of the following methods:

- *Federal eRulemaking Portal:* go to <https://www.regulations.gov> and follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, 5th Floor, W58-213, Washington, DC 20590-0001.

• *Hand Delivery or Courier:* West Building 5th Floor, Room W58–213, 1200 New Jersey Avenue SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays. Commenters using this method of delivery should contact Docket Services at 202–366–9826 or 202–366–9317 before delivery to ensure staff is available to receive the delivery.

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FOR FURTHER INFORMATION CONTACT: Robert Gorman, Kyle Joseph, or Blane A. Workie, Office of Aviation Consumer Protection, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–9342; robert.gorman@dot.gov, kyle.joseph@dot.gov, or blane.workie@dot.gov (email).

SUPPLEMENTARY INFORMATION:

A. Statutory Authority

The Department is proposing this rulemaking pursuant to its statutory authority in 49 U.S.C. 40113, which states that the Department may take action that it considers necessary to carry out its statutory duties, including prescribing regulations. In 2011, the Department relied upon 49 U.S.C. 41712 and 49 U.S.C. 40113 to issue its air fare advertising rule, also known as the Full Fare Rule, which is codified at 14 CFR 399.84(a). This rule requires that any advertising for air transportation display the total price to be paid by the consumer, including all government taxes, fees, and carrier-imposed charges. Under the current regulation, the total price must be displayed more prominently and in a larger font than any individual component of that price.

The Department remains committed to the requirement that carriers display

the total price to be paid by the consumer. However, the Department tentatively finds that the existing requirements regarding specific font size and prominence is unnecessarily prescriptive, and therefore should be modified to allow fare components to be displayed as prominently as the total price. This change would provide carriers greater flexibility while maintaining essential consumer protections and bring these regulations into conformity with First Amendment jurisprudence. In addition, this proposed rule on prominence reflects the intent of Congress as articulated in the Internal Revenue Code, which similarly states that if the price of transportation and taxes are listed separately from the total price, then the total price must be displayed “at least as prominently as the more prominently stated of the amount to be paid for such transportation or the amount of such taxes.”¹

B. Background

1. History of DOT's Full Fare Rule

In 2011, the Department determined in a final rule that it considered any advertising or solicitation by a direct air carrier, indirect air carrier, an agent of either, or a ticket agent, for passenger air transportation, a tour (*i.e.*, a combination of air transportation and ground or cruise accommodations) or tour component (*e.g.*, a hotel stay) that must be purchased with air transportation that states a price for such air transportation, tour, or tour component to be an unfair and deceptive practice in violation of 49 U.S.C. 41712 unless the price stated is the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component. When issuing the final rule requiring disclosure of the full fare in 2011, the Department stated that comments filed by individual consumers to the proposed rule, as well as consumer complaints received by the Department, indicated that consumers felt confused or deceived when the fare provided after an initial air fare inquiry did not reflect the total cost of travel. In addition, the Department identified changes in the advertising methods used by sellers of air transportation—particularly then-newer forms of advertising such as social media platforms, unbundling of the cost of air travel into components that must be purchased separately, and offers of more complicated routing with multiple connections—that often result in a

lower base fare but higher taxes and fees. The Department found that consumers need “a full picture of the total price to be paid in order to compare fares and routings,” and concluded that “to understand the true cost of travel, consumers need to be able to see the entire price they [must] pay to get to their destination the first time the air fare is presented to them.”²

The 2011 rulemaking also addressed how airlines and ticket agents may display *components* of the full fare. The Department's 2011 final rule allowed advertisers to display fare components separately. In order to ensure that consumers were not confused about the full price to be paid, the final rule clarified that “although charges included within the single total price listed (*e.g.*, government taxes) may be stated separately or through links or “pop ups” on websites that display the total price, such charges may not be false or misleading, may not be displayed prominently, may not be presented in the same or larger size as the total price, and must provide cost information on a per passenger basis that accurately reflects the cost of the item covered by the charge.”³

After the issuance of the 2011 rule, the Department issued guidance that “‘prominent’ under this rule means that the break-out of per-person charges cannot be in a more prominent place on a web page or in a print advertisement than the advertised total fare.”⁴ For example, the break-out cannot be at the top of the page, ahead of the total price. The total price should be in larger font. The break-out of charges should not have special highlighting that sets it apart and makes it more prominent than the total price (*e.g.*, bold font, underlined, or italicized).⁵

Following the issuance of the 2011 final rule, several airlines filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit, asserting, among other things, that the full fare advertising rule was arbitrary and capricious and that it violated the First Amendment right of airlines to engage in commercial and political speech.⁶ The airline petitioners stated that the Department's action was arbitrary and

² *Id.*

³ 76 FR 23110, 23166.

⁴ Frequently Asked Questions Concerning the Enforcement of the Second Final Rule on Enhancing Airline Passenger Protections (EAPP #2), Section IX, Question #3, p. 23, available at <https://www.transportation.gov/airconsumer/faq-rule2-enhancing-airline-passenger-protections> (now listed as “archived guidance” on OACF's website).

⁵ *Id.*

⁶ *Spirit Airlines, Inc. v. United States DOT*, 687 F.3d 403 (D.C. Cir. 2012).

¹ 26 U.S.C. 7275(b)(2).

capricious because there was nothing inherently deceptive about listing taxes separately, and that the Department lacked substantial evidence for concluding that doing so is deceptive in practice. The Court upheld the final rule requiring the advertised price to be the full fare. In 2012, the Court rejected the airlines' First Amendment challenge, holding that the rule imposed only a disclosure requirement aimed at preventing deception about the total final price of airline tickets, which did not restrict the ability to provide itemized pricing information.⁷

However, since the D.C. Circuit rendered the *Spirit* decision, the United States Supreme Court has consistently reviewed commercial speech restrictions more stringently.⁸ The Supreme Court has also made clear that applying legal standards expansively to uphold laws imposing restrictions on the size and appearance of speech is inconsistent with its governing precedent.⁹ In addition, on February 19, 2025, the President issued Executive Order 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative," which requires Federal agencies to identify and work to rescind unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution. The Full Fare Rule's prominence requirement not only restricts the size and appearance of airline disclosures regarding mandatory taxes and fees, and other charges in their airfare advertisements, but also favors the government's preferred pricing message.

In addition, if *Spirit* were litigated today, the limits on deference afforded by the court to the agency's interpretation of its regulation could lead to a different decision. The *Spirit* court afforded substantial deference and controlling weight to the Department's interpretation of the rule, not based on actual evidence of deception caused by prominently displayed itemized pricing information.¹⁰ The statement regarding deference made by the *Spirit* court reads

akin to the type of deference previously afforded agency interpretation of statutes under the so-called *Chevron* doctrine, which was overturned in *Loper Bright Enterprises v. Raimondo*.¹¹ However, the court in *Spirit* was applying the still-existing deference approach for an agency's interpretation of its own ambiguous regulations.¹² The soundness of the *Spirit* court's deference afforded DOT's interpretation of the existing rule is now questionable based on the Supreme Court's narrowing of *Auer* deference in *Kisor v. Wilkie*, 588 U.S. ____ (2019), 139 S. Ct. 2400 (2019), decided subsequent to *Spirit*, which clarified when such deference is appropriate by reinforcing and expanding the *Auer* doctrine's limits.¹³

Given these circumstances, and in light of the Supreme Court's repeated emphasis on heightened scrutiny in the commercial speech context since the *Spirit* decision, as well as direction provided in Executive Order 14219, the Department has tentatively identified the Full Fare Rule's prominence and font size restrictions as raising serious constitutional difficulties, exceeding the scope of the power vested in the Federal Government by the First Amendment. Therefore, the Department proposes to repeal these provisions.

2. Price Advertising Statute in Internal Revenue Code

Separate from DOT's Full Fare Rule, in 1970, Congress issued statutory standards for the display of taxes in advertisements for air transportation. Specifically, section 7275 of the Internal Revenue Code requires that any advertising for air transportation must state the cost as the total of (a) "the amount to be paid for such air transportation" and (b) various taxes set forth in the statute.¹⁴ Moreover, if the advertisement separately states the non-tax component and/or the tax component, then the total must be stated "at least as prominently" as the most prominent component.¹⁵ Section 7275 is a criminal tax penalty provision. Violation is considered a misdemeanor, with a maximum penalty of \$100 per violation upon conviction.¹⁶ Because

the Department did not consider this section when it promulgated the Full Fare Rule, it now seeks comment on the continued relevance of the prominence regulation in 14 CFR 399.84 in light of this Internal Revenue Code provision, which establishes standards for the display of taxes in advertisements for air transportation.

3. DOT Guidance on Price Advertising

Over time, the Department has issued numerous guidance documents and policy statements relating to its interpretation and enforcement of the Full Fare Rule. Some of these documents are listed as active guidance documents on the Department's website, while others can be found at a separate link at the bottom of that page labeled "archived guidance."¹⁷ In light of today's proposed regulatory change, the Department proposes to rescind the following guidance documents:

- "Use of the Term 'Free' in Air Fare Advertisements and Disclosure of Consumer Costs in Award Travel" (May 17, 2012) (discussing how airlines must disclose carrier charges and government taxes in "free" advertisements);
- "Guidance on the Use of Rounding in Air Fare Advertisements" (February 28, 2012) (providing guidance regarding displaying the exact fare, rather than rounding up or down);
- Additional Guidance on Airfare and Air Tour Price Advertisements" (February 21, 2012) (advising airlines that it is deceptive to list carrier-imposed fees as "taxes" or as "taxes and fees");
- "Advertising Air Fares on Social Media Sites" (October 3, 2011) (discussing how to advertise fares on character-limited sites like Twitter, and noting that the full-fare rule, effective 2012, will apply to all sites);
- The price advertising provisions of "FAQ on Rule 2 for Enhancing Airline Passenger Protections" (first issued August 19, 2011) (addressing, among other things, the prominence provision of the Full Fare Rule);
- "Disclosure of Airfare Variations: Web vs. Other Sources, Surcharges that May Be Listed Separately in Advertisements" (November 15, 2004)

Hearing Before The Committee On Finance U.S. Senate on H.R.19444—91st Congress (1969–1970) at 8, 10–11, available at: <https://www.finance.senate.gov/imo/media/doc/Skyjacking.pdf>. Further legislative history of the rule can be found at *Summary of Testimony On Revenue Aspects of Anti-Skyjacking Proposal: H.R. 19444* (Dec. 1, 1970), available at: https://ia601704.us.archive.org/11/items/summaryoftestimo1870unit/summaryoftestimo1870unit_bw.pdf.

¹⁷ <https://www.transportation.gov/airconsumer/guidance-aviation-rules-and-statutes>.

⁷ See *id.* at 412–15.

⁸ See Micah L. Berman, *Manipulative Marketing and the First Amendment*, 193 Geo. L.J. 497, 500 (2015).

⁹ See *Nat'l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. 755 (2018). This raises questions about whether the Full Fare Rule remains consistent with the Supreme Court's First Amendment jurisprudence.

¹⁰ See *Spirit*, 687 F.3d at 413–15; see also *id.* at 422–24 (Randolph, J., concurring in part and dissenting in part).

¹¹ 603 U.S. ____ (2024); 144 S. Ct. 2244.

¹² See *Auer v. Robbins*, 519 U.S. 452 (1997). *Auer* deference is also referred to as *Seminole Rock* deference, which is referenced by following the string citation accompanying the *Spirit* court's deference statement.

¹³ See *Kisor*, 139 S. Ct. at 2408, 2414–18.

¹⁴ 26 U.S.C. 7275(b)(1).

¹⁵ *Id.* at (b)(2).

¹⁶ *Id.* at (d). Prior to its enactment, DOT Secretary Volpe testified to Congress in support of permitting airlines to state the fare, the tax, and then the total on the ticket instead of only allowing airlines to provide the total without the tax on the ticket. See

(indicating that the Office of Aviation Consumer Protection (OACP) will allow separate listing of “government imposed surcharges” (like Passenger Facility Charges (PFCs) but not “government approved” surcharges (like fuel taxes);

- “Disclosure of Higher Prices for Airfares Purchased Over the Telephone Via Airline Telephone Reservation Centers Or At Airline Ticket Counters, and Surcharges That May Be Listed Separately In Fare Advertisements” (November 5, 2004) [archived];

- “Advertising: ‘Free’ Tickets, Disclosure of Fees” (September 4, 2003) [archived] (discussing how to disclose tax, fee, and restriction information when fares are advertised as “free”);¹⁸ and

- The price advertising provisions of “Letter to Major and National U.S. Air Carriers and to Air Travel Industry Associations and Labor Unions” (December 20, 1994) (discussing, among other things, “2-for-1” fares and “percentage off” advertising).

4. Full Fare Rule ANPRM and Rescission

On January 15, 2021, the Department issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking comment on whether and how to revise the Full Fare Rule.¹⁹ This ANPRM was publicly posted on the Department’s website, but was withdrawn before it published in the **Federal Register**.²⁰

5. Final Rule on Transparency of Ancillary Fees; Effect on Price Advertising Requirements

On April 30, 2024, the Department issued a final rule titled “Enhancing Transparency of Airline Ancillary Fees” (Ancillary Fee Rule).²¹ While the Ancillary Fee Rule primarily focused on the disclosure of fees for certain ancillary services such as transporting a first or second checked bag and canceling or changing a reservation, it also made relatively minor changes to the Department’s price advertising requirements for air transportation in 14 CFR 399.84(a). For example, the Department stated that the Full Fare Rule applied to “mandatory charges” (as opposed to optional ancillary fees), and then defined the term “mandatory charges” consistent with longstanding OACP policy.²² The Ancillary Fee Rule

also added and amended other subsections of 14 CFR 399.84; for example, it included a provision relating to “percentage off” advertisements in 14 CFR 399.84(e).

Following the publication of the Ancillary Fee Rule, several airlines and airline associations challenged it in the U.S. Court of Appeals for the Fifth Circuit. Petitioners argued that the Department lacks prescriptive rulemaking authority under 49 U.S.C. 41712 and that the Ancillary Fee Rule was arbitrary and capricious under the Administrative Procedure Act (APA). Specifically, petitioners alleged that the Department failed to provide an opportunity for public comment on an economic study the Department relied upon to estimate the percentage of consumers who find ancillary fee information relevant to their search for airfare.²³

On January 28, 2025, a Fifth Circuit panel issued a decision on the merits of the petition.²⁴ The court held that the “plain text of the statutory framework” authorizes the Department to prescribe regulations to stop unfair and deceptive practices under 49 U.S.C. 41712²⁵ and that DOT’s power to do so is not inconsistent with the Airline Deregulation Act or the major question or nondelegation doctrines. However, the court determined that the failure to provide the economic study for comment violated APA procedures. Accordingly, the court remanded the rule to the Department to provide the opportunity to comment on the new data. On February 3, 2026, an *en banc* panel of the Fifth Circuit vacated the

unfair and deceptive practice “unless the price stated is the entire price (*all mandatory charges*) to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component. *Mandatory charges refer to all taxes and fees that are required to purchase air transportation on the channel where the advertising or solicitation occurs (e.g., if a fare is advertised online for \$100 then that means the fare must be available for the consumer to purchase for \$100 online). Mandatory charges included within the single total price listed may be stated separately or through links or ‘pop ups’ on online platforms that display the total price, but such charges may not be false or misleading, may not be displayed prominently, may not be presented in the same or larger size as the total price, and must provide cost information on a per passenger basis that accurately reflects the cost of the item covered by the mandatory charge.’” (emphasis added).*

²³ See Enhancing Transparency of Airline Ancillary Service Fees Regulatory Impact Analysis RIN 2105–AF10, n. 35 and accompanying text, available at <https://www.regulations.gov/document/DOT-OST-2022-0109-0753>. The study is also available in the docket at <https://www.regulations.gov/document/DOT-OST-2022-0109-0835>.

²⁴ *Airlines for Am. v. U.S. Dep’t of Transp.*, 127 F.4th 563 (Jan. 28, 2025).

²⁵ *Id.* at 573.

Ancillary Fee Rule, reasoning that the Department violated the APA’s notice and comment requirement by not providing the opportunity for comment on the economic study.²⁶ The *en banc* panel did not rule on the scope of the Department’s authority to issue regulations under 49 U.S.C. 41712 and 40113.²⁷

It is well-established that when a court vacates a regulation, “the judgment . . . ha[s] the effect of reinstating the rules previously in force.”²⁸ Thus, under existing precedent, the vacatur of the Ancillary Fee Rule had the legal effect of reinstating section 399.84 as it was written in 2011. Despite this effect of the vacatur, the Ancillary Fee Rule remains codified in the Code of Federal Regulations.

In this NPRM, the Department proposes to amend only subsection (a) of 14 CFR 399.84. To comply with the Fifth Circuit’s vacatur, the new proposed regulatory text reverts to the 2011 version of subsection (a). Accordingly, it does not include the term “mandatory charges” and its associated definition, which were features of the now vacated Ancillary Fee Rule. Instead, we modify the 2011 text only with respect to prominence and font size. All other matters addressed by the vacated Ancillary Fee Rule, including the broader disclosure of ancillary fees and any other necessary amendments to 14 CFR 399.84, will be addressed separately in the rulemaking, titled “Increasing Flexibility on Disclosure of Airline Ancillary Fees” (RIN 2105–AF34).

6. Federal Trade Commission (FTC) Trade Regulation Rule on Unfair or Deceptive Fees

On January 10, 2025, FTC issued a final rule titled “Trade Regulation Rule on Unfair or Deceptive Fees” (FTC Rule).²⁹ The FTC Rule became effective as of May 12, 2025, and applies to offers, displays, or advertisements of the prices of live-event tickets and short-term lodging.³⁰ The rule was motivated by concerns about various forms of bait-

²⁶ *Airlines for Am. v. U.S. Dep’t of Transp.*, No. 24–60231, 2026 WL 276679 (5th Cir. Feb. 3, 2026) (*en banc*).

²⁷ *Id.*

²⁸ *Action on Smoking & Health v. C.A.B.*, 713 F.2d 795, 797 (D.C. Cir. 1983); see also *Prometheus Radio Proj. v. F.C.C.*, 652 F.3d 431, 453 n.25 (3rd Cir. 2011); *Paulsen v. Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005); *Cumberland Med. Ctr. v. Sec’y of Health & Human Servs.*, 781 F.2d 536, 538 (6th Cir. 1986).

²⁹ 90 FR 2066 (Jan. 10, 2025); RIN 3084–AB77; Docket FTC–2023–0064.

³⁰ 16 CFR 464.1 (defining “covered good or service”).

¹⁸ This guidance is listed on the “archived” section of DOT’s guidance page, and also appears at 68 FR 53628 (September 11, 2003).

¹⁹ Docket DOT–OST–2021–0007.

²⁰ <https://www.regulations.gov/document/DOT-OST-2021-0007-0001>.

²¹ 89 FR 34620 (Apr. 30, 2024); RIN 2105–AF10; Docket DOT–OST–2022–0109.

²² 14 CFR 399.84(a) (price advertising for air transportation, tours, or tour components is an

and-switch pricing in those industries. Specifically, FTC found that providers in those industries advertised low prices, only to add mysterious, mandatory fees (such as “convenience fees,” “processing fees,” and “resort fees”) later in the purchasing process.³¹ FTC heard concerns from stakeholders that such practices were widespread in many other industries beyond live tickets and short-term lodging, but limited the scope of its rule to live-event tickets and short-term lodging where evidence of unfair and deceptive practices was particularly clear.³² The FTC Rule sets standards for initial advertisements, disclosures before final payment, and general prohibitions on misleading fees.

The key feature of the FTC Rule is that the advertised price must be the “total price,” which is defined as “the maximum total of all fees or charges a consumer must pay for any good(s) or service(s) and any mandatory ancillary good or service.”³³ The FTC reasoned that any fee that was necessary to obtain the product as advertised must be included in the total price. In other words, the rule prohibits advertising a certain price and then adding *unavoidable* fees (e.g., “convenience fees” and “processing fees”) later in the purchasing process.

The key difference between the current DOT Full Fare Rule and the FTC Rule is the treatment of government charges. Under the current DOT Full Fare Rule, all government charges must be included in the advertised price. Under the FTC Rule, which covers offers, displays, or advertisements for live-event tickets and short-term lodging, the advertised price may *exclude* “government charges,” which are defined as “the fees or charges imposed on the transaction by a Federal, State, Tribal, or local government agency, unit, or department.”³⁴ Although the FTC Rule allows businesses that offer, display, or advertise live-event tickets and short-term lodging to exclude government charges from the advertised price, it does not require them to do so and such businesses may advertise prices inclusive of such charges and be in compliance with the FTC Rule.

Under the FTC Rule, advertisers are free to list the components of an advertised price, but the total price, excluding government charges and shipping fees, must be disclosed “clearly and conspicuously.” The rule defines “clearly and conspicuously” as “easily noticeable (*i.e.*, difficult to miss) and easily understandable by ordinary consumers.”³⁵ Moreover, the total price must be disclosed “more prominently than any other pricing information,” except, as discussed below, the final amount of payment, which must be at least as prominent as the total price.³⁶

In this respect, the FTC Rule largely tracks the current DOT Full Fare Rule. The DOT Full Fare Rule states that components of the fare may be displayed separately, but “may not be displayed prominently.” The practical effect of both rules is that the total price, although defined differently by FTC and DOT, must be displayed more prominently than any components. The DOT Full Fare Rule is more prescriptive than the FTC Rule with respect to font size: under the DOT Full Fare Rule, components “may not be presented in the same or larger size as the total price.”³⁷ The FTC Rule is silent as to font size.

Finally, under the FTC Rule, prior to payment, the covered entity must disclose “the nature, purpose, and amount of any fee or charge imposed on the transaction that has been excluded from total price and the identity of the good or service for which the fee or charge is imposed.”³⁸ These disclosures must be clear and conspicuous.³⁹ The final amount of payment must be clear and conspicuous, and must be displayed “more prominently than, or as prominent as,” the advertised total price.⁴⁰ The net effect of these rules is that the advertised price and the final amount of payment must be displayed more prominently than any components. FTC has issued a guidance document to help regulated entities and the public understand the rule and how to comply with it.⁴¹

7. Request for Information (RFI) and Comments

On April 3, 2025, the Department issued an RFI titled “Ensuring Lawful Regulation; Reducing Regulation and

Controlling Regulatory Costs.”⁴² The Department solicited comment from the public and stakeholders regarding existing DOT regulations, guidance documents, or reporting requirements that may be “inconsistent with law or Administration policy” and/or “obsolete, unnecessary, unjustified, or simply no longer make sense.”⁴³

In response to the RFI, Airlines for America (A4A) and the International Air Transport Association (IATA) urged the Department to repeal the core feature of the Full Fare Rule, which is that the initial advertised fare must include taxes and government-imposed fees. They contend that DOT’s advertising regulations impose stricter standards on the airline industry than on any other industry, despite the passage of the Airline Deregulation Act of 1978 (ADA). They argue that the rule “requires airlines to hide some of the true cost to consumers” in the form of government taxes and fees, which have increased over time.⁴⁴ They argue that it would be easy for airlines to display taxes and fees later in the booking process separately like other industries, and to let consumers calculate the total, because taxes are generally uniform across purchases. A4A notes that the FTC Rule, which covers lodging and live-event tickets, allows those industries to exclude taxes and government fees from the total price. They recommend that “if retained in any material form, the DOT should strictly align with the price advertising standards set by the FTC for other industries.”⁴⁵ A4A contends that if the Department continues to require the total price to be advertised more prominently than components (like taxes), then the Department should eliminate prescriptive size requirements and allow airlines to have flexibility on how to display the total price (or final amount of payment) more prominently than other components.⁴⁶ A4A also

⁴² 90 FR 14593 (Apr. 3, 2025); Docket DOT–OST–2025–0026. The RFI was not limited to aviation consumer protection issues; instead, it was directed to all individuals and entities that may be affected by any DOT regulations.

⁴³ *Id.* at 14594.

⁴⁴ A4A at 30; *see also* IATA at 8–9. We note that under the current Full Fare Rule, airlines are free to display fare components separately.

⁴⁵ A4A at 35; *see also* IATA at 9.

⁴⁶ A4A included an example of the type of flexibility that it would support. The example lists four versions of the following equation:

Fare \$100
Gov’t tax \$25

Price \$125

In each version, all font *sizes* are the same, but the “price” is made more prominent by highlighting, bolding, a text box, or a red font.

³¹ 90 FR at 2067.

³² *Id.* at 2067.

³³ 16 CFR 464.2(a); 16 CFR 464.1 (defining “total price”).

³⁴ 16 CFR 464.2 (“Hidden fees prohibited”); 46 CFR 464.1 (defining “government charges”). The FTC noted that it was possible for sellers of tours and tour packages, with both an air transportation component and a hotel component, to comply both with the current Full Fare Rule and the FTC Rule.

³⁵ 16 CFR 464.1.

³⁶ 16 CFR 464.2(a), (b).

³⁷ 14 CFR 399.84(a).

³⁸ 16 CFR 464.2(c)(1).

³⁹ *Id.*

⁴⁰ 16 CFR 464.2(b), (c).

⁴¹ <https://www.ftc.gov/business-guidance/resources/rule-unfair-or-deceptive-fees-frequently-asked-questions>.

urged the Department to rescind its price advertising guidance documents.

Spirit Airlines and the Association of Value Airlines (AVA), representing ultra-low-cost carriers,⁴⁷ also urged the Department to rescind the Full Fare Rule. They argued that there is nothing unfair or deceptive about listing taxes and fees separately from the advertised fare. They also argued that the Full Fare Rule unconstitutionally abridges commercial speech.⁴⁸

The Travel Technology Association (Travel Tech) argued that the Department should *retain* the Full Fare Rule because it “prevent[s] deceptive or misleading marketing of air fares, such as by display bias; enable[s] accurate price comparisons across carriers and sales channels; and uphold[s] a baseline standard of fairness across both airline-direct and indirect platforms.”⁴⁹ The United States Tour Operators Association (USTOA) did not comment on the general requirement to display the full fare inclusive of government taxes and fees in advertisements, but urged the Department to rescind its May 2012 guidance regarding advertisements for “free” travel.

Five public interest organizations, advocating on behalf of airline passengers, supported the existing Full Fare Rule because it “enables basic market forces to function. Without price transparency, consumers cannot make informed decisions and competition fails.”⁵⁰

C. Other Deregulatory Alternatives for the Full Fare Rule

Today, the Department is proposing a minor, but certainly meaningful, revision to the Full Fare Rule’s prominence provision. However, as an alternative, the Department is considering repealing the Full Fare Rule in whole. The Department’s

consideration to repeal the rule is based on the combined effect of three primary factors: (1) reconsideration of the exercise of the relevant statutory authorities; (2) direction from Executive Order 14219 to identify for revision those regulations that are based on anything other than the best reading of the underlying statutory authority; and (3) the unnecessary regulatory layering between the existing Full Fare Rule and other applicable law.

1. Reconsideration of Relevant Statutory Authorities

The Department is reconsidering the optimal exercise of its statutory authorities. The Department has historically regulated airfare advertising under its 49 U.S.C. 41712 authority to stop unfair or deceptive practices. However, 49 U.S.C. 41712 does not provide explicit direction to the Secretary to regulate price advertising. As discussed above, in 1970, Congress established specific standards for the display of taxes in airfare advertising in the form of a criminal tax penalty under the Internal Revenue Code (26 U.S.C. 7275). The Department is considering whether, as a matter of policy, the specific standards set by Congress in the Internal Revenue Code should be the primary framework for required disclosures of the amount of applicable taxes in airfare advertising, rather than the Department maintaining overlapping and distinct requirements. Specifically, the Department questions whether, in the specific context of tax and fee prominence, Congress intended for these standards to be governed primarily by the Internal Revenue Code.

2. Ensuring Lawful Governance

On February 19, 2025, the President issued Executive Order 14219, which requires Federal agencies to review regulations and identify for revision those that are “based on anything other than the best reading of the underlying statutory authority.” The Department is considering whether the best reading of the interaction between 49 U.S.C. 41712 and 26 U.S.C. 7275 suggests that the specific governing standard for tax advertising should be the Internal Revenue Code, thereby making the Department’s overlapping Full Fare Rule unnecessary for achieving the goal of non-deceptive pricing.

3. Regulatory Divergence and Overlap

The Department identifies misalignment between the existing Full Fare Rule and the Internal Revenue Code. While the Internal Revenue Code permits taxes to be stated as prominently as the total price, the

existing Full Fare Rule imposes a stricter standard, prohibiting taxes and fees from being displayed “prominently.” While it may be possible for entities to comply with both by adhering to the more restrictive DOT standard, the Department questions whether maintaining this divergence remains in the public interest. Further, the Internal Revenue Code establishes standards specifically for tax and total price displays; however, the Department’s Full Fare Rule extended these requirements to all “mandatory charges,” a term the Department defined to include all taxes as well as government- and carrier-imposed fees required to purchase air transportation.⁵¹ By including carrier-imposed fees within these prominence restrictions—a category of charges not addressed by the Internal Revenue Code—the Full Fare Rule creates a broader and more restrictive regulatory scheme.

The Department questions whether repeal of the Full Fare Rule may eliminate conflicts with more specific laws, streamline the regulations by eliminating unnecessary restrictions, and reduce the potential for confusion that can arise when multiple Federal entities impose overlapping and different requirements.

Rather than modify the Full Fare Rule as proposed herein, should the Department instead repeal 14 CFR 399.84 in whole or in part? If the Department should consider a partial repeal, what provisions should be retained? For example, the Department seeks comment on a modification to the Full Fare Rule that removes any reference to “prominence” and instead cross-references the Internal Revenue Code by stating that mandatory “charges may not be false or misleading, must provide cost information on a per passenger basis that accurately reflects the cost of the item covered by the charge, and must comply with 26 U.S.C. 7275, as applicable.” What quantifiable or qualitative cost-savings and benefits would be realized through a full or partial repeal? Please submit any data that would assist the Department in weighing the economic impacts of a variety of deregulatory options. In asking these questions, the Department notes it could, under its adjudicative authority found in 49 U.S.C. 41712, pursue enforcement action if an entity

⁴⁷ Allegiant Air, Avelo Airlines, Breeze Airways, Frontier Airlines, Spirit Airlines, and Sun Country Airlines.

⁴⁸ AVA at 4 (“When challenged on First Amendment grounds, the court in *Spirit Airlines v. U.S. Department of Transportation*, 687 F.3d 403 (D.C. Cir. 2012) (cert. denied), gave deference to the DOT citing *St. Luke’s Hosp. v. Sibelius*, 611 F.3d 900 (D.C. Cir. 2010), which rests on *Thomas Jefferson Univ. v. Shalala*, 512 U.S. 504 (1994), which rests on *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which, of course, was overturned this past year in *Loper Bright Enterprises v. Raymond*, 603 U.S. 369 (2024), holding that deference to agencies over their own authority is not appropriate. Given that deference was wrongfully applied in *Spirit Airlines* to override the First Amendment, we all the more urge that this regulation be repealed.”)

⁴⁹ Travel Tech at 7.

⁵⁰ Comments of American Economic Liberties Project, Consumer Action, Consumer Federation of America, FlyersRights, and National Consumers League.

⁵¹ As we discussed in section B5, above, the Fifth Circuit vacated the Ancillary Fee Rule, which had added the term “mandatory charges” and its definition. Even if those terms and definitions are vacated from regulatory text, they do reflect longstanding OACP enforcement policy, and therefore a regulatory misalignment still exists.

in air transportation is found to display fees in a way that is unfair or deceptive, even in the absence of the existing Full Fare Rule.

C. Need for a Rulemaking and Statement of Deregulatory Effect

The Department is of the view that the Full Fare Rule can be revised to provide greater flexibility for advertisers in how they display air fare, including calling attention to the components of a fare (e.g., government charges) if they wish to do so. Specifically, we believe that the prominence provision of the Full Fare Rule is unnecessarily prescriptive, particularly regarding font size. The current rule states that components of the full fare may not be displayed “prominently.” However, we believe that there is nothing inherently unfair or deceptive in having components of a fare be displayed “prominently,” so long as the total price is just as prominent.

The current rule also states that components of a fare “may not be presented in the same or larger size as the total price.” As noted above, we

believe that specifically regulating font size is overly prescriptive. We also recognize the concerns of some stakeholders that the prominence and font size provisions unconstitutionally burden commercial speech, given more recent Supreme Court decisions that have been issued after the D.C. Circuit Court’s decision in *Spirit Airlines*.⁵²

This proposed rule is deregulatory in two respects. First, unlike the current Full Fare Rule, this proposed rule eliminates the requirement that components of a total price may not be “prominent.” Under this proposed rule, components may be listed as prominently as the total price. Second, this proposed rule eliminates prescriptive advertising rules related to font size. The proposed rule provides airlines and ticket agents greater flexibility with respect to advertising components of air fares, and advances their First Amendment interest in calling greater attention to the portion of air fare that is attributable to government-imposed taxes and fees.

This deregulatory action complies with the policies set forth in Executive

Order 14192, “Unleashing Prosperity through Deregulation” (January 31, 2025), because it alleviates an unnecessary regulatory burden. It also complies with Executive Order 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative” (February 19, 2025), to the extent that the current Full Fare Rule raised constitutional concerns, imposed significant costs that were not outweighed by benefits, was based on anything other than the best reading of the underlying statutory authority, and/or was inconsistent with Administration priorities. Both Executive Orders are intended to further the Administration’s goal of dismantling the “overbearing and burdensome administrative state.”⁵³

Summary of the Proposed Deregulatory Provisions

The Department is proposing to amend the Full Fare Rule as provided in the summary table below.

Subject	Proposal
Components of Air Fare	Eliminates font size requirements and the requirement that components of a fare may not be displayed prominently.
Price Advertising Guidance	Components of the total fare may be displayed as prominently as the total price, but not more so. Rescinds all prior OACP price advertising guidance documents. ⁵⁴

Notice of Proposed Rulemaking
Section-by-Section Analysis

Prominence of Fare Components

This NPRM proposes to amend 14 CFR 399.84(a). Currently, that section states that the components of an advertised fare may be stated separately, but “may not be displayed prominently, [and] may not be presented in the same or larger size as the total price.” This proposal would eliminate those requirements, and would instead simply prohibit any components of the fare from being displayed more prominently than the total price. This proposed change would allow advertisers greater flexibility in how air fare is displayed and ensure greater price transparency of the components, including government taxes and fees. The Department recognizes that its proposal differs from the FTC Rule, in that this proposal

would allow the total price to be displayed *equally* as prominently as any component, while the FTC Rule requires the total price to be *more* prominent. However, our proposal is consistent with the Internal Revenue Code’s statutory provision on prominence. As noted above, the Internal Revenue Code requires the total price to be listed “at least as prominently” as any component. 26 U.S.C. 7275(b)(2). As Congress has established standards for the display of advertisements for air transportation in the Internal Revenue Code, to the extent DOT has rules on price advertising, DOT believes it would be preferable to be consistent with Internal Revenue Code.

We solicit comment on all aspects of this proposal, including its costs and benefits, and whether it strikes the right balance in ensuring greater flexibility for regulated entities in how air fare is

displayed while ensuring information continues to be presented in a clear and non-misleading manner to consumers.

Price Advertising Guidance

To avoid confusion, the Department proposes to rescind all price advertising guidance documents on its website (whether active or archived). The Department is of the view that the guidance documents are unnecessary or outdated. DOT stresses that all guidance documents are nonbinding and that regulated entities are bound by statute and regulatory text. With that said, are there any guidance documents that DOT should keep because they clarify existing obligations, reduce compliance burdens, or provide value in other ways?

Impact on Existing Requirements

The Department is of the view that the proposed rule imposes no new

⁵² See, e.g., *Nat’l Inst. of Family & Life Advocates v. Becerra*, 585 U.S. ____ (2018), 138 S. Ct. 2361, 2372, 2377–78 (2018) (striking down California law requiring crisis pregnancy centers to provide government-scripted information about the availability of state-sponsored abortion services and imposed restrictions on the size and appearance of text).

⁵³ Executive Order 14219, Section 1.

⁵⁴ On August 29, 2022, the Department issued broader guidance regarding its interpretation of key terms such as “unfair” and “deceptive.” 87 FR 52677 (Aug. 29, 2022). This guidance includes, but is not limited to, a discussion of advertising practices. In a separate NPRM, the Department has

indicated its intent to rescind this guidance. 90 FR 48850 (October 30, 2025). In addition, in 2015, the Department issued guidance regarding its enforcement policy related to mistaken fares. <https://www.transportation.gov/airconsumer/mistaken-fare-policy-statement-050815>. We intend to address mistaken fares in future rulemaking.

requirements relative to the baseline requirements of the current Full Fare Rule. As a result, the rule is deregulatory in several respects. Under this proposal, advertisers are free to display components of the fare prominently, so long as they are not more prominent than the total price. In other words, the total price and the fare components can be equally prominent. In contrast, the current Full Fare Rule prohibits prominent display of fare components. The current Full Fare Rule also prohibits presenting fare components as the same size as the total price, which would be allowed under this proposal.

Regulatory Analyses and Notices

Changes to Federal regulations must undergo several analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), as codified in 5 U.S.C. 601 *et seq.*, requires agencies to analyze the economic impact of regulatory changes on small entities. The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. Finally, the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOT to analyze this action to determine if it will have an effect on the quality of the environment. This portion of the preamble summarizes DOT's analyses of these impacts with respect to this notice.

A. Executive Order 12866 and DOT's Regulatory Policies and Procedures

This proposed rule is not a significant regulatory action under Executive Order 12866 and the Department's Regulatory Policies and Procedures (49 CFR part 5 and DOT Order 2100.6B). It provides sellers of air transportation flexibility in advertising while maintaining price transparency for consumers. The Department's Regulatory Impact Analysis is available in the docket.

B. Executive Order 14192

This proposed rule is expected to be an Executive Order 14192 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

C. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. A carrier is a small business if it provides air transportation exclusively with small aircraft, defined as any aircraft originally designed to have a maximum passenger capacity of 60 seats or less or a maximum payload capacity of 18,000 pounds or less. The proposed rule also has the potential to disproportionately affect small firms in the travel arrangement and reservation industry, as defined in the rule's economic analysis.

The proposed rule is deregulatory in nature and intends to provide greater flexibility for firms without imposing adjustment costs, therefore, the Department does not expect that the proposed rule would have a significant or disproportionate impact on small entities. Small carriers, travel agents, or tour operators would not be required to make any changes to their advertisements, websites, information systems, or pricing strategies. Passengers on small carriers or consumers who book travel through small travel agencies or tour operators would continue to be presented with full fares upfront, allowing them to make informed purchasing decisions without having to invest additional time searching for information on taxes and fees. Overall, the Department expects that the proposed rule would not have a significant economic impact on a substantial number of small entities. While certification could be made at this stage, the Department instead defers formal certification until the final rule, after considering public comments and additional evidence, to ensure a fully informed determination.

D. Executive Order 13132

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This notice does not propose any requirement that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government, (2) imposes substantial direct compliance costs on State and local governments, or (3) preempts state law. States are already preempted from regulating in this area by the Airline Deregulation Act, 49

U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

E. Executive Order 13175

This notice has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because none of the options on which we are seeking comment would significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (PRA), no person is required to respond to a collection of information unless it displays a valid OMB control number. The Department is of the view that this NPRM does not impose new information collection requirements and therefore the PRA does not apply.

G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. As described elsewhere in the preamble, this proposed rule would have no such effect on State, local, and tribal governments or on the private sector. Therefore, the Department has determined that no assessment is required pursuant to UMRA.

H. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1D, Procedures for Considering Environmental Impacts (June 30, 2025). Appendix A of DOT Order 5610.1D provides that "actions relating to consumer protection, including regulations" are categorically excluded. The purpose of this rulemaking is to enhance protections for air travelers and to improve the air travel experience. The Department does not anticipate any environmental impacts, and there are no

extraordinary circumstances present in connection with this rulemaking.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.27(n).

Gregory Zerzan,
General Counsel.

List of Subjects in 14 CFR Part 399

Air carriers, Consumer Protection, Enforcement.

For the reasons stated in the preamble, DOT proposes to amend 14 CFR chapter 2, subchapter F as follows:

PART 399—STATEMENTS OF GENERAL POLICY

■ 1. The authority citation for part 399 continues to read as follows:

Authority: 49 U.S.C. 40113(a), 41712, 46106, and 46107.

■ 2. Revise § 399.84(a) to read as follows:

§ 399.84 Price advertising and opt-out provisions.

(a) The Department considers any advertising or solicitation by a direct air carrier, indirect air carrier, an agent of either, or a ticket agent, for passenger air transportation, a tour (*i.e.*, a combination of air transportation and ground or cruise accommodations) or tour component (*e.g.*, a hotel stay) that must be purchased with air transportation that states a price for such air transportation, tour, or tour component to be an unfair and deceptive practice in violation of 49 U.S.C. 41712, unless the price stated is the entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component. Charges included within the single total price listed may be stated separately or through links or “pop ups” on online platforms that display the total price. Such charges may be displayed with the same prominence as the total price itself, but such charges may not be false or misleading, and must provide cost information on a per passenger basis that accurately reflects the cost of the item covered by the charge.

* * * * *

[FR Doc. 2026–13294 Filed 6–30–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–1665]

Schedules of Controlled Substances: Temporary Placement of 5,6-Dichloro Bromophine, 5,6-Dichloro Desmethylchlorphine, N-Propionitrile Chlorphine, and Spirochlorphine in Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Proposed amendment; notice of intent.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this notice of intent to publish a temporary order to schedule 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-5,6-dichloro-1,3-dihydro-2H-benzo[d]imidazol-2-one (commonly known as 5,6-dichloro bromophine or SR-14968); 5,6-dichloro-1-(1-(4-chlorobenzyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one (commonly known as 5,6-dichloro desmethylchlorphine or SR-17018); 3-(3-(1-(1-(4-chlorophenyl)ethyl)piperidin-4-yl)-2-oxo-2,3-dihydro-1H-benzo[d]imidazol-1-yl)propanenitrile (commonly known as N-propionitrile chlorphine or cychlorphine); and 8-(1-(4-chlorophenyl)ethyl)-1-phenyl-1,3,8-triazaspiro[4.5]decan-4-one (commonly known as spirochlorphine or R-6890), including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, in schedule I of the Controlled Substances Act. When it is issued, the temporary scheduling order will impose 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, or possess) or propose to handle these four specific substances.

DATES: *This notice of intent is effective* July 1, 2026.

ADDRESSES: 8701 Morrisette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement

Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: The notice of intent contained in this document is issued pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). The Drug Enforcement Administration (DEA) intends to issue a temporary scheduling order ¹ (in the form of a temporary amendment) to add the following four synthetic opioids, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible, to schedule I under the Controlled Substances Act (CSA):

- 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-5,6-dichloro-1,3-dihydro-2H-benzo[d]imidazol-2-one (Other names: 5,6-dichloro bromophine or SR-14968).
- 5,6-dichloro-1-(1-(4-chlorobenzyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one (Other names: 5,6-dichloro desmethylchlorphine or SR-17018).
- 3-(3-(1-(1-(4-chlorophenyl)ethyl)piperidin-4-yl)-2-oxo-2,3-dihydro-1H-benzo[d]imidazol-1-yl)propanenitrile (Other names: N-propionitrile chlorphine or cychlorphine).
- 8-(1-(4-chlorophenyl)ethyl)-1-phenyl-1,3,8-triazaspiro[4.5]decan-4-one (Other names: spirochlorphine or R-6890).

The temporary scheduling order will be published in the **Federal Register** on or after July 31, 2026.

Legal Authority

The CSA provides the Attorney General with the authority to temporarily place a substance in schedule I of the CSA for two years without regard to the requirements of 21 U.S.C. 811(b), if he finds that such action is necessary to avoid an imminent hazard to public safety.² In addition, if proceedings to control a substance are initiated under 21 U.S.C. 811(a)(1) while the substance is temporarily controlled under section 811(h), the Attorney General may extend the temporary scheduling for up to one year.³

Where the necessary findings are made, a substance may be temporarily scheduled if it is not listed in any other

¹ Though DEA has used the term “final order” with respect to temporary scheduling orders in the past, this notice of intent adheres to the statutory language of 21 U.S.C. 811(h), which refers to a “temporary scheduling order.” No substantive change is intended.

² 21 U.S.C. 811(h)(1).

³ 21 U.S.C. 811(h)(2).

schedule under 21 U.S.C. 812, or if there is no exemption or approval in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355.⁴ The Attorney General has delegated scheduling authority under 21 U.S.C. 811 to the Administrator of DEA (Administrator).⁵

Background

The CSA requires the Administrator to notify the Secretary of the Department of Health and Human Services (HHS) of an intent to temporarily place a substance in schedule I of the CSA (*i.e.*, to issue a temporary scheduling order).⁶ By letter dated April 1, 2026, the Administrator transmitted the required notice to place the four synthetic opioids—5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine—in schedule I on a temporary basis to the Assistant Secretary for Health of HHS (Assistant Secretary).⁷ By letter dated April 10, 2026, the Assistant Secretary responded to this notice and advised that, based on a review by the Food and Drug Administration (FDA), there were currently no investigational new drug applications or approved new drug applications for 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, or spirochlorphine. The Assistant Secretary also stated that HHS had no objection to the temporary placement of these substances in schedule I of the CSA. These four synthetic opioids are not currently listed in any schedule under the CSA, and no exemptions or approvals under 21 U.S.C. 355 are in effect for these substances.

To find that temporarily placing a substance in schedule I of the CSA is necessary to avoid an imminent hazard to public safety, the Administrator must consider three of the eight factors set forth in 21 U.S.C. 811(c): the substance's history and current pattern of abuse; the scope, duration, and significance of abuse; and what, if any, risk there is to public health.⁸ This consideration includes any information indicating actual abuse, diversion from legitimate channels, and clandestine importation,

manufacture, or distribution of these substances.⁹

Substances meeting the statutory requirements for temporary scheduling may only be placed in schedule I.¹⁰ Substances in schedule I have high potential for abuse, no currently accepted medical use in treatment in the United States,¹¹ and a lack of accepted

⁹ 21 U.S.C. 811(h)(3).

¹⁰ 21 U.S.C. 811(h)(1).

¹¹ When finding schedule I placement on a temporary basis is necessary to avoid imminent hazard to the public, 21 U.S.C. 811(h) does not require DEA to consider whether the substance has a currently accepted medical use in treatment in the United States. Nonetheless, there is no evidence suggesting that the four synthetic opioids—5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine—have a currently accepted medical use in treatment in the United States. First, DEA looks to whether the drug or substance has FDA approval for marketing in interstate commerce. When no FDA approval exists, DEA has traditionally applied a five-part test to determine whether a drug or substance has a currently accepted medical use: (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 applied the traditional five-part test 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 providers 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 notice of intent, there is no evidence that health care providers have widespread experience with medical use of 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, or spirochlorphine, or that the use of 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, or spirochlorphine is recognized by entities that regulate the practice of medicine, so the two-part test also is not satisfied. By letter dated April 10, 2026, HHS advised DEA that there are currently no approved new drug applications or investigational new drug applications for 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, or spirochlorphine. In addition, HHS communicated no objections to the temporary placement of 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine into schedule I of the CSA.

safety for use under medical supervision.¹²

Four Synthetic Opioids: 5,6-Dichloro Brorphine, 5,6-Dichloro Desmethylchlorphine, *N*-Propionitrile Chlorphine, and Spirochlorphine

The ongoing evolution and availability of novel psychoactive substances on the illicit drug market continues to pose an imminent hazard to public safety. Adverse health effects associated with the abuse of these substances and their increased popularity have become a serious concern in recent years. Such substances include four synthetic opioids—5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine—which have been identified on the illicit drug market in the United States and worldwide.

These four synthetic opioids are pharmacologically similar to other synthetic opioids controlled under the CSA, such as brorphine,¹³ fentanyl,¹⁴ morphine,¹⁵ and other mu-opioid receptor agonists.¹⁶ Due to these pharmacological similarities, the use of these four synthetic opioids presents a high risk of abuse and may negatively affect users and their communities.

These four synthetic opioids, which belong to a subset of opioids colloquially known as orphines, are increasingly prevalent on the recreational drug market and have been co-identified with other substances, such as fentanyl, posing a significant threat to public safety. This is particularly concerning, because the United States continues to experience a significant number of opioid-involved overdoses. The misuse and abuse of synthetic opioids, such as these four substances, have led to devastating consequences, including death. In the United States, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine have been identified in both drug seizures and toxicological cases, and 5,6-dichloro brorphine has been identified in drug material.

The positive identification of these four synthetic opioids in law enforcement seizures and toxicology reports poses a serious concern to public safety. These substances have

¹² 21 U.S.C. 812(b)(1).

¹³ 21 CFR 1308.11(b)(24).

¹⁴ 21 CFR 1308.12(c)(9).

¹⁵ 21 CFR 1308.12(b)(1)(ix).

¹⁶ Unpublished data obtained for DEA by the U.S. Department of Veterans Affairs (VA), via a DEA-VA Interagency Agreement, titled "In Vitro Receptor and Transporter Assays for Abuse Liability Testing for the DEA by the VA."

⁴ 21 U.S.C. 811(h)(1); 21 CFR part 1308.

⁵ 28 CFR 0.100.

⁶ 21 U.S.C. 811(h)(4).

⁷ The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations. *Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, As Amended; Delegation of Authority*, 58 FR 35460 (July 1, 1993).

⁸ 21 U.S.C. 811(c)(4)–(6), (h)(3).

been detected through multiple avenues, including DEA's Toxicology Testing Program (DEA TOX),¹⁷ DEA's National Forensic Laboratory Information System (NFLIS),¹⁸ other internal DEA data collection systems, and the National Institute of Standards and Technology's Rapid Drug Analysis and Research (RaDAR) program,¹⁹ among others. Data from these programs indicate that these substances are found both alone or in combination with other substances, and users may not be aware of polysubstance presence. In addition, online discussions surrounding the recreational use of these substances have recently increased.²⁰

To confront these emerging substances and avoid an imminent hazard to public safety, DEA intends to temporarily place 5,6-dichloro bromphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine in schedule I of the CSA. Available data and information on these four synthetic opioids, summarized below, indicate that these substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. DEA's three-factor analysis is available in its entirety under "Supporting and Related Material" of the public docket for this action at www.regulations.gov under Docket Number DEA-1665.

¹⁷ DEA TOX is a surveillance program that aims to detect novel psychoactive substances (NPS) in fatal and nonfatal overdose cases within the United States. From these cases, biological samples, as well as drug paraphernalia (on limited occasions), are submitted for analysis by hospitals, medical examiners, poison centers, and law enforcement nationwide.

¹⁸ NFLIS represents an important resource in monitoring illicit drug trafficking, including the diversion of legally manufactured pharmaceuticals into illegal markets. NFLIS-Drug is a comprehensive information system that includes data from forensic laboratories that handle more than 96 percent of an estimated 1 million distinct annual federal, state, and local drug analysis cases. NFLIS-Drug includes drug chemistry results from completed analyses only. While NFLIS-Drug data are not direct evidence of abuse, these can lead to an inference that a drug has been diverted and abused. See *Schedules of Controlled Substances: Placement of Carisoprodol Into Schedule IV*, 76 FR 77330, 77332 (Dec. 12, 2011).

¹⁹ RaDAR seeks to elucidate the chemical compositions of drugs throughout the illicit drug landscape. Additional information is available at <https://www.nist.gov/programs-projects/radar>.

²⁰ Based on forum searches for the four synthetic opioids. In addition, the National Drug Early Warning System (NDEWS) provides Weekly Briefing newsletters related to drug trends, including web monitoring. *N*-Propionitrile Chlorphine was featured in Issue 201: September 27, 2024. SR-17018 was featured in Issue 257: November 14, 2025. Last accessed March 17, 2026. Newsletters are available at <https://ndews.org/publications/ndews-weekly-briefings/>.

Factor 4. Its History and Current Pattern of Abuse

5,6-Dichloro bromphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine are novel synthetic opioids that belong to a class of opioids colloquially known as orphines. The earliest known description of these substances, which include benzimidazoliny piperidine derivatives (*i.e.*, benzimidazolones), appeared in a U.S. patent in 1967.²¹ In recent years, online forum users have begun to discuss recreational use of these four synthetic opioids and commonly compared these four synthetic opioids to other traditionally abused opioids, such as morphine and fentanyl (schedule II substances). However, unlike these two drugs that have FDA-approval for use in specific medical treatments, the four synthetic opioids have no currently approved medical use and, based on positive identifications of these four substances in forensic drug exhibits and toxicology samples, are likely to be trafficked and abused similarly to other synthetic opioids, such as bromphine (schedule I).

Based on available data from user reports and law enforcement seizures, individuals purchase 5,6-dichloro bromphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine primarily in powder form; additional forms include capsule, liquid, paste, rock, and tablet forms. Common routes of administration include oral consumption, inhalation (including vaping), and injection. Data also indicate that these four substances are likely co-ingested with other substances, whether as separate products or a single product containing multiple licit and illicit substances (*see* Factor 6).

Factor 5. The Scope, Duration, and Significance of Abuse

Users on online forums began to discuss the four synthetic opioids and their consumption in recent years. In 2025, clusters of overdoses specifically resulting from *N*-propionitrile chlorphine use have led to public concern both in the United States and in other countries. This concern has initiated state-level efforts to control *N*-propionitrile chlorphine.²²

In addition, law enforcement data indicate that the presence of the four

synthetic opioids is increasingly widespread in the United States. NFLIS-Drug, a component of NFLIS, registered a collective total of 265 reports, across 21 states, pertaining to the trafficking, distribution, and abuse of the four synthetic opioids.²³ More specifically, NFLIS-Drug reported 2 total encounters of 5,6-dichloro bromphine in 2 states since 2025; 2 total encounters of 5,6-dichloro desmethylchlorphine in 2 states since 2025; 225 total encounters of *N*-propionitrile chlorphine in 19 states since 2022; and 36 total encounters of spirochlorphine in 6 states since 2025. These states include Alabama, Arkansas, California, Connecticut, Florida, Iowa, Illinois, Louisiana, Massachusetts, Missouri, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, and Texas. Moreover, other internal DEA data collection systems reported four additional encounters of *N*-propionitrile chlorphine in 2026.²⁴

Furthermore, RaDAR has detected two of the four synthetic opioids thus far. RaDAR reported its first detection of *N*-propionitrile chlorphine in a sample from the East Coast of the United States, collected in January 2026, that contained fentanyl, local anesthetics, medetomidine, and xylazine.²⁵ RaDAR also reported its first detection of 5,6-dichloro desmethylchlorphine in multiple West Coast samples, collected in February 2026, that contained either cannabinoids and methamphetamine or no other compounds.²⁶

Factor 6. What, if Any, Risk There Is to Public Health

The availability of synthetic opioids on the illicit drug market continues to exacerbate the opioid overdose epidemic and pose risks to public health and safety. As mentioned previously, 5,6-dichloro bromphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine exhibit pharmacological profiles similar to those of fentanyl, morphine, and other

²³ NFLIS-Drug data were queried on May 18, 2026. NFLIS-Drug reports are still pending for 2025 and 2026 due to normal lag time.

²⁴ The internal DEA data collection system was queried on May 21, 2026.

²⁵ Rapid Drug Analysis and Research (RaDAR). (2026, February 15). RaDAR Newsletter—January 2026. U.S. Department of Commerce, National Institute of Standards and Technology. <https://content.govdelivery.com/accounts/USNIST/bulletins/4093681>.

²⁶ Rapid Drug Analysis and Research (RaDAR). (2026, March 16). RaDAR Newsletter—February 2026. U.S. Department of Commerce, National Institute of Standards and Technology. <https://content.govdelivery.com/accounts/USNIST/bulletins/40e2fe7>.

²¹ See Janssen, P. A. J. (1967). Derivatives of benzimidazoliny piperidine (U.S. Patent No. 3,318,900). U.S. Patent and Trademark Office.

²² For example, a bill was recently introduced in the General Assembly of Kentucky to, among other things, control cyclophrine. See Ky. Gen. Assemb., H.B. 750, Reg. Sess. (2026), available at <https://apps.legislature.ky.gov/record/26rs/hb750.html>.

mu-opioid receptor agonists. These substances bind to and activate the mu-opioid receptor, which then mediates various physiological responses, including reward-associated behavior.

Based on the pharmacological similarities between the four synthetic opioids and other mu-opioid agonists, the four synthetic opioids are likely to exhibit similar physiological responses. Available data on 5,6-dichloro bromophine and 5,6-dichloro desmethylchlorphine indicate that these two substances produce dose-dependent antinociception, reward-associated behavior, and physical dependence.²⁷ Data on *N*-propionitrile chlorphine and spirochlorphine indicate that these two substances have greater receptor binding affinities, relative to fentanyl.²⁸ Moreover, evidence suggests that users abuse the four synthetic opioids for their euphoric and analgesic effects. Users also specifically report self-administering 5,6-dichloro desmethylchlorphine to reduce or reset opioid tolerance in an attempt to continue or maximize drug-induced euphoric effects in subsequent sessions. Consequently, such an attempt may likely increase users' risk of inadvertent harm and fatal overdose during their next recreational dose of other drugs.

Toxicological and forensic case reports on these four synthetic opioids are currently limited, likely because commonly used drug screening methods may not yet be able to identify these four synthetic opioids. As a result, fatalities and emergency room admissions involving the four synthetic opioids, in addition to those reported below, have likely occurred without report. At present, only one nonfatal overdose related to the four synthetic opioids has been reported in scientific and medical literature.²⁹ In this case report, authors reported that a 36-year-old man was found unconscious after inhaling a substance he believed to be alprazolam—a prescription benzodiazepine—which forensic analysis revealed was primarily *N*-

propionitrile chlorphine mixed with fentanyl and xylazine. The overdose victim also exhibited bradycardia and hypothermia upon arrival at the emergency department.

Despite the limited case reports for these substances in literature, case reports may be obtained through other programs, such as DEA TOX. DEA TOX provides expanded analysis to detect novel psychoactive substances in samples for which routine toxicological findings do not explain the toxidrome exhibited by the victim. Thus far, DEA TOX has positively identified *N*-propionitrile chlorphine in a total of 49 fatalities; victims included both male (*n* = 28) and female (*n* = 21) users, with ages ranging from 18–66 years old.³⁰ In five of these cases, *N*-propionitrile chlorphine was detected at low levels, either alone or in the presence of other substances at negligible concentrations, illustrating the potential harm of even low doses of this substance.

Moreover, law enforcement and harm reduction data indicate that the four synthetic opioids are easily and affordably obtainable online and on the illicit market. Available law enforcement data reveal that drug seizures related to the four synthetic opioids contain a plethora of co-identified substances; these substances include, but are not limited to, other opioids (*e.g.*, carfentanil (schedule II), chlorphine, fentanyl (schedule II), *N*-pyrrolidino metonitazene (schedule I)); benzodiazepines (*e.g.*, alprazolam (schedule IV), bromazolam (schedule I), clonazolam (schedule I)); stimulants (*e.g.*, cocaine (schedule II), methamphetamine (schedule II)); hallucinogens (*e.g.*, phencyclidine (schedule II)); pharmaceuticals (*e.g.*, diphenhydramine, quetiapine); and other adulterants (*e.g.*, xylazine, bis(2,2,6,6-tetramethyl-4-piperidyl)sebacate). Available harm reduction data indicate that the four synthetic opioids were individually or combinedly present as major substances or trace contaminants in samples assumed to be other drugs, like fentanyl. Consequently, individuals may be unknowingly exposed to these substances despite their intentions to consume other drugs, such as fentanyl.

Congruent with the data above, toxicological reports suggest that users may have inadvertently ingested the four synthetic opioids with other drugs, whether as separate products or a single product containing multiple licit and illicit substances. In available toxicological reports through DEA TOX,

substances co-identified with *N*-propionitrile chlorphine include, but are not limited to, benzodiazepines (*e.g.*, bromazolam (schedule I)); other opioids (*e.g.*, fentanyl (schedule II), metonitazene (schedule I), morphine (schedule II)); stimulants (*e.g.*, cocaine (schedule II), methamphetamine (schedule II)); and other adulterants (*e.g.*, medetomidine, xylazine). Furthermore, the Center for Forensic Science Research and Education reported detecting the four synthetic opioids alone, with each other, or in combination with other synthetic opioids (*e.g.*, chlorphine, fentanyl (schedule II), *N*-pyrrolidino ethylene isotonitazene); designer benzodiazepines (*e.g.*, phenazolam); and synthetic cathinones (*e.g.*, 3,4-methylenedioxy- α -pyrrolidinoisohexanophenone) across toxicological and drug samples submitted to its program for analysis.³¹

In summary, the data presented above indicate that these four synthetic opioids have been encountered as single substances and as polysubstance combinations, and, as a result, the unpredictable levels of adulterant or drug purity across samples poses significant harm and unintended consequences to public health, including death.

Finding of Necessity of Schedule I Placement To Avoid Imminent Hazard to Public Safety

In accordance with 21 U.S.C. 811(h)(3), based on the available data and information summarized above, the uncontrolled manufacture, distribution, reverse distribution, importation, exportation, conduct of research and chemical analysis, possession, and abuse of 5,6-dichloro bromophine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine pose imminent hazards to public safety. DEA is not aware of any currently accepted medical uses for 5,6-dichloro bromophine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, or spirochlorphine in treatment in the United States. A substance meeting the statutory requirements for temporary scheduling, found in 21 U.S.C. 811(h)(1), may only be placed in schedule I. Substances in schedule I must have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Available

²⁷ See Kudla, L., Bugno, R., Podlowska, S., Szumiec, L., Wiktorowska, L., Bojarski, A.J., & Przewlocki, R. (2021). Comparison of an addictive potential of μ -opioid receptor agonists with G protein bias: Behavioral and molecular modeling studies. *Pharmaceutics*, 14(1), 55. <https://doi.org/10.3390/pharmaceutics14010055>.

²⁸ Unpublished data obtained for DEA by the U.S. Department of Veterans Affairs (VA), via a DEA–VA Interagency Agreement, titled “In Vitro Receptor and Transporter Assays for Abuse Liability Testing for the DEA by the VA.”

²⁹ See Sprague, J.E., Toms, J.A., & Ratermann, C.F. (2025). Non-fatal opioid overdose associated predominantly with the benzimidazolone, cyclochlorphine. *Clinical toxicology (Philadelphia, Pa.)*, 1–2. Advance online publication. <https://doi.org/10.1080/15563650.2025.2594070>.

³⁰ DEA TOX data include confirmed detections of NPS through the data query date, May 18, 2026.

³¹ The Center for Forensic Science Research and Education documents its findings of novel psychoactive substances through drug monographs published on its website. Available at <https://www.cfsre.org/nps-discovery/monographs>.

data and information for 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine indicate that these substances meet the three statutory criteria.

As required by 21 U.S.C. 811(h)(4), the Administrator notified the Assistant Secretary via letter dated April 1, 2026, of DEA's intention to temporarily place four synthetic opioids—5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine—in schedule I. In a letter dated April 10, 2026, the Assistant Secretary had no objection to the temporary placement of these four substances in schedule I.

Conclusion

This notice of intent provides the 30-day notice pursuant to 21 U.S.C. 811(h)(1) of DEA's intent to issue a temporary scheduling order. In accordance with 21 U.S.C. 811(h)(1) and (3), the Administrator considered available data and information, herein set forth the grounds for his determination that it is necessary to temporarily schedule four synthetic opioids—5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine—in schedule I of the CSA, and finds that placement of these substances in schedule I is necessary to avoid an imminent hazard to the public's safety.

The temporary placement of 5,6-dichloro brorphine, 5,6-dichloro desmethylchlorphine, *N*-propionitrile chlorphine, and spirochlorphine in schedule I of the CSA will take effect pursuant to a temporary scheduling order, which will not be issued before July 31, 2026. Because the Administrator hereby finds that this temporary scheduling order is necessary to avoid an imminent hazard to public safety, it will take effect on the date the order is published in the **Federal Register** and remain in effect for two years, with a possible extension of an additional year, pending completion of the regular (permanent) scheduling process.³² The Administrator intends to issue a temporary scheduling order as soon as possible after the expiration of 30 days from the date of publication of this document. Upon publication of the temporary order, these four synthetic opioids will then be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, research,

conduct of instructional activities and chemical analysis, and possession.

The CSA sets forth specific criteria for scheduling drugs or other substances. Regular scheduling actions in accordance with 21 U.S.C. 811(a) are subject to formal rulemaking procedures “on the record after opportunity for a hearing” conducted pursuant to the provisions of 5 U.S.C. 556 and 557.³³ The regular scheduling process of formal rulemaking affords interested parties appropriate process and the government any additional relevant information needed to make a determination. Final decisions that conclude the regular scheduling process of formal rulemaking are subject to judicial review.³⁴ Temporary scheduling orders are not subject to judicial review.³⁵

Regulatory Analyses

The CSA provides for expedited temporary scheduling actions where necessary to avoid an imminent hazard to public safety. Under 21 U.S.C. 811(h)(1), the Administrator (as delegated by the Attorney General) may, by order, temporarily place substances in schedule I. Such orders may not be issued before the expiration of 30 days from: (1) the publication of a notice in the **Federal Register** of the intent to issue such order and the grounds upon which such order is to be issued, and (2) the date that notice of the proposed temporary scheduling order is transmitted to the Assistant Secretary, as delegated by the Secretary of HHS.³⁶

Inasmuch as section 811(h) directs that temporary scheduling actions be issued by order (as distinct from a rule) and sets forth the procedures by which such orders are to be issued, DEA believes the notice-and-comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, which are applicable to rulemaking, do not apply to this notice of intent. The APA expressly differentiates between orders and rules, as it defines an “order” to mean a “final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency *in a matter other than rule making*.”³⁷ This contrasts with permanent scheduling actions, which are subject to formal rulemaking procedures done “on the record after opportunity for a hearing,” and final decisions that conclude the scheduling process and are subject to judicial

review.³⁸ The specific language chosen by Congress indicates its intent that DEA issue *orders* instead of proceeding by rulemaking when temporarily scheduling substances. Given that Congress specifically requires the Administrator (as delegated by the Attorney General) to follow rulemaking procedures for *other* kinds of scheduling actions,³⁹ it is noteworthy that, in section 811(h)(1), Congress authorized the issuance of temporary scheduling actions by order rather than by rule.

Even assuming that this notice of intent is subject to the notice-and-comment requirements of the APA, the Administrator finds that there is good cause to forgo those requirements pursuant to 5 U.S.C. 553(b)(B), as any further delays in the process for issuing temporary scheduling orders would be impracticable and contrary to the public interest given the manifest urgency to avoid an imminent hazard to public safety.

Although DEA believes this notice of intent to issue a temporary scheduling order is not subject to the notice-and-comment requirements of the APA, DEA notes that in accordance with 21 U.S.C. 811(h)(4), the Administrator took into consideration comments submitted by the Assistant Secretary in response to the notice that DEA transmitted to the Assistant Secretary pursuant to such subsection.

Further, DEA believes that this temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by the APA or any other law to publish a general notice of proposed rulemaking. As discussed above, DEA is issuing this notice of intent pursuant to DEA's authority to issue a temporary scheduling order.⁴⁰ Therefore, in this instance, since DEA believes this temporary scheduling action is not a “rule,” it is not subject to the requirements of the RFA when issuing this temporary action.

In accordance with the principles of Executive Orders (E.O.) 12866 and 13563, this action is not a significant regulatory action. E.O. 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential

³² 21 U.S.C. 811.

³³ 21 U.S.C. 877.

³⁴ 21 U.S.C. 811(h)(6).

³⁵ 21 U.S.C. 811(h)(1).

³⁶ 21 U.S.C. 811(h)(1).

³⁷ 5 U.S.C. 551(6) (emphasis added).

³⁸ 21 U.S.C. 811(a) and 877.

³⁹ See 21 U.S.C. 811(a).

⁴⁰ 21 U.S.C. 811(h)(1).

³² 21 U.S.C. 811(h)(1) and (2).

economic, environmental, public health, and safety effects; distributive impacts; and equity). E.O. 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in E.O. 12866. Because this is not a rulemaking action, this is not a significant regulatory action as defined in Section 3(f) of E.O. 12866. In addition, DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

This action 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. Therefore, in accordance with E.O. 13132, it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA proposes to amend 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. In § 1308.11: Add paragraphs (h)(89)–(92) to read as follows:

§ 1308.11 Schedule I

* * * * *

(h) * * *

(89) 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-5,6-dichloro-1,3-dihydro-2H-benzo[d]imidazol-2-one, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: 5,6-dichloro broporphine; SR-14968)	9097
(90) 5,6-dichloro-1-(1-(4-chlorobenzyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: 5,6-dichloro desmethylchlorphine; SR-17018)	9096
(91) 3-(3-(1-(1-(4-chlorophenyl)ethyl)piperidin-4-yl)-2-oxo-2,3-dihydro-1H-benzo[d]imidazol-1-yl)propanenitrile, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: N-propionitrile chlorphine; cyclochlorphine)	9094
(92) 8-(1-(4-chlorophenyl)ethyl)-1-phenyl-1,3,8-triazaspiro[4.5]decan-4-one, its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers (Other names: spirochlorphine; R-6890)	9093

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on June 26, 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. 2026-13364 Filed 6-30-26; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF EDUCATION

34 CFR Parts 655, 656, 657, 658, 660, 661, 662, 663, 664, and 669

RIN 1875-AA18

[Docket ID ED-2026-OPE-0991]

International Education Programs and Fulbright-Hays Program; Recission of Regulations

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary of Education proposes to rescind the International Education Programs regulations and the Fulbright-Hays Program Regulations to provide the Department of Education (ED) with greater flexibility in carrying out its statutory authority to implement these programs and to enable the Department to align such programs with current and evolving priorities and needs, such as workforce readiness, national competitiveness, and returning education to the States. These changes will enable ED to more effectively achieve the statutory intent of the programs authorized under Title VI of the Higher Education Act of 1965, as amended, and Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, respectively. The Department seeks comments on this recission of regulations.

DATES: We must receive your comments on or before July 31, 2026.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at *Regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for more details.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453-6150. Email: *Stacey.Slijepcevic@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed regulations. Comments must be submitted via the Federal eRulemaking Portal at *Regulations.gov*. However, if you require an accommodation or cannot otherwise submit your comments via *Regulations.gov*, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. ED will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that ED does not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to *www.Regulations.gov* to submit your comments electronically. Information

on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ.” Also included on *Regulations.gov* is a commenter checklist that addresses how to submit effective comments and a plain language summary of the proposed rule.

Comments containing personal threats will not be posted to *Regulations.gov* and may be referred to the appropriate authorities.

During and after the comment period, you may inspect public comments about the proposed regulations by accessing *Regulations.gov*. To inspect comments in person, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Privacy Note: ED’s policy is to generally make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *Regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this document. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Title VI and Fulbright–Hays Act Deregulatory Overview: The purpose of programs authorized under Title VI of the Higher Education Act of 1965, as amended (HEA), is to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies; to develop a pool of international experts to meet national needs; to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing the less commonly taught languages; and to promote access to research and training overseas, including through linkages with overseas institutions. The purpose of the statute is also to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education; to support cooperative efforts promoting access to and the dissemination of international

and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

The implementation of these programs was further codified in parts 655 (International Education Programs—General Provisions), 656 (National Resource Centers Program for Foreign Language and Area Studies), 657 (Foreign Language and Area Studies Fellowships Program), 658 (Undergraduate International Studies and Foreign Language Program), 660 (International Research and Studies Program), 661 (Business and International Education Program), and 669 (Language Resource Centers Program). These regulations were last amended in 1982, 1984, 1990, 2005, and 2024, and sought to codify or create specific program requirements related to eligibility, program activities, selection criteria, applicable regulations and definitions, and procedures for the Secretary to award a grant. The changes within each of those years focused on distilling interpretations of the statutory language into prescriptive implementation for grantees.

However, adopting prescriptive regulations conflicts with the purpose of the Title VI programs, which require a nimbler approach as implementation of the program can shift over time. For example, the 2024 regulatory action defined areas of national need, which is not static in interpretation. The need for training in specific languages, areas of national need and security, and overall project creation and implementation will evolve based on the current geopolitical context. Given the ever-changing nature of international affairs, it is crucial to review existing regulations and reform the program to allow applicable entities to prepare their applications with more creativity, less prescription, and in a manner that is responsive to current events and administration priorities.

Further, the Department notes that Title VI of the HEA does not affirmatively require the Department to engage in rulemaking for the implementation of these programs and appropriations, with the exception of 20 U.S.C. 1132–6, which is not currently funded or administered. These codified regulations are more rigid than the HEA in their interpretation of authorized

activities, and they restrict the ability of grantees to fulfill the statutory purposes of the program by setting tighter parameters around statutorily permissible activities. The Department has determined that the existing regulatory provisions governing uses of Title VI appropriations duplicate government-wide grant requirements, impose unnecessary administrative burden, and reduce institutional flexibility. For example, the selection criteria, regulated in 34 CFR 655.31, were intended to standardize the peer review process. The Department has found that using prescriptive program-specific selection criteria in grant competitions can be burdensome for both applicants and peer reviewers. Further it can provide unintended advantages to prior grantees in the application process. For these programs, we believe that it is more appropriate to align with the selection criteria found in the Education Department General Administrative Regulations (EDGAR). This would eliminate the prescriptive nature of the criteria, reduce the burden on applicants and peer reviewers, and improve alignment with the statute that guides the program. The removal of the prescriptive language will also allow for more consistent messaging on priorities for international and foreign language education. This change will align the Title VI, HEA programs with other Departmental programs that provide discretion to the Secretary to select among the regulated selection criteria when deciding which criteria to emphasize in a competition year. Eliminating these provisions will allow institutions to devote more resources to foreign language and area studies activities while maintaining accountability through statutory requirements, 2 CFR 200, and competitive grant oversight.

The Department did consider alternatives to rescinding the regulations, such as partial deregulation and not rescinding at all and waiting until next fiscal year. However, after considering these alternatives, the Department has tentatively concluded that the proposed rule is best aligned to meet the goals of maximizing flexibility based on current need and return to the original statutory authority of the program. Partial removal or not removing at all would not achieve the Department’s goal of having the option to pursue other more flexible means of delivery authorized by statute. Issuing new regulations to replace the current regulations is not necessary to achieve the Department’s goals and would conflict with the Administration’s

policy to support deregulation and move away from issuing burdensome regulations that hinder effective government services. *See, e.g.*, “Unleashing Prosperity Through Deregulation” Executive Order 14192, January 31, 2025 (90 FR 9065). The Department believes a full rescission of the regulations is necessary in order for the Department to have the flexibility to pursue other vehicles for service delivery beyond regional grants and to ensure that the services are responsive to recipient needs while meeting the statutory purposes of the program.

Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (Fulbright–Hays Act) authorizes what are commonly known as the Fulbright–Hays programs. The Department codified these programs in parts 662, 663, and 664 of the CFR. These regulations were last amended in 2023 and codify programs that are not named in statute, including program names, eligible entities, program activities, selection criteria, applicable regulations and definitions, and procedures for the Secretary to award a grant. These regulations are overly burdensome and place unnecessary restrictions on ED’s ability to support the activities named in the Fulbright–Hays Act in a manner that achieves the statutory intent while also addressing current national priorities and needs of the field. Accordingly, ED proposes to rescind all regulations under parts 662, 663, and 664.

Without the restrictions currently in the regulations, the Department could pursue other approaches to increasing flexibility and potentially reducing administrative burden, while maintaining the goals of the international education program. This rescission would allow greater and more grantee-driven interpretation of statutory language, to better align the implementation of these programs with the most contemporary practices of the field. Because the Fulbright–Hays Act and the Title VI programs both operate as discretionary, competitive grant programs, ED believes any potential reliance interest in future competitions under these Acts to be minimal. This is particularly so since ED’s proposed deregulation would not affect the eligibility of prior grant recipients under these programs to compete under future competitions, as eligibility will continue to be governed by the underlying statutory framework applicable to such programs.

Procedural Issues and Regulatory Review

Executive Orders 12866, 13563, and 14192

Regulatory Impact Analysis

This proposed rule is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 as it grants greater flexibility in carrying out the statutory authority for these programs which enables ED to align international and foreign language education with current and evolving national priorities. This rule is expected to be considered an “Executive Order 14192 deregulatory action.”

We have also reviewed this proposed rule under Executive Order 13563. This proposed rule would rescind regulations that are not in alignment with current Department priorities. We are issuing this proposed rule on a reasoned determination that the deregulatory benefit of removing unnecessary provisions from the Code of Federal Regulations justifies its minimal cost. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. As discussed above, the Department does not believe that this rescission will negatively affect the Department’s ability to meet the statutory purposes of the program. None of the existing grantees are state, local, or tribal governments, further suggesting that this rescission and the potential changes in service delivery it will enable would not unduly interfere with State, local, and Tribal government functions.

Discussion of Costs and Benefits

In addition to the non-monetary benefits previously outlined, allowing the Department to administer the program with more statutory fidelity and with less burden, another potential cost reduction is if the Department pursues non-grant options to administer some of the programs, such as through contracts and subgrants. This would eliminate grant-specific costs such as peer review and grantees’ indirect costs. Additionally, the Department believes this regulatory action will not impose significant new cost-bearing requirements on IHEs or other entities. We believe that the benefits of implementing this regulatory action outweigh any associated costs.

Over the last five years (FYs 2022–2026), the amount of funding appropriated annually for programs within the Title VI and Fulbright Hayes portfolio has ranged from a low of \$80.664 million in FY 2026 to a high of \$85.664 million in FY 2025, with an average of 525 grant applications received per year in which IFLE awards were made, and an average of 55 percent of applications ultimately receiving grant awards. With the changes to the regulation, the Department expects a small increase in applications per year due to the flexibility that would be provided within the competition portfolio.

An increase in the number of applicants or awards granted could result in some additional costs to the Department in securing readers to review applications, but if additional costs arise, they would be minimal, and probably only emerge as the increase in costs to secure additional readers. We anticipate no additional costs to grant recipients, as we will continue to pay for grant activities with program funds. We also note that program participation is voluntary.

The Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

These changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. We also have determined that this rescission would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Regulatory Flexibility Act Certification

This section considers the effects that the final regulations may have on small entities in the educational sector as required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Department estimates that the proposed rule would not have a significant economic impact on a substantial number of small entities, as the proposed rule would rescind existing regulations and does not contain any new mandates. Accordingly, an Initial Regulatory Flexibility Analysis is not required, and the Secretary certifies that this proposed rescission would not have a substantial economic impact on a substantial number of small entities.

The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant

in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The Department does not have a Department-specific, SBA-approved definition of a “small entity”; as such, the Department would default to the aforementioned definitions of what would constitute a “small entity.” While some applicants and awardees under the existing IFLE programs might qualify as small entities (in the case of these programs, a nonprofit institution or a community college), they constitute less than 5 percent of the cohort that received grant funding in FY 2024. The vast majority would not qualify as small as almost all IHEs that apply for and secure grants are either well-known, well-resourced, non-profit IHEs or public institutions, which are operated by governments overseeing populations much larger than 50,000.

The proposed action would result in all applicants being required to respond to competition framework elements that are used as a default menu across the Department’s competitive grant programs (e.g., the general selection criteria found in 34 CFR 75.210)—elements which applicants are very likely to be familiar with if they have interacted with other competitive funding streams administered by the Department. Additionally, the alignment of the Department’s efforts in the international sphere with efforts being made at other Departments engaged in this work creates efficiencies for applicants that might otherwise be unavailable under the current regulations.

Congress has never appropriated more than \$100 million (the current threshold deemed “economically significant”) to support the programs governed by the regulations proposed for elimination, and a cost-benefit-analysis by applicants would strongly suggest that applicants would not invest resources in excess of any amount they might reasonably attain as a result of the competitive process. In fact, they are likely to only invest a small fraction of what they might reasonably obtain if they succeed in the competitive process. Furthermore, this proposed action does not 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, or tribal governments or communities.

Changes in the costs of administering the program would be minimal, and primarily inclusive of additional readers for the anticipated increase in applications, which would be paid for using appropriated funds and in an amount provided for by the governing statute.

Paperwork Reduction Act

The proposed recission does not contain any information collection requirements.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov.

List of Subjects in 34 CFR Parts 655, 656, 657, 658, 660, 661, 662, 663, 664, and 669

Colleges and universities, Cultural exchange programs, Educational research, Educational study programs, Grant programs—education, Scholarships and fellowships.

David Barker,

Assistant Secretary for Postsecondary Education.

■ For the reasons set forth in the preamble and under the authority of 42 U.S.C. 2000c—2000c–2, 2000c–5, and Section 102(b)(6) of the Fulbright-Hays Act, 22 U.S.C. 2452(b)(6), unless otherwise noted, the Department of Education is proposing to remove parts 655, 656, 657, 658, 660, 661, 662, 663, 664, and 669 of chapter VI of subtitle B

of title 34 of the Code of Federal Regulations.

[FR Doc. 2026–13248 Filed 6–30–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 200 and 216

RIN 0596–AD74

Organization, Functions, and Procedures; Public Notice and Comment for Standards, Criteria, and Guidance Applicable to Forest Service Programs

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Proposed rule.

SUMMARY: The United States Department of Agriculture (Department) is proposing to amend regulations governing the Directive System for the United States Forest Service (Forest Service or Agency); the scope of notice and comment requirements for the formulation of standards, criteria, and guidelines applicable to Forest Service programs; and associated agency procedures. These amendments enhance Agency employees’ discretion to allow innovation in program implementation to account for the unique ecological conditions of affected landscapes and changing social and economic needs.

DATES: Comments must be received in writing by July 31, 2026.

ADDRESSES: Comments, identified by RIN 0596–AD74, should be sent via the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for sending comments.
- **Mail:** Send written comments to USDA-Forest Service, Sidney Yates Building, 1400 Independence Avenue SW, 1SE—Mailstop Code:, Attn: Director-Policy Office, Washington, DC 20250.

Comments should be confined to issues pertinent to the proposed rule, should explain the reasons for any recommended changes, and should reference the specific section and wording being addressed, where possible. All timely comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. Comments may be viewed on the Federal eRulemaking Portal at <https://www.regulations.gov>. In the search box, enter “RIN 0596–AD74,” and click the “Search” button. For this

reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. Please note that comments containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT:

Forest Service Policy Office, 202–205–1464, sm.po.directivemodernization@usda.gov. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service, then provide the phone number of the named point of contact for further information.

SUPPLEMENTARY INFORMATION: This proposed rule amends regulations describing the components of the Forest Service Directive System (the Forest Service Manual and Forest Service Handbooks) and the scope of public participation requirements for the “formulation of standards, criteria, and guidelines applicable to Forest Service programs” as required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (FRRRPA) (16 U.S.C. 1612(a)). The amendments would clarify the scope of this statutory obligation by excluding changes to Forest Service Directives that are not “formulation” or do not involve “standards, criteria, or guidelines” from notice and comment processes.

The Forest Service Manual would be redefined as the sole source of continuing, mandatory direction for the Agency. Certain Agency officials would be authorized to depart from mandatory direction in the Manual when alternate actions are in the public interest, consistent with law, and the justification for that departure is promptly documented. This exception would be codified at 36 CFR 200.4(b)(1) and would replace Forest Service Manual 1103(6), which allows Forest Service officials to deviate from mandatory direction in “extreme or highly unusual circumstances.” The Forest Service Handbooks would be redefined as advisory and informational guidance that Agency employees may deviate from without documenting or justifying alternate actions. This rulemaking would also clarify the process for providing public notice when formulating standards, criteria, or guidelines applicable to Forest Service programs.

The Forest Service Directives are intended to contain internal direction

and guidance for Agency employees. They do not hold the force of law and are not enforceable against non-Agency parties. *Compare* 36 CFR 200.4(a), “[R]egulations . . . governing the protection and administration of National Forest System lands and other programs of the Forest Service are set forth in Chapter 2 of Title 36 of the Code of Federal Regulations,” *with* 200.4(b), “Administrative policy, procedure, and guidance to Forest Service employees for the conduct of Forest Service activities are issued as directives. . . .” Therefore, Forest Service Handbooks cannot contain legislative rules that are subject to the notice and comment requirements of the Administrative Procedure Act (APA). If commenters do identify legislative rules in the current Forest Service Handbooks, the Agency would consider conducting a subsequent rulemaking to rescind those provisions or recodify them in the CFR.

The Department invites comments identifying any provisions of the Forest Service Handbooks that the public believe should be retained and moved into the Code of Federal Regulations. Specific comments regarding which provisions are essential to promote safety, ensure compliance with law, or prevent waste or misuse of public funds are requested. Once this rulemaking takes effect all Handbooks will be reviewed to ensure consistency with the new structure of the Directive System. The Department would provide public notice and opportunities to comment on these initial revisions to all Handbooks pursuant to 16 U.S.C. 1612(a).

To help reviewers provide well-informed comments, this Notice includes a “description of the subjects and issues” (5 U.S.C. 553(b)(3)) addressed in Forest Service Handbooks and encourages commenters to review provisions that include minimum timeframes for the submission of comments or the filing of objections or appeals; fee structures for the filing of applications or the receipt or renewal of permits; specific criteria for the issuance, renewal, denial, or termination of permits or licenses; methodologies or standards for environmental review and analysis; procedures for administrative appeals or dispute resolution; penalties or other sanctions on non-Forest Service parties for non-compliance with a statute, regulation, or other legal authority; definitions of key terms that affect the scope of a statute or regulation; requirements for external parties to collect, monitor, or report data; requirements to publish specific data or documents; training, certification, or qualification standards for non-Forest

Service personnel; operational constraints such as restricted seasons of use or equipment bans; strict geographic exclusions, setbacks, or spatial buffers; or requirements to provide non-Forest Service parties with notice and opportunities to comment on Agency actions. Provisions of these sorts are most likely to be found in certain Handbook titles including 1109.12—Directive System; 1509.11—Grants, Cooperative Agreements, and Other Agreements; 1709.11—Civil Rights; 1909.12—Land Management Planning; 2109.14—Pesticide-Use Management and Coordination; 2209.13—Grazing Permit Administration; 2709.11—Special Uses; 2709.12—Road Rights-of-Way Grants; 5509.11—Title Claims, Sales, and Grants; and 6709.11—Health and Safety Code. These lists are intended to be illustrative and may not be comprehensive.

This rulemaking also amends the Department’s interpretation of the statutory phrase “standards, criteria, and guidelines” under 16 U.S.C. 1612(a) as including only binding direction that employees are generally expected to follow. Therefore, subsequent changes to Handbooks (those occurring after the initial Handbook revisions described in the prior paragraph are complete) would not be subject to notice and comment requirements since advisory and informational guidance is not “standards, criteria, or guidelines” under 16 U.S.C. 1612(a). Additionally, the Department proposes amending 36 CFR 216.1(b) to state that the removal or rescission of Forest Service Directives is not “formulation” of standards, criteria, or guidelines and therefore is not subject to notice and comment.

This rulemaking would also clarify that statutorily required notices associated with the formulation of standards, criteria, or guidelines applicable to Forest Service programs can be made via any broadly accessible public forum, including but not limited to an Agency website. Use of additional notices, such as notices in the **Federal Register** or newspaper(s) of record, are permitted but not required by 36 CFR 216.3. Similarly, this rulemaking would remove the requirement in 36 CFR 216.3 for the Agency to provide a physical mailing address for submission of comments. Electronic submission would become the default means for the Agency to solicit comments. Use of a physical mailing address for this purpose would be at the Agency’s discretion.

Background and Explanation of the Proposed Rule

This rulemaking is proposed pursuant to the Secretary of Agriculture's authority to "prescribe regulations for the government of h[er] department, the conduct of its employees, the distribution and performance of its business" (5 U.S.C. 301). It is also proposed pursuant to section 14(a) of the FRRRPA (16 U.S.C. 1612(a)), which provides that "the Secretary, in exercising h[er] authority [under the Act] and other laws applicable to the Forest Service, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs." This provision of law has been effectuated through 36 CFR part 216, published on April 23, 1984.

Currently, 36 CFR part 216 applies to both the Forest Service Manual and the Forest Service Handbooks. The Forest Service Manual outlines legal authorities, objectives, policies, responsibilities, instructions, and guidance needed on a continuing basis by Agency line officers and primary staff in more than one administrative unit to plan and execute assigned programs and activities. The Forest Service Handbooks contain specialized and technical guidance that are intended to help employees effectively implement Agency programs. The requirements under part 216 do not apply to directives in the Forest Service Manual or Handbooks that pertain to law enforcement and investigations; personnel matters; procurement; administrative support activities such as budget and finance; business operations; and activities undertaken by the Forest Service on behalf of other Federal agencies.

This rulemaking preserves the public's opportunity to participate in the formulation of standards, criteria, and guidelines pursuant to 36 CFR 216.1(a) while increasing the flexibility and utility of the Agency's formal, codified Directive System. These changes advance the policies set forth in Executive Order 14219, *Unleashing Prosperity Through Deregulation* (Feb. 19, 2025), the Presidential Memorandum on *Directing the Repeal of Unlawful Regulations* (April 9, 2025), and Office of Management and Budget memoranda M-25-28 (May 7, 2025) and M-25-36 (Oct. 21, 2025), and are consistent with the authority provided to the Forest Service in the FRRRPA.

Regulatory Certifications

Regulatory Planning and Review

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

National Environmental Policy Act

The proposed rule would create a clearer distinction between the force and effect of the Forest Service Manual and the Forest Service Handbooks to improve the utility of the Forest Service Directive System and apply the single best reading of section 14(a) of the FRRRPA. Departmental regulations at 7 CFR 1b.4(c)(20) exclude "rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions" from documentation in an environmental assessment or environmental impact statement. The Department's preliminary assessment is that this proposed rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

Regulatory Flexibility Act

The Department has considered this proposed rule under the Regulatory Flexibility Act (5 U.S.C. 602 *et. seq.*). This proposed rule would not have any direct effect on small entities as defined by the Regulatory Flexibility Act. This proposed rule would not impose recordkeeping requirements on small entities; would not affect their competitive position in relation to large entities; and would not affect their cash flow, liquidity, or ability to remain in the market. Therefore, the Department has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act.

Federalism

The Department has considered this proposed rule under the requirements of E.O. 13132, *Federalism*. The Department has determined that the proposed rule conforms with the federalism principles set out in this E.O.; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the Department has concluded that this proposed rule would not have federalism implications.

Consultation and Coordination With Indian Tribal Governments

E.O. 13175, *Consultation and Coordination with Indian Tribal Governments*, requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This proposed rule would redefine the Forest Service Handbooks as advisory and informational guidance that employees may deviate from without documenting a justification. The proposed rule would also state that advisory and informational guidance is not "standards, criteria, or guidelines" under 16 U.S.C. 1612(a) and, therefore, changes to Forest Service Handbooks are not subject to statutory notice and comment processes. Lastly, the proposed rule would clarify that removal or rescission of Forest Service Directives is not an act of "formulation" under 16 U.S.C. 1612(a) and is therefore outside the scope of statutory notice and comment requirements. The Department has reviewed this proposed rule in accordance with the requirements of E.O. 13175 and has determined that this proposed rule would have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, consultation and coordination with Indian Tribal governments is required for this proposed rule.

Family Policymaking Assessment

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for a rule that may affect family well-being. The proposed rule would have no impact on the autonomy or integrity of the family as an institution. Accordingly, the Department has concluded that it is not necessary to prepare a Family Policymaking Assessment for the proposed rule.

Takings Implications

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12630, *Governmental Actions and Interference with Constitutionally Protect Property Rights*. The Department has determined that the proposed rule would not pose the risk of a taking of private property.

Energy Effects

The Department has reviewed the proposed rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*. The Department has determined that the proposed rule would not constitute a significant energy action as defined in E.O. 13211.

Civil Justice Reform

The Department has analyzed the proposed rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform*. Upon publication of the proposed rule, (1) all State and local laws and regulations that conflict with the proposed rule or that impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of the proposed rule on State, local, and Tribal governments and the private sector. The proposed rule would not compel the expenditure of \$100 million or more, adjusted annually for inflation, in any 1 year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required.

Paperwork Reduction Act

The proposed rule does not contain any recordkeeping or reporting

requirements or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects*36 CFR Part 200*

Organization, functions (Government agencies).

36 CFR Part 216

Administrative procedure.

Therefore, for the reasons set forth in the preamble, the Department proposes to amend chapter II of title 36 of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

- 1. The authority citation for part 200 continues to read:

Authority: 5 U.S.C. 552; 7 U.S.C. 6706; 16 U.S.C. 472, 521, 1603, and 2101 *et seq.*

- 2. Revise § 200.4(b)(1) to read as follows:

§ 200.4 Administrative issuances.

(b) * * *

(1) Directives are issued through the Forest Service Directive System, which is comprised of the Forest Service Manual and related Forest Service Handbooks.

(i) The Forest Service Manual is the primary source of administrative direction to Forest Service employees. All standards, criteria, and guidelines for the internal management and control of Forest Service programs are codified in the Forest Service Manual. Forest Service employees are generally expected to comply with all direction in the Forest Service Manual. Responsible officials may deviate from Forest Service Manual direction when it is in the public interest, allowable by law, and the reasons are promptly documented.

(ii) The Forest Service Handbooks contain advisory and informational guidance for employees and outline suggested methods for fulfilling their responsibilities. Employees may deviate from guidance in the Forest Service Handbooks.

* * * * *

PART 216—PUBLIC NOTICE AND COMMENT FOR STANDARDS, CRITERIA, AND GUIDELINES APPLICABLE TO FOREST SERVICE PROGRAMS

- 3. The authority citation for part 216 continues to read:

Authority: 16 U.S.C. 1612(a).

- 4. Revise the part heading as set forth above.
 ■ 5. Revise § 216.1(b) to read as follows:

§ 216.1 Purpose and scope.

* * * * *

(b) This part applies to the formulation of standards, criteria, and guidelines applicable to Forest Service programs through the issuance or revision of Forest Service directives. This part does not apply to the rescission or removal of directives. This part does not apply to Forest Service directives pertaining to law enforcement and investigations; personnel matters; procurement; administrative support activities such as budget and finance; business operations; and activities undertaken by the Forest Service on behalf of other Federal agencies. In addition, it does not apply to advisory and informational guidance for Forest Service employees that does not mandate a specific course of action. To the extent that any other part in this chapter of the Code of Federal Regulations requires greater opportunities for the public to participate with respect to policymaking or the issuance of directives than are required by this part, the other part shall be controlling.

- 6. Revise § 216.3(b)(1) and (2) to read as follows:

§ 216.3 Notice and an opportunity for public comment.

* * * * *

(b) * * *

(1) Be published in a broadly accessible public forum, such as a web page.

(2) Include instructions for submitting comments.

* * * * *

Michael Boren,

Under Secretary, Natural Resources and Environment.

[FR Doc. 2026–13281 Filed 6–30–26; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA-HQ-OW-2023-0469; FRL-10857-03-OW]

RIN 2040-AG33

Revisions To Establish the Sixth Unregulated Contaminant Monitoring Rule (UCMR 6) for Public Water Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA or agency) is proposing the sixth Unregulated Contaminant Monitoring Rule (UCMR 6). Under the Safe Drinking Water Act (SDWA), the UCMR program gathers data about unregulated contaminant occurrence in drinking water. The proposed UCMR 6 would require public water systems (PWSs) to collect national occurrence data for seven ultrashort organofluorine compounds (including certain PFAS), three pesticide metabolites, 13 semivolatile organic compounds, and seven purgeable organic compounds. Subject to the availability of appropriations, the EPA will require all community and non-transient non-community water systems (CWSs and NTNCWSs) serving 3,300 or more people, and a representative sample of PWSs serving fewer than 3,300 people, to conduct monitoring. These contaminants are not currently subject to national primary drinking water regulations (NPDWRs), and the EPA is proposing to require the collection of drinking water occurrence data to inform agency decisions. The data collected will be publicly available. The EPA is also announcing two public meetings (via webinar) to discuss this proposal of the sixth Unregulated Contaminant Monitoring Rule (UCMR 6).

DATES: Comments must be received on or before August 31, 2026. Comments on the information collection provisions of the proposed rule under the Paperwork Reduction Act (PRA) must be received by the Office of Management and Budget's Office of Information and Regulatory Affairs (OMB-OIRA) on or before July 31, 2026. Please refer to the PRA section under "Statutory and Executive Order Reviews" in this preamble for specific instructions. Public meeting: the EPA will hold two identical virtual, public meetings on August 11, 2026 and August 12, 2026 at

<https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials>.

Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public meetings.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OW-2023-0469, by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.
- *Email:* ow-docket@epa.gov
- Include Docket ID No. EPA-HQ-OW-2023-0469 in the subject line of the message.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, OW Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

• *Hand Delivery or Courier:* 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. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov>, including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

The virtual public meeting will be held at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials>. The meeting will convene at 12:00 p.m. (local time) and will conclude at 4:00 p.m. (local time). Refer to the **SUPPLEMENTARY INFORMATION** section of this document for additional information.

FOR FURTHER INFORMATION CONTACT: Brenda Bowden, Standards and Risk Management Division (SRMD), Office of Ground Water and Drinking Water (OGWDW) (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: 513-569-7961; email address: bowden.brenda@epa.gov; or Rachel Kaiser, SRMD, OGWDW (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: 513-569-7835; email address: kaiser.rachel@epa.gov.

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Abbreviations and Acronyms

µg/L Microgram per Liter
 1,2,3-TCP 1,2,3-Trichloropropane
 ANCSA Alaska Native Claims Settlement Act
 ASDWA Association of State Drinking Water Administrators
 ASTM ASTM International
 AWIA America's Water Infrastructure Act of 2018
 CBI Confidential Business Information
 CCL Contaminant Candidate List
 CCR Consumer Confidence Report
 CFR Code of Federal Regulations
 CWS Community Water System
 DDVP Dichlorvos
 DEET N,N-Diethyl-m-toluamide
 DWSRF Drinking Water State Revolving Fund
 EPA Environmental Protection Agency
 EPTDS Entry Point to the Distribution System
 FDA Food and Drug Administration
 FR Federal Register
 GC/MS Gas Chromatography/Mass Spectrometry
 GWRMP Ground Water Representative Monitoring Plan
 ICR Information Collection Request
 IDC Initial Demonstration of Capability
 LC/MS/MS Liquid Chromatography/Tandem Mass Spectrometry
 LCMRL Lowest Concentration Minimum Reporting Level
 MGK N-octyl bicycloheptene dicarboximide
 MRL Minimum Reporting Level
 NAICS North American Industry Classification System
 NCOD National Contaminant Occurrence Database
 NPDWR National Primary Drinking Water Regulation
 NTNCWS Non-transient Non-community Water System
 NTTAA National Technology Transfer and Advancement Act
 OGWDW Office of Ground Water and Drinking Water
 OIRA Office of Information and Regulatory Affairs
 OMB Office of Management and Budget

PBI Proprietary Business Information
 PFAS Per- and Polyfluoroalkyl Substances
 PFMOAA Perfluoro-2-methoxyacetic acid
 PFOA Perfluorooctanoic acid
 PFOS Perfluorooctane sulfonate
 PN Public Notice
 PRA Paperwork Reduction Act
 PT Proficiency Testing
 PWS Public Water System
 RFA Regulatory Flexibility Act
 SBA Small Business Administration
 SBREFA Small Business Regulatory Enforcement Fairness Act
 SDWA Safe Drinking Water Act
 SDWARS Safe Drinking Water Accession and Review System
 SDWIS/Fed Safe Drinking Water Information System Federal Reporting Services
 SPE Solid Phase Extraction
 SRMD Standards and Risk Management Division
 TFA Trifluoroacetic Acid
 TFMS Trifluoromethanesulfonic Acid
 TFSI Bistriflimide
 UCMR Unregulated Contaminant Monitoring Rule
 UMRA Unfunded Mandates Reform Act of 1995
 USDA United States Department of Agriculture
 USEPA United States Environmental Protection Agency
 USGS United States Geological Survey
 VCSB Voluntary Consensus Standard Body

I. Executive Summary

A. Purpose of the Regulatory Action

1. What action is the EPA taking?

The U.S. Environmental Protection Agency (EPA or agency) is proposing the sixth Unregulated Contaminant Monitoring Rule (UCMR 6). Under the Safe Drinking Water Act (SDWA), the UCMR program gathers data about unregulated contaminant occurrence in drinking water. The proposed UCMR 6 would require certain public water systems (PWSs) to collect national occurrence data for 30 unregulated contaminants that are not currently subject to national primary drinking water regulations (NPDWRs). This proposed rulemaking would require all community water systems (CWSs) and non-transient non-community water systems (NTNCWSs) serving 3,300 or more people, and a representative sample of smaller PWSs serving fewer than 3,300 people, to conduct monitoring. The data collected will be publicly available and will inform decisions by the EPA.

Consistent with the “U.S. Environmental Protection Agency Implementation of Gold Standard Science” (USEPA, 2025a) based on Executive Order 14303 (White House, 2025), this proposal identifies four drinking water analytical methods to support PWS monitoring for a total of 30

contaminants. These contaminants consist of seven ultrashort organofluorine compounds (including certain PFAS), three pesticide metabolites, 13 semivolatile organic compounds, and seven purgeable organic compounds. The proposed inclusion of ultrashort organofluorine compounds, which include certain PFAS,¹ is also consistent with the EPA's priority to address PFAS in drinking water as established in the 2019 PFAS Action Plan (USEPA, 2019). This proposal also describes the EPA's evaluation of alternate contaminants and invites public comment on all aspects of the proposal.

2. Does this action apply to me?

This proposed rule applies to PWSs described in this section. PWSs are systems that provide water for human consumption through pipes, or constructed conveyances, to at least 15 service connections, or that regularly serve an average of at least 25 individuals daily at least 60 days out of the year. A CWS is a PWS that has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. An NTNCWS is a PWS that is not a CWS and that regularly serves at least 25 of the same people over six months per year. Under this proposal, all large CWSs and NTNCWSs serving more than 10,000 people would be required to monitor. In addition, all small CWSs and NTNCWSs serving between 3,300 and 10,000 people and a nationally representative sample of CWSs and NTNCWS serving fewer than 3,300 people would be required to monitor, subject to the availability of appropriations and appropriate laboratory capacity (see discussion of America's Water Infrastructure Act of 2018 (AWIA) in sections I.A.3 and I.B of this document). (For a description of the statistical approach for the nationally representative sample see “*Selection of Nationally Representative Public Water Systems for the Unregulated Contaminant Monitoring Rule: 2021 Update*” (USEPA, 2021a)). As is generally the case for UCMR sampling,

¹ The fifth Contaminant Candidate List (CCL 5) (87 FR 68060, November 14, 2022 (USEPA, 2022)) defines the structural definition of PFAS to include chemicals that contain at least one of these three structures:

1. R-(CF₂)_n-CF(R')R'', where both the CF₂ and CF moieties are saturated carbons, and none of the R groups can be hydrogen
2. R-CF₂OCF₂-R', where both the CF₂ moieties are saturated carbons, and none of the R groups can be hydrogen
3. CF₃C(CF₃)RR', where all the carbons are saturated, and none of the R groups can be hydrogen.

transient non-community water systems (TNCWSs) (*i.e.*, non-community water systems that do not regularly serve at least 25 of the same people over six months per year) would not be required to monitor under UCMR 6.

States, territories, and tribes with primary enforcement responsibility (primacy) to administer the regulatory

program for PWSs under SDWA (hereinafter referred to in this document as “states”) can participate in the implementation of UCMR 6 through voluntary Partnership Agreements (see discussion of Partnership Agreements in section III.N in this document). Primacy agencies with Partnership Agreements

can choose to be involved in various aspects of the UCMR 6 monitoring for PWSs they oversee; however, the PWS remains responsible for all compliance activities.

Potentially regulated categories and entities are identified in the following table.

Category	Examples of potentially regulated entities	NAICS ¹
State, Local, & Tribal governments.	State, local, and tribal governments that analyze water samples on behalf of PWSs required to conduct such analysis; state, local, and tribal governments that directly operate CWSs and NTNCWSs required to monitor.	924110
Industry	Private operators of CWSs and NTNCWSs required to monitor	221310
Municipalities	Municipal operators of CWSs and NTNCWSs required to monitor	924110

¹ NAICS = North American Industry Classification System.

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated by this action. This table includes the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not included could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the definition of PWS found in sections 141.2 and 141.3, and the applicability criteria found in section 141.40(a)(1) and (2) of Title 40 in the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

3. What is the EPA’s authority for taking this action?

As part of its authority under SDWA, the EPA implements section 1445(a)(2), Monitoring Program for Unregulated Contaminants. This section, as amended in 1996, requires that once every five years, beginning in August 1999, the EPA issue a list of unregulated contaminants to be monitored by PWSs. SDWA requires that the EPA enter the monitoring data into the agency’s publicly available National Contaminant Occurrence Database (NCOD) for drinking water at <https://www.epa.gov/sdwa/national-contaminant-occurrence-database-ncod>.

The EPA must vary the frequency and schedule for monitoring based on the number of persons served, the source of supply, and the contaminants likely to be found. The EPA is using its SDWA section 1445(a)(2) authority as the basis for requiring covered systems to monitor for the unregulated contaminants proposed under this rulemaking.

SDWA, as amended by the AWIA (Pub. L. 115–270), specifies that, subject

to the availability of appropriations for such purpose and appropriate laboratory capacity, the EPA’s UCMR program must require all systems serving between 3,300 and 10,000 people to monitor, and ensure that only a nationally representative sample of systems serving fewer than 3,300 people are required to monitor. The program will continue to ensure that all systems serving a population larger than 10,000 people are required to monitor. This AWIA provision became effective October 23, 2021.

B. Summary of the Regulatory Action

The EPA proposes to require certain PWSs to collect occurrence data for 30 contaminants. These contaminants may be present in drinking water but are not yet subject to NPDRs. More specifically, the UCMR 6 proposal identifies the following: drinking water analytical methods to measure the UCMR contaminants; monitoring timeframe; sampling locations; data elements (*i.e.*, information required to be collected along with the occurrence data); and conforming and editorial changes, such as those necessary to remove requirements solely related to UCMR 5.

This proposed action, once finalized, will provide the EPA, states, and communities with scientifically valid data on the national occurrence of these contaminants in drinking water. The UCMR data are the primary source of national occurrence data that the EPA uses to inform other SDWA programs and risk management decisions for drinking water contaminants. This proposal identifies four drinking water analytical methods to be used by laboratories analyzing UCMR samples for the unregulated contaminants. In addition, section III.E of this document describes how the EPA evaluated other candidate contaminants.

This proposed rulemaking reflects the monitoring approach defined in the AWIA amendments and describes the UCMR 6 scope as including all systems serving 3,300 or more people, and a representative sample of systems serving fewer than 3,300 people. SDWA section 1445(a)(2)(C)(ii) requires the EPA to “pay the reasonable cost of such testing and laboratory analysis” for all applicable PWSs serving 10,000 or fewer people. Accordingly, the AWIA conditioned the monitoring scope on the availability of appropriations and on the availability of adequate laboratory capacity to analyze the samples.

Based on the EPA’s experience implementing the AWIA scope in UCMR 5 and informed by ongoing engagement with the laboratory community, the EPA anticipates that sufficient laboratory capacity will continue to support the scope defined by the AWIA. Regarding the EPA’s resources, the agency plans on taking the same approach outlined in UCMR 5 that enables the agency to adjust the number of small PWSs that serve 10,000 or fewer people to monitor based upon the appropriations received each fiscal year. Regardless of whether the EPA is able to carry out the monitoring outlined in the AWIA or reduces the scope of that monitoring due to availability of appropriations, the small PWS data collection, coupled with data collection from all large PWSs serving more than 10,000 people under this action, will provide scientifically valid data on the national occurrence of 30 unregulated contaminants in drinking water. See “*Selection of Nationally Representative Public Water Systems for the Unregulated Contaminant Monitoring Rule: 2021 Update*” for further details about the nationally representative sample (USEPA, 2021a).

II. Public Participation

A. Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2023–0469, at <https://www.regulations.gov>, (our preferred method), or the other methods identified in the **ADDRESSES** section of this document. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Contact the EPA if you want to submit CBI; see **FOR FURTHER INFORMATION CONTACT** section of this document. 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). Please visit <https://www.epa.gov/dockets/commenting-epa-dockets> for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

B. Participation in Virtual Public Meeting

The EPA will hold two identical virtual public meetings during the public comment period on August 11, 2026 and August 12, 2026. Topics will include the proposed UCMR 6 monitoring requirements, contaminant selection and rationale, drinking water analytical methods, and the laboratory approval process. To register to attend the meeting or speak, please use the online registration form available at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials> or contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. The last day to pre-register to speak at the meeting will be July 31, 2026. On August 10, 2026, the EPA will post a general agenda for the meeting that will list pre-registered speakers in approximate order at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials> and will concurrently email registered

participants the materials that were posted on the website.

The EPA will make every effort to follow the schedule as closely as possible on the day of the meeting; however, please plan for the identical events to run either ahead of schedule or behind schedule.

Each commenter will have the opportunity to provide oral testimony, and the agency will allocate the time available amongst the commenters who registered to speak (*i.e.*, not to exceed 10 minutes). We ask that only one person present on behalf of a group or organization. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically by emailing it to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. The EPA also recommends submitting the text of your oral comments as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public meeting.

Please note that any updates made to any aspect of the meeting will be posted online at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials> and will be emailed to those who register to attend the meeting. While the EPA expects the meeting to go forward as set forth above, please monitor our website or contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates. The number of connections available for the meeting is limited and will be available on a first-come, first-served basis. If the number of connections becomes limited, the EPA will post additional dates and times online at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials>.

The EPA will not provide audiovisual equipment for presentations unless we receive special requests in advance. Commenters should notify the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document when they pre-register to speak that they will need specific equipment. If you require the services of an interpreter or special accommodation such as audio description, please pre-

register for the webinar with the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document and describe your needs by July 30, 2026. The EPA may not be able to arrange accommodations without advance notice.

III. General Background Information

A. How are the Contaminant Candidate List (CCL), the UCMR program, the Regulatory Determination process, and the NCOD interrelated?

Under SDWA, Congress established a multistep, risk-based approach for determining which contaminants would become subject to drinking water standards. Under the first step, the EPA is required to publish a CCL every five years that identifies contaminants that are not subject to any proposed or promulgated drinking water standards, are known or anticipated to occur in PWSs, and may require future action under SDWA. Under the second step, the EPA must require, every five years, monitoring of unregulated contaminants to determine the frequency and level of their occurrence in drinking water systems; this is the UCMR program. Under the third step, the EPA is required to determine, every five years, whether or not to regulate at least five contaminants from the CCL through the regulatory determination process. Under SDWA sections 1412(b)(1)(A), the EPA regulates a contaminant in drinking water if the Administrator determines that:

(1) The contaminant may have an adverse effect on the health of persons;

(2) the contaminant is known to occur or there is substantial likelihood that the contaminant will occur in PWSs with a frequency and at levels of public health concern; and

(3) in the sole judgment of the Administrator, regulation of such contaminant presents a meaningful opportunity for health risk reduction for persons served by PWSs. Where the Administrator determines that a contaminant meets all three criteria, SDWA requires the EPA to propose and publish a NPDWR. Information on the CCL and the regulatory determination process can be found at <https://www.epa.gov/ccl>.

The data collected through the UCMR program are made available to the public through the NCOD for drinking water. SDWA section 1445(g)(3) requires that the EPA maintain UCMR data in the NCOD and use the data when evaluating the occurrence of contaminants in drinking water at a level of public health concern. The UCMR results can be viewed at <https://www.epa.gov/sdwa/>

nationalcontaminant-occurrence-database-ncod or via the UCMR web page at <https://www.epa.gov/dwucmr>.

B. What public engagement opportunities have been held in preparation for UCMR 6?

The EPA incorporates public involvement into each UCMR cycle. Specific to the development of UCMR 6, the EPA sought comments on drinking water method development for emerging contaminants, and held a public meeting, state consultation, tribal consultation, and Alaska Native Claims Settlement Act (ANCSA) consultation. A summary of the public comments for each of these meetings is included in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. Additionally, the EPA is announcing another meeting in this proposal (see section II.B of this document).

On February 8, 2024, the EPA published a **Federal Register** notice that requested public input on the development of drinking water analytical methods for unregulated contaminants (89 FR 8584, (USEPA, 2024a)). The notice focused on contaminants listed on the fifth Contaminant Candidate List (CCL 5),

that might support monitoring under the UCMR 6 and/or other future UCMR cycles. The EPA received 12 public comments throughout the 60-day comment period.

The EPA hosted two identical pre-proposal meetings on April 17 and April 18, 2024, to discuss potential approaches for developing UCMR 6, including: the status of drinking water analytical methods and contaminants being considered; possible sampling design; laboratory approval; other potential aspects of the monitoring approach; and included time for public questions and statements (89 FR 8584, (USEPA, 2024a)). Representatives from state agencies, laboratories, PWSs, environmental organizations, and drinking water associations joined the meeting. The presentation materials can be found on the EPA's Unregulated Contaminant Monitoring Program Meetings and Materials webpage at <https://www.epa.gov/dwucmr/unregulated-contaminant-monitoring-rule-ucmr-meetings-and-materials>.

The EPA hosted the state consultation from May 30 to July 1, 2024, with the meeting on May 29, 2024, to discuss the early development of UCMR 6, and the voluntary options states have in the implementation of the UCMR program.

Thirty state representatives attended the meeting and participated in the discussion (USEPA, 2026a).

The EPA hosted the tribal consultation from March 10 to June 20, 2024, with the meeting on May 20, 2024 (USEPA, 2026b), and the ANCSA consultation from December 6, 2024, to February 10, 2025, with the meeting on January 15, 2025 (USEPA, 2026c). More details on tribal and ANCSA consultations can be found in section V.G of this document.

C. What notable changes are being proposed for UCMR 6?

This proposed action updates the existing UCMR (*i.e.*, UCMR 5), by revising: the list of contaminants for UCMR 6, the drinking water analytical methods for these new contaminants, the data elements for reporting, and the monitoring timeframe. A track-changes version of the rule language, comparing UCMR 5 to the proposed changes for UCMR 6, (“*Proposed Revisions to 40 CFR parts 141.35 and 141.40*” (USEPA, 2026d)), is included in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. The EPA’s proposed approach and rationale for changes are described in the following sections.

EXHIBIT 1—NOTABLE CHANGES PROPOSED FOR UCMR 6

CFR rule section		Current (UCMR 5) requirement	Description of change (UCMR 6)	Corresponding preamble section
No.	Title/description			
§ 141.40(a)(3)	Related specifications for the analytes to be monitored.	UCMR 5 specified 30 contaminants for monitoring; identified associated drinking water analytical methods, Minimum Reporting Levels (MRLs), and sample locations.	Proposes a new list of 30 contaminants for monitoring; identifies associated drinking water analytical methods, MRLs, and sampling locations.	III.D, III.E.
§ 141.40(a)(3)	Related specifications for sampling timeframe.	UCMR 5 specified the sample collection dates from January 2023 through December 2025.	Proposes to revise the sample collection dates from January 2028 through December 2030 for UCMR 6.	III.H.
§ 141.40(a), § 141.35(c)(4)	Applicability dates	UCMR 5 specified February 1, 2021, as the date for determining which PWSs were subject to monitoring, and April 26, 2022, as the date large PWSs must contact the EPA or state if they have not been notified of the requirements.	Proposes to revise the dates to February 1, 2026, and April 26, 2027, for UCMR 6.	III.F.
§ 141.35(c)(1), § 141.35(c)(2), § 141.35(c)(5)(i), § 141.35(d)(2) and § 141.40(a)(4)(i).	Reporting and sampling requirements.	UCMR 5 specified December 31, 2022, as the final date for PWSs to report contact and zip code information, sampling location inventory information, and scheduling and rescheduling notification requirements.	Proposes to revise the date to December 31, 2027, for UCMR 6.	III.G.
§ 141.35(e)	Reporting requirements—Data elements.	UCMR 5 specified data elements applicable to the contaminants included in that cycle.	Proposes changes to the data elements to be reported to the EPA based on the contaminants proposed for monitoring.	III.J.

EXHIBIT 1—NOTABLE CHANGES PROPOSED FOR UCMR 6—Continued

CFR rule section		Current (UCMR 5) requirement	Description of change (UCMR 6)	Corresponding preamble section
No.	Title/description			
§ 141.40(a)(5)(ii)	Laboratory approval application timeframe.	UCMR 5 specified that registration and application materials are to be submitted to the EPA by August 1, 2022.	Proposes to revise the date to August 1, 2027, for UCMR 6.	III.L.

D. How did the EPA identify the contaminants being proposed for UCMR 6?

In establishing the proposed list of contaminants for UCMR 6, the EPA evaluated unregulated contaminants

consistent with the statutory authorities described in section I.A of this document. The UCMR is one of the first steps in the SDWA regulatory process and is used to inform the criteria outlined in SDWA 1412(b) for EPA's regulatory determinations (see section

III.A). Consistent with SDWA section 1445(a)(2) as amended by the AWIA, and the process described in this document, the EPA is proposing monitoring for the unregulated contaminants listed in Exhibit 2.

EXHIBIT 2—PROPOSED UCMR 6 CONTAMINANTS

Seven Purgeable Organic Compounds using EPA Method 524.3 Enhanced Sensitivity (P&T GC/MS)¹

1,2,4-Trimethylbenzene	1,2,3-Trichloropropane (1,2,3-TCP).
1,1,2,2-Tetrachloroethane	Total 1,3-Dichloropropene (cis- & trans-).
Naphthalene	Hexachlorobutadiene.
1,1,1,2-Tetrachloroethane	

13 Semivolatile Organic Compounds using EPA Method 525.3 (SPE GC/MS)²

Phorate	Chlorothalonil.
Dichlorvos (DDVP)	Metribuzin.
N,N-Diethyl-m-toluamide (DEET)	Pyrene.
Trifluralin	Isophorone.
2,4-Dinitrotoluene	2,6-Dinitrotoluene.
Tetrachlorvinphos (Stirofos)	Anthracene.
Fluorene	

Three Pesticide Metabolites using EPA Method 540 (SPE LC/MS/MS)³

Chlorpyrifos oxon	Phorate sulfone.
Phorate sulfoxide	

Seven Ultrashort Organofluorine Compounds using EPA Method 563 (LC/MS/MS)⁴

Perfluoropropanesulfonic acid (PFPrS) ⁵	Perfluoropropanoic acid (PFPrA). ⁵
Perfluoroethanesulfonic acid (PFETs) ⁵	Perfluoro-2-methoxyacetic acid (PFMOAA). ⁵
Trifluoromethanesulfonic acid (TFMS)	Bistriflimide (TFSI).
Trifluoroacetic acid (TFA)	

¹ EPA Method 524.3 Enhanced Sensitivity (Purge-and-trap (P&T) capillary column gas chromatography/mass spectrometry (GC/MS)) (USEPA, 2026e).

² EPA Method 525.3 (Solid phase extraction (SPE) capillary column gas chromatography/mass spectrometry (GC/MS)) (USEPA, 2012a).

³ EPA Method 540 (Solid phase extraction (SPE) liquid chromatography/tandem mass spectrometry (LC/MS/MS)) (USEPA, 2013a).

⁴ EPA Method 563 (Liquid chromatography/tandem mass spectrometry (LC/MS/MS)) (USEPA, 2026f).

⁵ Identified as a PFAS in accordance with definition used in CCL 5.²

SDWA 1445(a)(2) requires the EPA to establish criteria for a monitoring program for unregulated contaminants. As a starting point, the EPA considered

² For CCL 5 (USEPA, 2022), the structural definition of PFAS included chemicals that contain at least one of these three structures:

1. R-(CF₂)-CF(R')R'', where both the CF₂ and CF moieties are saturated carbons, and none of the R groups can be hydrogen

2. R-CF₂OCF₂-R', where both the CF₂ moieties are saturated carbons, and none of the R groups can be hydrogen

3. CF₃C(CF₃)RR', where all the carbons are saturated, and none of the R groups can be hydrogen.

the CCL 5, which includes 66 chemicals, three chemical groups and 12 microbes (87 FR 68060, November 14, 2022 (USEPA, 2022)). The agency also evaluated contaminants nominated by the public for potential inclusion on the sixth CCL (CCL 6) (88 FR 10316, February 17, 2023 (USEPA, 2023)) and considered other priority contaminants beyond the CCL. Further, the EPA considered the opportunity to collect occurrence data for contaminants within the scope of the drinking water analytical methods that already contained a CCL contaminant based on

available health and occurrence information to create a more cost-effective design (*i.e.*, maximize the number of contaminants in each drinking water analytical method, to reduce overall cost and burden). Consistent with the “U.S. Environmental Protection Agency Implementation of Gold Standard Science” (USEPA, 2025a) based on Executive Order 14303 “Restoring Gold Standard Science,” (White House, 2025), the EPA evaluated candidate UCMR 6 contaminants using a prioritization process that deprioritized

contaminants that were previously monitored under a prior UCMR cycle (unless there was a compelling case to monitor for them again) as well as contaminants not expected to have a completed, validated drinking water method in time for rule proposal. The potential contaminants for the monitoring program were then further evaluated based on health effects information, if available, to inform public health concern, and the occurrence information, if available, to inform the likelihood the contaminant will be found in finished drinking water.

Additional information on this prioritization process, as well as contaminant-specific information (e.g., source, use, production, release, persistence, mobility, health effects, and occurrence) that the EPA used to evaluate candidate contaminants, is contained in “*Information Compendium for Candidate Contaminants for the Proposed Sixth Unregulated Contaminant Monitoring Rule (UCMR 6)*” (USEPA, 2026g), found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. The EPA invites comment on the proposed UCMR 6 contaminants (and their associated drinking water analytical methods) identified in Exhibit 2.

PFAS are a diverse group of compounds and the CCL 5 lists PFAS as a group, characterized by a structural definition, which EPA uses as a first step in considering individual compounds. The recently-developed EPA Method 563³ can capture certain PFAS, as defined by the CCL 5 (i.e., PFMOAA, PFPrA, PFPrS, PFEtS). As noted in the 2019 PFAS Action Plan (USEPA, 2019), these PFAS, referred to as short-chain PFAS have been less thoroughly studied, but are a concern due to increase global production and use.

While TFMS, TFSI, and TFA are not defined as PFAS under the CCL 5 structural definition, these ultrashort organofluorine compounds are persistent in the environment, highly mobile, used widely in industry, and have health effects information (USEPA, 2026g). Due to the similarities in chemical structure to the CCL 5 defined PFAS, TFMS, TFSI, and TFA can also be analyzed by EPA Method 563. This allows the EPA to better understand the frequency and occurrence of this suite

of contaminants without increased costs, and can inform and prioritize future resource-intensive research. During early stakeholder engagement, the public provided both written comments and discussions in support of monitoring for these contaminants in public drinking water (see section III.B).

Additionally, as a part of the process to identify contaminants for the monitoring program, the agency identified an alternate contaminant in the event that one is needed. The agency identified MGK 264 as the alternate contaminant. MGK 264 is an ingredient used in common insecticides to enhance the potency of pyrethroid ingredients. This contaminant has not been monitored under a previous UCMR cycle, is in a method already proposed for UCMR 6, and has an available health assessment (USEPA, 2021c). If, during the laboratory approval process, the agency determines that laboratories are experiencing analytical difficulties with one of the proposed contaminants, the agency intends to replace that contaminant with MGK 264 a priority alternate from EPA Method 525.3 in the final UCMR 6. The EPA welcomes comments on the potential inclusion of MGK 264 in UCMR 6.

The EPA notes that two contaminants deviate from the prioritization process outlined in this section. 1,2,3–TCP has already been monitored in a previous UCMR cycle and the discussion for that contaminant’s inclusion is in section III.D.1 of this document. The parent contaminant to chlorpyrifos oxon, chlorpyrifos, has already been monitored in a previous UCMR cycle and the discussion for that contaminant’s inclusion is in section III.D.2 of this document.

1. 1,2,3-Trichloropropane (1,2,3–TCP)

1,2,3–TCP is a likely carcinogenic man-made chemical used as an industrial solvent, cleaning agent, degreasing agent, and synthesis intermediate (USEPA, 2009a, USEPA, 2026g). This contaminant was included on the third, fourth, and fifth CCLs and was monitored during UCMR 3 (USEPA, 2009a, USEPA, 2016a, USEPA, 2022, USEPA, 2012b). The UCMR 3 occurrence data can be found at <https://www.epa.gov/dwucmr/occurrence-data-unregulated-contaminant-monitoring-rule#3>. The EPA did not make a regulatory determination for 1,2,3–TCP during Regulatory Determination 4 (86 FR 12272, March 3, 2021 (USEPA, 2021b)), and did not make a preliminary determination in Regulatory Determination 5 (90 FR 3830, January 15, 2025 (USEPA, 2025b)), due in part to the drinking water analytical method

minimum reporting level (MRL = 0.03 µg/L) being substantially higher than the level of public health concern, which presents uncertainty when characterizing exposure and a potential meaningful opportunity for health risk reduction. To better understand the potential risk of this contaminant in drinking water, the agency developed “*Recommended Parameters to Enhance Sensitivity for the Analysis of Select Purgeable Organic Compounds using EPA Method 524.3 in Selected Ion Monitoring (SIM) Mode*” (USEPA, 2026e) that can detect 1,2,3–TCP at lower concentrations (0.009 µg/L) than what was feasible in the method “*Method 524.3: Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry*,” (USEPA, 2009b) used during UCMR 3. Monitoring using this optimized method would provide the EPA with occurrence data closer to the levels of public health concern, which will provide the agency with additional information that could inform future regulatory decisions for 1,2,3–TCP through SDWA.

2. Chlorpyrifos and Chlorpyrifos Oxon

Chlorpyrifos and its metabolite, chlorpyrifos oxon, are organophosphate pesticides that are used on crops, animals, in buildings, and in other settings, to kill several pests, including insects and worms (USEPA, 2026g). Chlorpyrifos, which is a neurotoxin (USEPA, 2020), is listed on the CCL 5 (87 FR 68060, November 14, 2022 (USEPA, 2022)), is used across the country on a variety of crops (USGS, 2019), and was monitored during UCMR 4 (MRL = 0.03 µg/L) (81 FR 9266, December 20, 2016 (USEPA, 2016b)). There was limited occurrence of the parent, chlorpyrifos, in UCMR 4 (for data results see <https://www.epa.gov/dwucmr/occurrence-data-unregulated-contaminant-monitoring-rule#archival>). However, chlorpyrifos metabolizes into chlorpyrifos oxon during the chlorination of drinking water, which is a treatment commonly used in PWSs (USEPA, 2005). As a result, the metabolite has a higher likelihood of being found in finished drinking water, and occurrence data is critical to characterizing exposure and a potential meaningful opportunity for health risk reduction. Therefore, the EPA proposes to monitor for chlorpyrifos oxon in UCMR 6. Additionally, EPA Method 540 is being considered for UCMR 6 because it includes the pesticide metabolites, phorate sulfone and phorate sulfoxide, which are both tied to the CCL 5 contaminant phorate in EPA Method 525.3.

³ The organofluorine Method 563 was in the early stages of development at the time of the February 2024 Federal Register Notice (89 FR 8584, (USEPA, 2024a)) and did not have a full analyte list. This method has since been finalized and is available in the UCMR 6 docket for public comment.

E. What other contaminants did the EPA consider for UCMR 6?

This notice describes the 30 contaminants that the agency has identified as the highest priorities for UCMR 6 monitoring through the process described in the preceding section of this document. This process prioritizes the unregulated contaminants, for which nationally representative data on the frequency and level of occurrence is critical to characterizing exposure and assessing whether there is a meaningful opportunity for health risk reduction. The EPA considers that the primary utility of the UCMR data is to provide data to the other SDWA programs. SDWA requires that the data collected under the UCMR be used to develop the CCL (see SDWA section 1412(b)(1)(B)(i)(I)) and to make regulatory determinations for CCL contaminants (see SDWA section 1412(b)(1)(B)(ii)(II)). The data collected under the UCMR also provides states and PWSs with information that could be used to protect public health in each state.

In developing this UCMR action, the EPA considered the burden that UCMR places upon PWSs to monitor and, consistent with SDWA sections 1445(j) and 1452(o), the availability of funding to pay the cost of small PWS monitoring, the laboratory capacity to support the analysis of UCMR samples, and the utility of the information to be collected. For further information on these contaminants, see “*Information Compendium for Candidate Contaminants for the Proposed Sixth Unregulated Contaminant Monitoring Rule (UCMR 6)*” (USEPA, 2026g), found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469.

The EPA invites comment on the contaminants described in the following sections and any other priority contaminants commenters wish to recommend. In your comments, please identify the following: any new contaminant(s) that you believe should be included in the UCMR 6 monitoring; any contaminant(s) in Exhibit 2 that you believe should be removed from the list; the recommended drinking water analytical method(s) for any new contaminant(s) that you propose; and other relevant details (e.g., reporting level, sampling location, sampling frequency, analytical cost). Comments that provide supporting data or rationale are especially helpful.

1. Microplastics

On November 26, 2025, the agency received a petition from the Governors

of 7 states (Governors’ Petition) to include microplastics on UCMR 6. SDWA section 1445(a)(2)(B)(ii) provides that “[t]he Administrator shall include among the list of contaminants for which monitoring is required under this paragraph each contaminant recommended in a petition signed by the Governor of each of 7 or more states, unless the Administrator determines that the action would prevent the listing of other contaminants of a higher public health concern.” The EPA also received a petition from the Food and Water Watch group with signatures from other organizations supporting monitoring for microplastics in UCMR 6 (a copy of that petition and response, and the Governors’ Petition have been placed in the public Docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469).

The EPA has listed microplastics as a group on the draft Contaminant Candidate List (CCL 6) as a first step toward defining and better understanding potential public health risk from exposure via drinking water (USEPA, 2026h). The EPA will collaborate with other federal agencies to evaluate risks and exposures of microplastics to enable future monitoring for those microplastics that present potential health risks. This approach will also enable the EPA to list microplastics on a future UCMR when national monitoring is scientifically feasible through the availability of a validated drinking water analytical method.

As the Governors’ Petition acknowledges, there is no validated EPA or consensus drinking water analytical method with the proper quality control data, accuracy, and precision that could be used for UCMR 6, and it is not feasible to develop a drinking water analytical method within the statutory timeframe (i.e., December 27, 2026). If microplastics were included on UCMR 6, the PWSs subject to this rulemaking would be unable to successfully monitor for microplastics. Such monitoring is the central purpose of the UCMR as outlined by SDWA section 1445(a)(2). In addition, the agency and the public would lose an opportunity to gain occurrence information on other unregulated contaminants that have a drinking water analytical method available for UCMR 6.

The Governors’ Petition asserts that “the variability in methodologies for detecting microplastics poses challenges to data consistency and comparability” and “this variability complicates efforts to standardize findings, underscoring the need for harmonized protocols to ensure reliable data collection and

analysis.” The agency will continue to evaluate the existing procedures and techniques (ASTM—D8332–20 and D8333–20) (ASTM, 2020a, ASTM, 2020b) to develop robust and validated methods, as well as adequate laboratory capacity, that would support national monitoring for microplastics in a future UCMR.

The agency acknowledges the interest in and concern for microplastics in drinking water, and believes that including these contaminants on the draft CCL 6 as a first step in responding to the petition will prioritize the research that is needed to define and better understand the characteristics of microplastics (i.e., size, type of plastic, shape, count, etc.) that are associated with the public health risk. This research may inform the development of drinking water analytical methods that can be used to standardize data collection and analysis in the future.

2. Pharmaceuticals

Pharmaceuticals in drinking water have been a public health concern for over a decade. Since 2012, the EPA has led a federal workgroup on pharmaceuticals in water alongside the United States Department of Agriculture (USDA), the United States Food and Drug Administration (FDA), and the United States Geological Survey (USGS) to exchange information on pharmaceuticals in the environment and to support the coordination of joint studies. The agency recently included a pharmaceuticals group on the draft CCL 6 to further prioritize research and information needed to identify which specific pharmaceuticals are occurring in drinking water and may be of greatest public health concern (USEPA, 2026h). The agency also released the “*Human Health Benchmarks for Pharmaceuticals (HHB-Rx) in Drinking Water*” (USEPA, 2026i). Human health benchmarks are non-enforceable drinking water levels that provide information about adverse health effects from drinking water exposure to contaminants that have no drinking water standards or health advisories. These actions support the agency’s approach to prioritize specific pharmaceuticals and develop drinking water analytical methods to support monitoring in a future UCMR.

F. What is the proposed UCMR 6 applicability date?

In CFR 141.40(a), the EPA proposes February 1, 2026, as the date to determine which PWSs are subject to UCMR 6. That is, the determination of whether a PWS is required to monitor under UCMR 6 is based on the type of system (e.g., CWS, NTNCWS) and its

retail population served, as indicated by the Safe Drinking Water Information System Federal Reporting Services (SDWIS/Fed) inventory on February 1, 2026. If a PWS believes its retail population served in SDWIS/Fed is inaccurate, the system should contact their state authority to verify its population as of the specified date and request a correction, if necessary. This applicability date is exactly five years from the last date published in UCMR 5 (86 FR 73131, December 27, 2021 (USEPA, 2021d)), based on the 5-year cycle of the UCMR program.

In CFR 141.35(c)(4), the EPA proposes April 26, 2027, as the date large PWSs must contact the EPA or state if the PWS believes they are subject to UCMR 6 and they have not been contacted by the EPA or the state. This date is also exactly five years from the last date published in UCMR 5 (86 FR 73131, December 27, 2021 (USEPA, 2021d)),

based on the 5-year cycle of the UCMR program.

G. What is the proposed UCMR 6 pre-monitoring reporting date?

In five different CFR sections, 141.35 (c)(1), 141.35 (c)(2), 141.35 (c)(5)(i), 141.35 (d)(2) and 141.40 (a)(4)(i), the EPA proposes December 31, 2027, as the reporting and sampling requirements date, by which PWSs are required to report contact information, zip code information, sampling location inventory information, and scheduling and rescheduling notifications. These updated dates are exactly five years from the last dates published in UCMR 5 (86 FR 73131, December 27, 2021 (USEPA, 2021d)), based on the 5-year cycle of the UCMR program.

H. What is the proposed UCMR 6 timeline of activities?

The proposed rule outlines the monitoring period for UCMR 6. From

the date of this proposal until January 1, 2028, the EPA will be conducting a number of activities, including reviewing comments and promulgating the final rule, coordinating laboratory approval, selecting representative small PWSs, organizing Partnership Agreements with states, developing State Monitoring Plans (see III.N of this document), establishing monitoring schedules and inventory, and conducting outreach and training. The EPA proposes that PWSs will collect samples between January 1, 2028—December 31, 2030, and PWSs must complete their monitoring by December 31, 2031. Exhibit 3 illustrates the major activities that the EPA expects will take place in preparation for, and during, the implementation of UCMR 6.

2027	2028	2029	2030	2031
Pre-Monitoring Activities Start with Publication of Proposal in 2026 • Laboratory Approval Program (continued from publication of proposal) • PWS SDWARS registration/notification/inventory/schedule/data elements • State Partnership Agreements, State Monitoring Plans • GWRMP submittal¹ • Outreach/trainings	Monitoring Activities • Assist PWSs with compliance • Implement small PWS monitoring • Post data quarterly to NCOD Reporting and Analysis of Data • All PWSs serving 3,300 or more people² • Representative sample of small PWSs serving fewer than 3,300 people³			Post-Monitoring Activities • Complete sampling, as needed • Conclude data reporting • Finalize NCOD • Compliance assistance/enforcement, as needed

¹ Ground water representative monitoring plan (GWRMP) submissions are due six months prior to PWS's scheduled monitoring date and could therefore occur during the UCMR 6 monitoring years.

² Monitoring by all PWSs serving between 3,300 and 10,000 people is subject to availability of appropriations and laboratory capacity.

³ Monitoring by small PWSs serving fewer than 3,300 is also subject to availability of appropriations and laboratory capacity.

I. What is the proposed UCMR 6 monitoring design?

The proposed rule identifies sampling and analysis for UCMR 6 contaminants based on the Assessment Monitoring framework, which provides the best nationally representative monitoring data set for determining if contaminants occur frequently and at levels of public health concern. Further information on this framework, including a description of the statistical approach for the nationally representative sample, can be found in the “*Statistical Design and Sample Selection for the Unregulated Contaminant Monitoring Regulation*” (USEPA, 2001) in the EPA public docket for this proposed rulemaking, under

Docket ID No. EPA–HQ–OW–2023–0469. With the addition of AWIA in 2018, the “*Selection of Nationally Representative Public Water Systems for the Unregulated Contaminant Monitoring Rule: 2021 Update*” (USEPA, 2021a) also found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469, expanded the UCMR scope prescribed by AWIA, clarified the monitoring framework, updated the description of the sampling design, and clarified how small PWSs would be selected in the event of insufficient appropriations.

As outlined in SDWA, to minimize the impact of the rule on small PWSs (those serving 10,000 or fewer people),

the EPA is responsible for their sample kit preparation, sample shipping fees, and sample analysis. If the EPA concludes that it will not have the appropriations necessary to support the monitoring described by the AWIA, the agency plans to adjust the number of small PWSs that serve 10,000 or fewer people to monitor based upon the available appropriations (see section III.O.2 of this document for more details). Consistent with prior UCMRs, large PWSs serving more than 10,000 people are responsible for any costs associated with their monitoring. Exhibit 4 shows a summary of the estimated number of both small and large PWSs subject to required monitoring.

EXHIBIT 4—PWSs EXPECTED TO PARTICIPATE IN UCMR 6 MONITORING

PWS size (number of people served)	Assessment monitoring design	Estimated number of PWSs per size category
Small PWSs ¹ (fewer than 3,300)	800 randomly selected CWSs and NTNCWSs	800
Small PWSs ² (3,300–10,000)	All CWSs and NTNCWSs	5,155
Large PWSs ³ (More than 10,000)	All CWSs and NTNCWSs	4,599
Total ⁴ .....	.....	10,554

¹ The EPA is responsible for all analytical costs associated with monitoring at small PWSs. If the EPA concludes that it will not have the resources necessary to support the full AWIA monitoring, the agency plans to adjust the number of small PWSs that are required to monitor based upon the available appropriations.

² Small PWS counts are from SDWIS/Fed in January 2025. The EPA is responsible for all analytical costs associated with monitoring at small PWSs. If the EPA concludes that it will not have the resources necessary to support the full AWIA monitoring, the agency plans to adjust the number of small PWSs required to monitor based upon the available appropriations.

³ All Large PWS are required to monitor; the counts are from SDWIS/Fed in January 2025.

⁴ The “*Statistical Design and Sample Selection for the Unregulated Contaminant Monitoring Regulation*” (USEPA, 2001) shows that a response rate of 82.375% will meet the data quality objectives (DQOs) for UCMR. The UCMR program has had a high response for the past five cycles, ranging from 99.8 percent to 100 percent respectively for both small and large PWSs. If the UCMR program ever experiences a low response rate, a plan will be considered.

1. Sampling, Frequency, and Timing

The anticipated number of samples collected by each PWS is consistent with prior UCMR cycles. PWSs would be required to collect samples based on the published UCMR sampling frequency and timeframe as follows: for ground water locations, sampling would take place twice over the course of a single 12-month period (total of two sampling events). Sampling events would occur five to seven months apart. For example, if the first sample is taken in April, the second sample would then occur anytime in September, October, or November. For surface water, ground water under the direct influence of surface water, and mixed locations, sampling would take place for four consecutive quarters over the course of a single 12-month period (total of four sampling events). Sampling events would occur three months apart. For example, if the first sample is taken in January, the second would then occur anytime in April, the third would occur anytime in July, and the fourth would

occur anytime in October. The monitoring frequency is designed to be spatially and temporally representative of occurrence. The design ensures that the sample results can be analyzed for temporal, seasonal, and between-system variability on a national level to support future decisions to protect public health.⁴

The EPA expects to consult with the states and draft schedules for large PWSs. Thereafter, these PWSs would have an opportunity to modify this initial schedule for planning purposes or other reasons (e.g., to spread costs over multiple years, a sampling location will be closed during the scheduled

⁴ The 36-month schedule produces thousands of monthly results per contaminant. These results can be analyzed for seasonal patterns and annual occurrence. The EPA designed the monitoring frequency to ensure that sample results would yield a high level of confidence and a low margin of error. Further information on the statistical approach for the nationally representative sample, can be found in the “*Statistical Design and Sample Selection for the Unregulated Contaminant Monitoring Regulation*” (USEPA, 2001) found in the docket.

month of monitoring). The EPA proposes to schedule and coordinate small PWS monitoring by working closely with states and small PWSs. State Monitoring Plans provide an opportunity for states to review and revise the initial sampling schedules that the EPA proposes (see discussion of State Monitoring Plans in section III.N of this document).

2. Sampling Locations

The EPA is proposing that sample collection for the UCMR 6 contaminants would take place at the entry point to the distribution system (EPTDS). The following are two ways for PWSs to reduce the number of EPTDSs at which they must sample: submit a GWRMP and/or utilize representative sampling from wholesaler connection.

One way for large ground water PWSs (or large surface water PWSs with ground water sources) that have multiple ground water EPTDSs to reduce their number of sampling locations, is to submit a GWRMP.

GWRMPs approved under prior UCMRs may be used for UCMR 6, presuming no significant changes in the configuration of the ground water EPTDSs since the prior approval. PWSs that intend to use previously approved plans must send the EPA a copy of the approval documents notifying the EPA that they intend on using the approved plan at least six months prior to their scheduled sample collection dates. Large ground water PWSs (and large surface water PWSs with ground water sources) that do not have an approved GWRMP may submit proposals at least six months prior to their scheduled sample collection dates. As for past UCMRs, details are described in CFR section 141.35(c)(3) and are available in the document, “Instructions for Preparing a Ground Water Representative Monitoring Plan for the Unregulated Contaminant Monitoring Rule,” (USEPA, 2021e) found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. Changes to inventory data in the Safe Drinking Water Accession and Review System (SDWARS) that impact a PWS’s representative plan before or during the UCMR sampling period must be reported to the EPA within 30 days of the change (e.g., the representative sampling location closes, and a new representative sampling location needs to be selected).

The second way for PWSs to reduce their number of EPTDSs that they must sample is for PWSs that purchase water with multiple connections from the same wholesaler, to select one representative connection from that wholesaler. As described in CFR section 141.40(a)(3) this representative EPTDS must be a location within the purchaser’s water system, after treatment is applied, and represent each non-emergency water source in routine use over the 12-month period of monitoring. The EPTDS sampling location must be representative of the highest annual volume of connections or if the connection selected as the representative EPTDS is not available for sampling, an alternate highest volume representative connection must be sampled.

J. What are the reporting requirements for UCMR 6?

The EPA proposes changes to the reporting requirements currently established for UCMR 6, as detailed in Table 1 of the CFR section 141.35(e), to account for the UCMR 6 contaminants being proposed. These changes include removing data elements related to the specific contaminants from the previous

UCMR, adding and updating data elements based on the proposed list of contaminants to be monitored, and improving data reporting from laboratories and PWSs based on experience from the previous UCMR. Recognizing that data elements are updated each monitoring cycle, the EPA invites comment on the proposed data elements and associated definitions, as well as any other data elements that may provide useful information to inform an assessment of the occurrence information and future actions to protect public health.

K. What are the Consumer Confidence Reporting and Public Notice (PN) Reporting requirements for PWSs that are subject to UCMR?

In addition to reporting UCMR monitoring data to the EPA, PWSs are responsible for addressing UCMR results in their Consumer Confidence Reports (CCRs) (40 CFR 141.153), as described in the **Federal Register** (89 FR 45980, May 24, 2024, (USEPA, 2024b)), and PN requirements (40 CFR 141.207). More details about the CCR and PN requirements can be viewed by the public at <https://www.epa.gov/ccr> and <https://www.epa.gov/dwreginfo/public-notification-rule>, respectively.

L. How do laboratories become approved to conduct the UCMR 6 analyses?

Consistent with prior UCMRs, this proposal maintains the requirement that PWSs use laboratories approved by the EPA to analyze UCMR 6 samples. Interested laboratories are encouraged to apply for EPA approval as early as possible, beginning with the publication of this proposal, to ensure national laboratory capacity. This early participation is also necessary, if laboratories are interested in a contract with the EPA to analyze samples from small systems. The contract solicitation will be released prior to the end of the laboratory approval program. The UCMR 6 laboratory approval process is designed to assess whether laboratories possess the required equipment and can meet laboratory-performance and data-reporting criteria described in this action.

The EPA anticipates following its standard approach to approving UCMR laboratories, which would require laboratories seeking approval to: (1) provide the EPA with data that demonstrate a successful completion of an initial demonstration of capability (IDC) as outlined in each method; (2) verify successful performance at or below the MRLs as specified in this action; (3) provide information about

laboratory standard operating procedures (SOPs); and (4) participate in an EPA proficiency test (PT) study for the analytes of interest. Audits of laboratories may be conducted by the EPA prior to and/or following approval, and maintaining approval is contingent on timely and accurate reporting. The “*UCMR 6 Laboratory Approval Manual*” (USEPA, 2026j) provides more specific details on the EPA laboratory approval program and the specific method acceptance criteria. This document can be found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. The EPA will also include sample collection procedures that are specific to the methods in the “*UCMR 6 Laboratory Approval Manual*,” and will address this point in the agency’s outreach to the PWSs that will be collecting samples.

The structure of the anticipated UCMR 6 laboratory approval program is similar to that employed in the previous UCMRs and would provide an assessment of the ability of laboratories to perform analyses using the methods listed in CFR section 141.40(a)(3), Table 1. PWSs are required to exclusively use laboratories that have been approved under the program. The EPA expects to post a list of approved UCMR 6 laboratories to <https://www.epa.gov/dwucmr> and will bring this to the attention of the PWSs in the agency’s outreach.

1. What are UCMR MRLs and how were they determined?

The EPA establishes MRLs for contaminants under the UCMR to ensure consistency in the quality of the information reported to the agency. As defined in CFR section 141.40(a)(5)(iii), the MRL is the minimum quantitation level that, with 95 percent confidence, can be achieved by capable analysts at 75 percent or more of the laboratories using a specified drinking water analytical method. A more detailed explanation of the MRL calculation is in the “*Technical Basis for the Lowest Concentration Minimum Reporting Level (LCMRL) Calculator*” (USEPA, 2010), available at <https://www.epa.gov/dwanalyticalmethods/lowest-concentration-minimum-reporting-level-lcmrl-calculator> and can also be found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469.

The EPA established the proposed MRLs in CFR section 141.40(a)(3), Table 1, for each analyte/method by obtaining data from at least three laboratories that performed “lowest concentration minimum reporting level” (LCMRL)

studies. The results from these laboratory LCMRL studies can be found in the “*UCMR 6 Laboratory Approval Manual*” (USEPA, 2026j) found in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. The EPA considers these to be the lowest reporting levels that can practically and consistently be achieved on a national basis (recognizing that individual laboratories may be able to measure at lower levels). The EPA invites comments on the proposed MRLs and will consider scientific information demonstrating that the proposed MRLs are unattainable for laboratories and laboratory capacity would become a concern for the UCMR program.

2. Request To Participate

Laboratories interested in the UCMR 6 laboratory approval program must first email the EPA at *UCMR_Lab_Approval@epa.gov* to request registration materials. The EPA expects to accept such requests beginning with the publication of this proposal in the **Federal Register**.

3. Registration

Laboratory applicants provide registration information that includes: laboratory name, mailing address, shipping address, contact name, phone number, email address, and a list of the UCMR 6 methods for which the laboratory is seeking approval. This registration step provides the EPA with the necessary contact information and ensures that each laboratory receives a customized application package.

4. Application Package

Laboratory applicants complete and return a customized application package that includes the following: IDC data, including precision, accuracy and results of MRL studies; information regarding analytical equipment and other materials; proof of current drinking water laboratory certification (for select compliance monitoring methods); method specific SOPs; and example chromatograms for each method under review.

5. The EPA’s Review of Application Package

The EPA will review the application packages and, if necessary, request follow-up information. Laboratories that successfully complete the application process become eligible to participate in the UCMR 6 PT program. Based on a January 1, 2028, anticipated start date for UCMR 6 sample collection, the EPA anticipates that the final opportunity for a laboratory to complete and submit the

necessary registration and application information will be August 1, 2027.

6. Proficiency Testing

A PT sample is a synthetic sample containing a concentration of an analyte or mixture of analytes that is known to the EPA, but unknown to the laboratory. To be approved, a laboratory is expected to meet specific acceptance criteria for the analysis of a UCMR 6 PT sample(s) for each analyte in each method, for which the laboratory is seeking approval. The EPA anticipates offering up to three of these studies prior to the publication of the final rule, and at least two studies after publication of the final rule. This allows laboratories to complete their portion of the laboratory approval process prior to publication of the final rule and receive their approval immediately following the publication of the final rule. Laboratories must pass a PT for every analyte in the method to be approved for that method and may participate in multiple PT studies in order to produce passing results for each analyte. The EPA does not expect to conduct additional PT studies after the start of PWS monitoring; however, laboratory audits will likely be ongoing throughout the implementation of UCMR 6. Initial laboratory approval is expected to be contingent on successful completion of PT studies, which includes properly uploading the PT results to SDWARS. Continued laboratory approval is contingent on successful completion of the audit process and satisfactorily meeting all the other stated conditions.

7. Written EPA Approval

After a laboratory successfully completes steps 1 through 6, the EPA expects to send the laboratory a notification letter listing the methods for which approval is either “pending” (*i.e.*, pending promulgation of the final rule if the PT studies have been conducted prior to that time), or for which approval is “granted” (if after promulgation of the final rule). Laboratories receiving pending approval are expected to be granted approval without further action following promulgation of the final rule if no changes have been made to the rule that impact the laboratory approval program. The EPA expects to contact the laboratory if changes are made between the proposed and final rules that warrant additional action by the laboratory.

As a condition of receiving and maintaining approval, the laboratory will be expected to promptly post UCMR 6 monitoring results and quality control data that meet method criteria

(on behalf of its PWS clients) to the EPA’s UCMR electronic data reporting system, SDWARS.

M. UCMR 6 Laboratory Capacity

The EPA believes there will be laboratory capacity for the proposed UCMR 6 contaminants. EPA Method 525.3 and EPA Method 524.3 with enhanced sensitivity, both use the same instrumental technology, SPE GC/MS. Laboratory capacity has been well-established for GC/MS instrumentation based on laboratory participation in previous UCMR cycles. Additionally, the technology is routinely used for compliance with NPDWRs.

The other two methods proposed for UCMR 6, EPA Method 563 and EPA Method 540, utilize LC/MS/MS. Laboratories are familiar with the LC/MS/MS instrumentation that both methods utilize since the LC/MS/MS instrumentation was first introduced to drinking water laboratories under UCMR 2, nearly 20 years prior (72 FR 368, (USEPA, 2007)). Since then, every cycle of the UCMR program has included at least one or more LC/MS/MS method(s), and the UCMR program has not experienced any laboratory capacity issues. EPA Method 563 is easier and quicker to run compared to EPA Methods 533 and 537.1, which were used for UCMR 5, since the sample can be directly injected into the instrumentation with limited preparation. This reduces potential laboratory burden, increases the number of samples that can be analyzed per day, and is ultimately more cost-effective.

The UCMR program engages the drinking water laboratory community early in the action development process and encourages comments regarding proposed methods, contaminants, sampling design, and other aspects of each UCMR cycle. For UCMR 6, laboratories had the opportunity to comment on method development in response to the **Federal Register** Notice (89 FR 8584, (USEPA, 2024a)), during the public webinars on April 17 and 18, 2024 (see the available summary on the EPA public docket for this proposed rule, under Docket ID No. EPA–HQ–OW–2023–0469), and will have the opportunity to provide input on this proposed action during the public comment period and associated public webinar (see section II of this document for further information).

Another way the EPA has established laboratory capacity is to initiate the UCMR laboratory approval program in concurrence with the proposal, and the agency is committed to this opportunity in the proposal today. This early engagement provides laboratories with

more time to receive approval from the EPA prior to the start of monitoring to ensure laboratory capacity. Lastly, the EPA initially schedules PWS monitoring equally over the 3-year monitoring period (2028–2030) to reduce capacity burden on participating laboratories. The EPA welcomes comments regarding laboratory capacity to support the proposed UCMR 6 contaminants, sampling design, and other relevant aspects of the rule.

N. What is the state’s role in the UCMR?

UCMR is a direct implementation rule (i.e., the EPA has primary responsibility for its implementation), and state participation is voluntary. Under the previous UCMR cycles, most states have participated in the UCMR and have agreed to carry out or assist with specific activities that are identified and established exclusively through Partnership Agreements. Through Partnership Agreements, states can help the EPA implement the UCMR and help ensure that the UCMR data are of the highest quality possible to best inform agency decision making. Under UCMR 6, the EPA expects to continue to use the Partnership Agreement process to determine and document the following: the process for review and revision of the State Monitoring Plans; replacing and updating PWS information including inventory; review of proposed GWRMPs; notification and instructions for PWSs; and compliance assistance.

The EPA recognizes that primacy agencies often have the best information about their PWSs and encourages them to partner in the UCMR 6 program.

O. Costs and Benefits

1. What is the estimated cost of this proposed action?

The EPA estimates the total annualized national cost of this proposed action in 2025 dollars will be \$33.7 million at both a 3 percent and 7 percent discount rate for the years 2027–2031. The EPA has documented the assumptions and data sources used in the preparation of this estimate in the “Draft Economic Analysis of the Sixth Unregulated Contaminant Monitoring Rule” (USEPA, 2026k). Copies of the Draft Economic Analysis may be obtained from the EPA public docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469. The agency proposes four drinking water analytical methods to analyze samples for 30 chemical contaminants. The EPA’s estimate of the analytical cost for the UCMR 6 contaminants is \$1,893 per sample set with field blanks. These costs were calculated by summing the laboratory unit cost of each method, along with the analysis of the quality control samples, and shipping the kits. Exhibit 1 presents a breakdown of the total annualized national costs in 2025 dollars. The EPA invites comment on the proposed UCMR 6 costs identified

in Exhibit 5 and throughout this proposal.

The EPA is responsible for the analytical costs for all PWSs serving a population of 10,000 or fewer people. Laboratory analysis and sample shipping account for approximately 77 percent of the total national cost for the implementation of UCMR 6. The EPA estimated laboratory unit costs are based on consultations with multiple commercial drinking water testing laboratories.

State participation in the UCMR program is voluntary; thus, the level of effort is expected to vary among states and would depend on their individual agreements with the EPA. The agency expects that states that choose to participate may incur modest labor costs associated with voluntary assistance with the implementation of UCMR 6. The EPA estimated state costs using the relevant assumptions from the State Resource Model developed by the Association of State Drinking Water Administrators (ASDWA) (ASDWA, 2020) to help states forecast resource needs. Model estimates were adjusted to account for actual levels of state participation under UCMR 5.

The EPA assumes that one-third of the PWSs would monitor during each of the three sample-collection years from January 2028 through December 2030. The total estimated annual costs (labor and non-labor) would be incurred as follows:

EXHIBIT 5—TOTAL ANNUALIZED COSTS OF THE PROPOSED UCMR 6 USING 3 PERCENT AND 7 PERCENT DISCOUNT RATES
[In millions of 2025 dollars]

Respondent	Costs (3%)	Costs (7%) ¹
Small PWSs (10,000 or fewer people), including labor ² only (non-labor costs ³ paid for by the EPA)	\$0.4	\$0.4
Large PWSs (10,001 or more), including labor and non-labor costs	\$16.7	\$16.7
States, including labor costs related to implementation coordination	\$0.5	\$0.5
EPA, including labor for implementation and non-labor for small PWS testing	\$16.1	\$16.1
Total Annualized National Cost ⁴	\$33.7	\$33.7

¹ Please see section III.O.2 of this document, which describes the reduced cost alternative if the funds are not received to implement the monitoring as outlined by AWIA.
² Labor costs pertain to PWSs, states, and the EPA. Costs include activities such as reading the rule, notifying PWSs selected to participate, sample collection, data review, reporting, and recordkeeping.
³ Non-labor costs will be incurred primarily by the EPA and by large PWSs. They include the cost of shipping samples to laboratories for testing and the cost of the laboratory analyses.
⁴ Totals may not equal the sum of components due to rounding.

2. What are the costs of alternative approaches to implementing the proposed UCMR 6?

As noted in section I.A.3 of this document, the AWIA amendments to SDWA conditioned the UCMR monitoring scope on the availability of appropriations. See SDWA section

1445(j)(1). If the EPA concludes that it will not have the resources necessary to support the full monitoring described by the AWIA, the agency will reduce the number of small PWSs serving 10,000 or fewer people that will be required to monitor. The EPA will determine the number of small PWSs whose monitoring is covered by the

appropriations and will notify the included small PWSs of their upcoming requirements at least six months prior to their scheduled monitoring (i.e., by July 1 of each year preceding sample collection). This notification approach was successfully implemented in the previous UCMR cycle. The number of large PWSs—those serving more than

10,000 people—required to monitor would remain the same, as specified in SDWA.

The EPA has documented the alternative assumptions and data sources used in the preparation of this estimate in the “*Draft Economic Analysis of the Sixth Unregulated Contaminant Monitoring Rule*” (USEPA, 2026k). The EPA estimates the total annualized national cost of this

alternative in 2025 dollars will be \$22.1 million at both a 3 percent and 7 percent discount rate for the years 2027–2031. Exhibit 6 presents a breakdown of the estimated annual average national costs.

As outlined in SDWA section 1445, the EPA pays for the analytical costs for all systems serving a population of 10,000 or fewer people. Laboratory analysis and sample shipping account

for approximately 77 percent of the total national cost for the implementation of UCMR 6. Under the alternative scenario, this percentage slightly decreases since the number of small PWSs decreases from approximately 6,000 to 800. All other expectations with state participation and years of sampling remain the same. Only the number of small PWSs monitoring will be reduced.

EXHIBIT 6—ESTIMATED TOTAL ANNUALIZED COST ALTERNATIVES OF THE PROPOSED UCMR 6 USING 3 PERCENT AND 7 PERCENT DISCOUNT RATES

[In millions of 2025 dollars]

Respondent	Costs (3%)	Costs (7%)
Small PWSs (10,000 or fewer people), including labor ¹ only (non-labor costs ² paid for by the EPA)	\$0.1	\$0.1
Large PWSs (10,001 or more), including labor and non-labor costs	16.7	16.7
States, including labor costs related to implementation coordination	0.5	0.5
EPA, including labor for implementation and non-labor for small system testing	4.9	4.9
Total annualized national cost ³	22.2	22.2

¹ Labor costs pertain to PWSs, states, and the EPA. Costs include activities such as reading the rule, notifying PWSs selected to participate, sample collection, data review, reporting, and recordkeeping.

² Non-labor costs will be incurred primarily by the EPA and by large PWSs. They include the cost of shipping samples to laboratories for testing and the cost of the laboratory analyses.

³ Totals may not equal the sum of components due to rounding.

3. What are the benefits of this proposed action?

The UCMR program gathers data about unregulated contaminant occurrence in drinking water. This occurrence information benefits consumers by letting them know whether or not unregulated contaminants are present in their drinking water. If contaminants are not found, consumer confidence in their drinking water will improve. If contaminants are found, PWSs and consumers may be able to take actions to avoid adverse health effects such as treatment optimization or point-of-use filters to reduce or remove those contaminants. While the UCMR program does not result in direct improvements to public health that can be monetized for the purpose of a quantitative benefits analysis, the data gathered under the UCMR program informs other agency actions that could result in quantifiable health risk reduction benefits.

The UCMR program provides a value of information benefit that can be used by federal and state agencies, local governments, water systems, and the public, in their policies and regulatory actions to produce national estimates and quantifiable improvements to public health.

IV. Supporting Information

A. Economic Analysis

The general cost and benefits outlined in the economic analysis for this action are discussed in section III.O of this document. The full analysis is available in the public Docket for this proposed rulemaking, under Docket ID No. EPA–HQ–OW–2023–0469.

B. How did the EPA consider children’s environmental health?

This action is not subject to the EPA’s Children’s Health Policy at <https://www.epa.gov/children/childrens-health-policy-and-plan>, because this is a monitoring rule that does not directly address human health. However, by monitoring for unregulated contaminants that may pose health risks via drinking water, UCMR furthers the protection of public health for all citizens, including children. Children consume more water per unit of body weight compared to adults. Moreover, formula-fed infants drink a large amount of water compared to their body weight. Thus, while children’s exposure to contaminants in drinking water may present a disproportionate health risk (USEPA, 2013b), the objective of UCMR 6 is to collect nationally representative drinking water occurrence data on unregulated contaminants. The detailed information on the prioritization process, as well as contaminant-specific information (e.g., source, use,

production, release, persistence, mobility, health effects, and occurrence) that the EPA used to select the proposed analyte list, is contained in “*Information Compendium for Candidate Contaminants for the Proposed Sixth Unregulated Contaminant Monitoring Rule (UCMR 6)*” (USEPA, 2026g).

Executive Order 13045 also does not apply to UCMR 6 because the environmental health or safety risks addressed by this action do not present a disproportionate risk to children (See V.H. Executive Order 13045 of this document). However, the EPA’s Policy on Evaluating Health Risks to Children, which ensures that the health of infants and children is explicitly considered in the agency’s decision making, is applicable, see: <https://www.epa.gov/children/epas-policy-evaluating-risk-children>.

Using quantitation data from multiple laboratories, the EPA establishes statistically based UCMR reporting levels that are projected to be feasible for the national network of approved drinking water laboratories to quantify accurately. The EPA sets the reporting levels as low as is practical, even if that level is well below concentrations that are currently associated with known or suspected health effects. In doing so, the EPA positions itself to better address contaminant risk information in the future, including that associated with unique risks to children. The EPA

requests comments regarding any further steps that may be taken to evaluate and address health risks to children that fall within the scope of UCMR 6.

C. What documents are being incorporated by reference?

The following methods are being incorporated by reference into this section of the document for the UCMR 6 monitoring. All method material is available for inspection electronically at <http://www.regulations.gov> in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA-HQ-OW-2023-0469, or from the sources listed for each method. The EPA has worked to make these methods and documents reasonably available to interested parties. The methods that may be used to support monitoring under this rule are as follows:

1. Methods From the U.S. Environmental Protection Agency

(i) EPA Method 524.3, “Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,” Version 1.0, June 2009, EPA 815-B-09-009. Available at <https://www.epa.gov/dwanalyticalmethods>. This is an EPA method for analysis of purgeable organic compounds in drinking water using SPE and LC/MS/MS.

(ii) EPA Method 524.3 “Recommended Parameters to Enhance Sensitivity for the Analysis of Select Purgeable Organic Compounds using EPA Method 524.3 (EPA 815-B-09-009) in Selected Ion Monitoring (SIM) Mode,” Version 1.0, February 2026, EPA 815-B-26-002. Available at <https://www.epa.gov/dwanalyticalmethods>. This is an EPA method for the analysis of purgeable organic compounds in drinking water using SPE and LC/MS/MS and is proposed to measure seven purgeable organic compounds during UCMR 6 (1,2,4-Trimethylbenzene, 1,2,3-Trichloropropane (1,2,3-TCP), 1,1,2,2-Tetrachloroethane, Total 1,3-Dichloropropene (cis- & trans-), Naphthalene, 1,1,1,2-Tetrachloroethane, and Hexachlorobutadiene).

(iii) EPA Method 525.3 “Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction (SPE) and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),” Version 1.0, February 2012, EPA/600/R-12/01. Available at <https://www.epa.gov/dwanalyticalmethods>. This is an EPA method for the analysis of semi-volatile organic chemicals in drinking water using SPE and GC/MS and is proposed to measure 13 semi-volatile organic

chemicals during UCMR 6 (Phorate, Chlorothalonil, Dichlorvos (DDVP), Metribuzin, N,N-Diethyl-m-toluamide (DEET), Trifluralin, Pyrene, Isophorone, 2,4-Dinitrotoluene, 2,6-Dinitrotoluene, Stirofos, Anthracene, and Flourene).

(iv) EPA Method 540 “Determination of Selected Organic Chemicals in Drinking Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS),” Version 1.0, September 2013, EPA/600/R-13/119. Available at <https://www.epa.gov/dwanalyticalmethods>. This is an EPA method for the analysis of selected organic chemicals in drinking water using SPE and LC/MS/MS and is proposed to measure three pesticide metabolites during UCMR 6 (Chlorpyrifos oxon, Phorate sulfone, and Phorate sulfoxide).

(v) EPA Method 563 “Determination of Selected Ultrashort Organofluorine Compounds in Drinking Water by Liquid Chromatography/Tandem Mass Spectrometry,” Version 1.0, January, 2026, EPA 815-F-26-002. Available at <https://www.epa.gov/dwanalyticalmethods>. This is an EPA method for the analysis of ultrashort organofluorine compounds in drinking water using LC/MS/MS and is proposed to measure seven ultrashort organofluorine compounds during UCMR 6 (PFPrS, PFPrA, PFETs, PFMOAA, TFMS, TFSI, and TFA).

V. Statutory and Executive Orders Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review defined under Executive Order 12866. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an economic analysis of the potential costs and benefits associated with this action that is briefly summarized in sections III.O and IV.A of this document. This analysis, “Economic Analysis of the Sixth Unregulated Contaminant Monitoring Rule (UCMR 6)” (USEPA, 2026k), is available in the EPA public docket for this proposed rulemaking, under Docket ID No. EPA-HQ-OW-2023-0469. The EPA estimated that the proposed action would result in annualized costs of \$33.7 million in 2025 dollars, at both a 3 percent discount rate and a 7 percent discount rate.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 regulatory action. The expected quantified annualized costs of this rule are \$7.68 million in 2024 dollars at a 7 percent discount rate and an in-perpetuity time horizon. Details on the estimated costs of this proposed rule can be found in the EPA’s analysis of the potential costs and benefits associated with this action.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned EPA ICR number 7820.01. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The information that the EPA proposes to collect under this rule fulfills the statutory requirements of SDWA section 1445(a)(2), as amended in 1996, 2018, and 2019. The data will describe the source of the water, location, and test results for samples taken from PWSs as described in 40 CFR 141.35(e). The information collected will inform other SDWA programs and risk management decisions for drinking water contaminants. Reporting is mandatory. The data are not subject to confidentiality protection.

The 5-year UCMR 6 period spans 2027–2031. As proposed, UCMR 6 sample collection begins in 2028 and continues through 2030. Since ICRs cannot be approved by OMB for a period longer than three years pursuant to 5 CFR 1320.10, the primary analysis in the ICR only covers the first three years of the UCMR period (2027–2029). Prior to expiration of the UCMR 6 ICR, the EPA will seek to extend the ICR and thus receive approval to collect information under the PRA in the remaining two years of the UCMR 6 period (2030–2031).

The EPA has reviewed and, as appropriate, revised the cost and burden figures from UCMR 5 for UCMR 6. This includes using updated unit cost estimates for sample analysis. The annual burden and cost estimates described in this section are based on the implementation assumptions described in section III.O.1 of this document, among them the inclusion of all PWSs serving 3,300 to 10,000 people and a representative sample of PWSs serving fewer than 3,300 people. If the EPA does not receive the necessary appropriations in one or more of the

collection years—and thus collects data from fewer small PWSs—the actual costs would be lower than those estimated here (USEPA, 2026l).

Respondents/affected entities: The respondents/affected entities are small PWSs (those serving 10,000 or fewer people); large PWSs (those serving more than 10,000 people); and primacy agencies (states, tribes, and territories).

Respondent's obligation to respond: Mandatory (40 CFR 141.35).

Estimated number of respondents: Respondents to UCMR 6, as proposed, include approximately 6,000 small PWSs, approximately 4,600 large PWSs, and the 55 primacy agencies (49 states, one tribal nation, and five territories). There are approximately 10,600 respondents to UCMR 6 during the 5-year program period.

Frequency of response: The frequency of response varies across respondents and years. Across the initial 3-year ICR period for UCMR 6, small PWSs would sample an average of 2.8 times per PWS (*i.e.*, number of responses per PWS); large PWSs would sample and report an average of 3.2 times per PWS; and very large PWSs would sample and report an average of 3.7 times per PWS.

Total estimated burden: 41,291 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$19,670,760, includes \$17,451,527 annualized capital or operation & maintenance costs.

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 OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. The EPA will respond to any ICR-related comments in the final rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at 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. OMB must receive comments no later than July 31, 2026.

D. Regulatory Flexibility Act (RFA)

For purposes of assessing the impacts of this rule on small entities, the EPA considered small entities to be PWSs serving 10,000 or fewer people. As required by the RFA, the EPA proposed

using this alternative definition in the **Federal Register** (63 FR 7607, February 13, 1998 (USEPA, 1998a)), sought public comment, consulted with the Small Business Administration (SBA), and finalized the alternative definition in the Consumer Confidence Reports rulemaking (63 FR 44512, August 19, 1998 (USEPA, 1998b)). As stated in that document, the alternative definition would apply to this regulation.

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are PWSs serving 10,000 or fewer people. The Agency has determined that up to 5,955 small PWSs would participate in UCMR 6 if the EPA receives the necessary appropriations. Those entities are not expected to experience an impact greater than 0.4% of median revenue because the EPA assumes all costs for analyses of the samples and for shipping the samples from small PWSs to laboratories contracted by the EPA to analyze the UCMR 6 samples (the cost of shipping is included in the cost of each drinking water analytical method). Details of this analysis are in the "Draft Economic Analysis of the Sixth Unregulated Contaminant Monitoring Rule" (USEPA, 2026k). Copies of the Draft Economic Analysis may be obtained from the EPA public docket for this proposed rule, under Docket ID No. EPA-HQ-OW-2023-0469.

The EPA anticipates drawing on the set aside of \$12.0 million each year from the Drinking Water State Revolving Fund (DWSRF) consistent with SDWA section 1445(j) and 1452(o) to use DWSRF monies for the purposes of implementing the monitoring program for unregulated contaminants. Thus, the costs to these small PWSs will be modest and limited to the labor associated with collecting a sample and preparing it for shipping. The estimated average annual burden across the 5-year UCMR 6 implementation period is 1.4 hours at \$69 per small PWS or approximately \$0.4 million in 2025 dollars across all 5,955 small PWSs. We have therefore concluded that this action will not have a significant economic impact on a substantial number of small entities under the RFA.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandate(s) specifically and explicitly

set forth in SDWA section 1445(a)(2), Monitoring Program for Unregulated Contaminants. The costs involved in this action are estimated not to exceed 100 million in 1995 dollars which is \$192.68 million in 2025 dollars (adjusted for inflation using the GDP implicit price deflator) or more in any one year.

F. Executive Order 13132: Federalism

This action does not have federalism implications. The EPA believes, however, that this action may be of significant interest to state governments. Consistent with the EPA's policy to promote communications between the EPA and state and local governments, the EPA consulted with state representatives early in the process of developing the UCMR 6 to permit them to have meaningful and timely input into its development. Please see section II.B of this notice and the summary of the public comments for this meeting included in the EPA public docket for this proposed rule, under Docket ID No. EPA-HQ-OW-2023-0469.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications; however, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. As described previously, this proposed rule requires monitoring by all large PWSs. Information in the SDWIS/Fed water system inventory indicates there are 30 large tribal PWSs (ranging in size from 10,100 to 32,000 people served). The EPA estimates the average annual cost to each of these large PWSs, over the 5-year rule period, to be \$3,082. This cost is based on a labor component (associated with the collection of samples) and a non-labor component (associated with shipping and laboratory fees). As planned, UCMR 6 is expected to also require monitoring by all small PWSs serving 3,300 to 10,000 people and a nationally representative sample of small PWSs serving fewer than 3,300 people. Information in the SDWIS/Fed water system inventory indicates there are 77 small tribal PWSs (serving 3,300 to 10,000 people). The EPA estimates that less than 2 percent of small tribal PWSs serving fewer than 3,300 people will be selected as part of the nationally representative sample. The EPA estimates the average annual cost to small tribal PWSs over the 5-year rule period to be \$69. Such cost is based on the labor associated with collecting a sample and preparing it for shipping. All other small PWS expenses

(associated with shipping and laboratory fees) are paid by the EPA.

The EPA consulted with tribal officials under the EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to permit them to have meaningful and timely input into its development. A summary of that consultation is provided in the EPA public docket for this proposed rule, under Docket ID No. EPA-HQ-OW-2023-0469. The summaries are titled, “*Summary of Tribal Consultation and Coordination on the Development of the Sixth Proposed Unregulated Contaminant Monitoring Rule (UCMR 6) for Public Water Systems*” and “*Summary of Alaska Native Claims Settlement Act (ANCSA) Corporations Consultation and Coordination on the Development of the Sixth Proposed Unregulated Contaminant Monitoring Rule (UCMR 6) for Public Water Systems*” The EPA specifically solicits additional comment on this proposed rule from tribal officials.

H. Executive Order 13045: Protection of Children From Environmental Health Risks 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 EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order.

Therefore, this action is not subject to Executive Order 13045 because this is a monitoring rule, and it does not directly address an environmental health risk or safety risk. Since this action does not directly concern human health, the EPA’s Policy on Children’s Health also does not apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This 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. UCMR 6 has not otherwise been designated by the Administrator of the OMB–OIRA as a significant energy action. This is a national drinking water occurrence study that was submitted to OMB for review.

J. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA proposes to use the following methods developed by the

agency to support UCMR 6 monitoring: EPA Method 563, EPA Method 540, EPA Method 525.3, and EPA Method 524.3. While the EPA identified multiple potential voluntary consensus standard body (VCSB) methods from ASTM International (ASTM) and Standard Methods for the Examination of Water as being potentially applicable, the agency does not propose to use them. The use of these VCSB would be impractical because of cost and logistics. Additionally, multiple VCSB methods would need to be used for the analytes included in one EPA method and this increases the overall cost of the analysis. The additional methods would also increase the number of bottles, the weight of the shipping boxes, and the number of boxes that need to be shipped. All of the EPA methods are free for download on the agency’s website, and both the ASTM and Standard Methods for the Examination of Water require payment for access to the methods. The EPA welcomes comments on this aspect of the proposed action and specifically invites the public to identify potentially applicable VCSB methods and explain why such standards should be used in this rule.

VI. References

- ASDWA. 2020. *2019 Analysis of State Drinking Water Programs’ Resources and Needs: Addressing Emerging Issues and State Specificity in Program Implementation*. July 2020. Available at <https://www.asdwa.org/wp-content/uploads/2020/07/2019-Analysis-of-State-Drinking-Water-Programs-Resources-and-Needs.pdf>.
- ASTM. 2020a. ASTM D8332–20— *Standard Practice for Collection of Water Samples with High, Medium, or Low Suspended Solids for Identification and Quantification of Microplastic Particles and Fibers*. ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428. Approved August 14, 2020. Available for purchase at astm.org.
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[Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 6) for Public Water Systems Page XX of XXX]

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Incorporation by reference, Indian-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

Lee Zeldin,
Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 141 as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-4, 300j-9, and 300j-11.

Subpart D—Reporting and Recordkeeping

■ 2. Amend § 141.35 as follows:

■ a. In paragraph (c)(1), remove the text “December 31, 2022” and add, in its place, the text “December 31, 2027”;

■ b. In paragraph (c)(2), remove the text “December 31, 2022” and add, in its place, the text “December 31, 2027”;

■ c. In paragraph (c)(4), remove the text “April 26, 2022” and add, in its place, the text “April 26, 2027”;

■ d. In paragraph (c)(5)(i), remove the text “December 31, 2022” from wherever it appears and add, in its place, the text “December 31, 2027”;

■ e. In paragraph (d)(2), remove the text “December 31, 2022” and add, in its place, the text “December 31, 2027”;

■ f. Revise paragraph (e).

The revisions read as follows:

§ 141.35 Reporting for unregulated contaminant monitoring results.

(e) *Data elements*. Table 1 defines the data elements that must be provided for UCMR monitoring.

TABLE 1—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data element	Definition
1. Public Water System Identification Code (PWSID).	The unique code used to identify each PWS. The code generally begins with the standard 2-character postal state abbreviation or region code; the remaining 7 numbers are unique to each PWS in the state. Each PWSID is assigned by the primacy agency in the Safe Drinking Water Information System Federal Reporting System (SDWIS/Fed).
2. Public Water System Name (PWS Name).	Assigned by the primacy agency.
3. Public Water System Facility Identification Code (PWS Facility ID).	An identification code used to identify each unique applicable facility (<i>i.e.</i> , for each source of water, treatment plant, distribution system, or any other facility associated with water treatment or delivery). Each PWS Facility Identification Code is assigned by the PWS, established by the primacy agency, or at the primacy agency's discretion. The PWS Facility ID is unique from the PWSID.
4. Public Water System Facility Name (PWS Facility Name).	Descriptive Facility Name, assigned once by the PWS, for every PWS Facility ID (<i>e.g.</i> , Maple St. Treatment Plant).
5. Public Water System Facility Type (PWS Facility Type).	That code that identifies that type of facility as outlined in SDWIS/Fed as either: CC = Consecutive connection. SS = Sampling station. TP = Treatment plant. OT = Other (<i>e.g.</i> , other facility types listed in SDWIS/Fed).
6. Water Source Type	The type of source water that supplies a water system facility. Systems must report one of the following codes for each sampling location: SW = Surface water (to be reported for water facilities that are served entirely by a surface water source during the 12-month period). GU = Ground water under the direct influence of surface water (to be reported for water facilities that are served all or in part by ground water under the direct influence of surface water at any time during the 12-month sampling period), and are not served at all by surface water during this period. MX = Mixed water (to be reported for water facilities that are served by a mix of surface water, ground water, and/or ground water under the direct influence of surface water during the 12-month period). GW = Ground water (to be reported for water facilities that are served entirely by a ground water source during the 12-month period).
7. Sampling Point Identification Code (Sample Point ID).	An identification code used to identify each unique applicable sample point (<i>i.e.</i> , entry point to the distribution system) at each applicable facility.
8. Sampling Point Name	Descriptive Sample Point Name, assigned once by the PWS, for every applicable Sample Point ID (<i>e.g.</i> , Maple St. Entry Point). The Sample Point Name should be more descriptive than the Sample Point ID.
9. Sampling Point Type Code	A code that identifies the location of the sampling point as: EP = Entry point to the distribution system.
10. Treatment Information	Treatment information associated with the sample point for each sample event. Please select all that apply (including the treatment processes used by your wholesaler). CON = Conventional (non-softening, consisting of at least coagulation/sedimentation basins and filtration). SFN = Softening. RBF = River bank filtration. PSD = Pre-sedimentation. INF = In-line filtration. DFL = Direct filtration. SSF = Slow sand filtration. BIO = Biological filtration (operated with an intention of maintaining biological activity within filter). UTR = Unfiltered surface water source treatment. GWD = Groundwater system with disinfection only. PAC = Application of powder activated carbon. GAC = Granular activated carbon adsorption (not part of filters in CON, SFN, INF, DFL, or SSF). AIR = Air stripping (packed towers, diffused gas contactors). POB = Pre-oxidation with chlorine (applied before coagulation for CON or SFN plants or before filtration for other filtration plants). HMF = High pressure membrane filtration. LMF = Low pressure membrane filtration. IEX = Ionic exchange. DAF = Dissolved air floatation. CWL = Clear well/finished water storage without aeration. CWA = Clear well/finished water storage with aeration. ADS = Aeration in distribution system (localized treatment). OTH = All other types of treatment. NTU = No treatment used. DKN = Do not know.
11. Disinfectant Type	All of the disinfectant and/or oxidant types that have been added prior to and at the entry point to the distribution system of your finished water for each sample event. Please select all that apply: PEMB = Permanganate. HPXB = Hydrogen peroxide. CLGA = Gaseous chlorine. CLOF = Offsite generated hypochlorite (stored as a liquid form). CLON = Onsite generated hypochlorite. CAGC = Chloramine (formed with gaseous chlorine). CAOF = Chloramine (formed with offsite hypochlorite). CAON = Chloramine (formed with onsite hypochlorite). CLDB = Chlorine dioxide. FERA = Ferrate (VI). OZON = Ozone. ULVL = Ultraviolet light. OTHD = All other types of disinfectant/oxidant. NODU = No disinfectant/oxidant used.
12. Additives	Any chemical(s) added to finished water after treatment and before the clear well, finished water storage reservoir, and/or entry point to the distribution system. Please select all that apply: FLU = Fluoride. ORT = Orthophosphate. POL = Polyphosphate.

TABLE 1—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
	BLD = Blended phosphates. SIL = Silica. OTH = Other. NAU = No additive used. DNK = Do not know.
13. Average or Typical Daily Flow	Estimate the typical or average daily flow at this entry point to the distribution system (e.g., also called daily average production, the average amount of water per day produced by the treatment plant). [Numerical input] Units: Million gallons per day or thousands of gallons per day.
14. Maximum Daily Flow or Peak Daily Flow.	Estimate the maximum daily flow at this entry point to the distribution system (e.g., also called maximum daily production or peak daily flow, the highest flow over one day measured within one year). [Numerical input] Units: Million gallons per day or thousands of gallons per day.
15. Treatment Process Design Capacity	If a treatment process supplies this entry point to the distribution system, please provide the design capacity (e.g., also called design flow or maximum daily treatment capacity, the maximum amount of water per day that can be treated at the treatment plant). [Numerical input] Units: Million gallons per day or thousands of gallons per day.
16. Sample Collection Date	The date the sample is collected, reported as 4-digit year, 2-digit month, and 2-digit day (YYYYMMDD).
17. Sample Identification Code	An alphanumeric value up to 30 characters assigned by the laboratory to uniquely identify containers, or groups of containers, containing water samples collected at the same sampling location for the same sampling date.
18. Contaminant	The contaminant for which the sample is being analyzed.
19. Analytical Method Code	The identification code of the drinking water analytical method used.
20. Extraction Batch Identification Code	Laboratory assigned extraction batch ID. Must be unique for each extraction batch within the laboratory for each method. For CCC samples report the Analysis Batch Identification Code as the value for this field. For methods without an extraction batch, leave this field null.
21. Extraction Date	Date for the start of the extraction batch (YYYYMMDD). For methods without an extraction batch, leave this field null.
22. Analysis Batch Identification Code	Laboratory assigned analysis batch ID. Must be unique for each analysis batch within the laboratory for each method.
23. Analysis Date	Date for the start of the analysis batch (YYYYMMDD).
24. Sample Analysis Type	The type of sample collected and/or prepared, as well as the fortification level. Permitted values include: CCCL = MRL level continuing calibration check; a calibration standard containing the contaminant, the internal standard, and surrogate analyzed to verify the existing calibration for those contaminants. CCCM = Medium level continuing calibration check; a calibration standard containing the contaminant, the internal standard, and surrogate analyzed to verify the existing calibration for those contaminants. CCCH = High level continuing calibration check; a calibration standard containing the contaminant, the internal standard, and surrogate analyzed to verify the existing calibration for those contaminants. FS = Field sample; sample collected and submitted for analysis under this final rule. LFB = Laboratory fortified blank; an aliquot of reagent water fortified with known quantities of the contaminants and all preservation compounds. LRB = Laboratory reagent blank; an aliquot of reagent water treated exactly as a field sample, including the addition of preservatives, internal standards, and surrogates to determine if interferences are present in the laboratory, reagents, or other equipment. LFSM = Laboratory fortified sample matrix; a UCMR field sample with a known amount of the contaminant of interest and all preservation compounds added. LFSMD = Laboratory fortified sample matrix duplicate; duplicate of the laboratory fortified sample matrix. QCS = Quality control sample; a sample prepared with a source external to the one used for initial calibration and CCC. The QCS is used to check calibration standard integrity. FRB = Field reagent blank; an aliquot of reagent water treated as a sample including exposure to sampling conditions to determine if interferences or contamination are present from sample collection through analysis.
25. Analytical Result—Sign	A value indicating whether the sample analysis result was: (<) “less than” means the contaminant was not detected, or was detected at a level below the Minimum Reporting Level. (=) “equal to” means the contaminant was detected at the level reported in “Analytical Result—Measured Value.”
26. Analytical Result—Measured Value ..	The actual numeric value of the analytical results for: Field samples; laboratory fortified matrix samples; laboratory fortified sample matrix duplicates; and concentration fortified.
27. Additional Value	Represents the true value or the fortified concentration for spiked samples for QC Sample Analysis Types (CCCL, CCCM, CCCH, QCS, LFB, LFSM, and LFSMD).
28. Laboratory Identification Code	The code, assigned by EPA, used to identify each laboratory. The code begins with the standard two-character state postal abbreviation; the remaining five numbers are unique to each laboratory in the state.
29. Sample Event Code	A code assigned by the PWS for each sample event. This will associate samples with the PWS monitoring plan to allow EPA to track compliance and completeness. Systems must assign the following codes: SE1, SE2, SE3, and SE4—Represent samples collected to meet UCMR Assessment Monitoring requirements; where “SE1” and “SE2” represent the first and second sampling period for all water types; and “SE3” and “SE4” represent the third and fourth sampling period for SW, GU, and MX sources only.
30. Place Name	Provide the census place names that are served by the PWS. This is entered by the PWS.

Subpart E—Special Regulations, Including Monitoring

■ 3. Amend § 141.40 as follows:

■ a. In paragraph (a) introductory text, remove the text “February 1, 2021” and add, in its place, the text “February 1, 2026”;

- b. Revise paragraphs (a)(3);
- c. In paragraph (a)(4)(i), remove the text “December 31, 2022” and add, in its place, the text “December 31, 2027”;
- d. In paragraph (a)(5)(ii), remove the text “August 1, 2022” and add, in its place, the text “August 1, 2027”;
- e. Revise paragraph (c).

The revisions read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) * * *

(3) *Analytes to be monitored.* Lists 1, 2, and 3 contaminants are provided in table 1 to paragraph (a)(3):

TABLE 1 TO PARAGRAPH (a)(3)—UCMR CONTAMINANT LIST

1—Contaminant	2—CASRN	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Period during which sample collection to be completed
List 1: Assessment Monitoring					
Purgeable Organic Compounds					
1,1,2,2-Tetrachloroethane	79–34–5	EPA 524.3 Enhanced Sensitivity	0.008 µg/L ..	EPTDS	1/1/2028–12/31/2030
1,1,1,2-Tetrachloroethane	630–20–6	EPA 524.3 Enhanced Sensitivity	0.004 µg/L ..	EPTDS	1/1/2028–12/31/2030
1,2,3-Trichloropropane (1,2,3-TCP)	96–18–4	EPA 524.3 Enhanced Sensitivity	0.009 µg/L ..	EPTDS	1/1/2028–12/31/2030
1,2,4-Trimethylbenzene	95–63–6	EPA 524.3 Enhanced Sensitivity	0.004 µg/L ..	EPTDS	1/1/2028–12/31/2030
Hexachlorobutadiene	87–68–3	EPA 524.3 Enhanced Sensitivity	0.005 µg/L ..	EPTDS	1/1/2028–12/31/2030
Naphthalene	91–20–3	EPA 524.3 Enhanced Sensitivity	0.008 µg/L ..	EPTDS	1/1/2028–12/31/2030
Total 1,3-Dichloropropene (cis- & trans-)	542–75–6	EPA 524.3 Enhanced Sensitivity	0.007 µg/L ..	EPTDS	1/1/2028–12/31/2030
Semivolatile Organic Compounds					
2,4-Dinitrotoluene	121–14–2	EPA 525.3	0.06 µg/L	EPTDS	1/1/2028–12/31/2030
2,6-Dinitrotoluene	606–20–2	EPA 525.3	0.2 µg/L	EPTDS	1/1/2028–12/31/2030
Anthracene	120–12–7	EPA 525.3	0.04 µg/L	EPTDS	1/1/2028–12/31/2030
Chlorothalonil	1897–45–6	EPA 525.3	0.06 µg/L	EPTDS	1/1/2028–12/31/2030
Dichlorvos (DDVP)	62–73–7	EPA 525.3	0.05 µg/L	EPTDS	1/1/2028–12/31/2030
Fluorene	86–73–7	EPA 525.3	0.03 µg/L	EPTDS	1/1/2028–12/31/2030
Isophorone	78–59–1	EPA 525.3	0.04 µg/L	EPTDS	1/1/2028–12/31/2030
Metribuzin	21087–64–9	EPA 525.3	0.2 µg/L	EPTDS	1/1/2028–12/31/2030
N,N-Diethyl-m-tolamide (DEET)	134–62–3	EPA 525.3	0.2 µg/L	EPTDS	1/1/2028–12/31/2030
Phorate	298–02–2	EPA 525.3	0.02 µg/L	EPTDS	1/1/2028–12/31/2030
Pyrene	129–00–0	EPA 525.3	0.03 µg/L	EPTDS	1/1/2028–12/31/2030
Tetrachlorvinphos (Stirofos)	22248–79–9	EPA 525.3	0.09 µg/L	EPTDS	1/1/2028–12/31/2030
Trifluralin	1582–09–8	EPA 525.3	0.02 µg/L	EPTDS	1/1/2028–12/31/2030
Pesticide Metabolites					
Chlorpyrifos oxon	5598–15–2	EPA 540	0.00007 µg/L ..	EPTDS	1/1/2028–12/31/2030
Phorate sulfone	2588–04–7	EPA 540	0.0006 µg/L ..	EPTDS	1/1/2028–12/31/2030
Phorate sulfoxide	2588–03–6	EPA 540	0.00007 µg/L ..	EPTDS	1/1/2028–12/31/2030
Ultrashort Organofluorine Compounds					
Bistriflimide (TFSI)	82113–65–3	EPA 563	0.003 µg/L ..	EPTDS	1/1/2028–12/31/2030
Perfluoro-2-methoxyacetic acid (PFMOAA)	674–13–5	EPA 563	0.06 µg/L	EPTDS	1/1/2028–12/31/2030
Perfluoroethanesulfonic acid (PFETs)	354–88–1	EPA 563	0.02 µg/L	EPTDS	1/1/2028–12/31/2030
Perfluoropropanesulfonic acid (PFPrS)	423–41–6	EPA 563	0.01 µg/L	EPTDS	1/1/2028–12/31/2030
Perfluoropropanoic acid (PFPrA)	422–64–0	EPA 563	0.08 µg/L	EPTDS	1/1/2028–12/31/2030
Trifluoromethanesulfonic acid (TFMS)	1493–13–6	EPA 563	0.02 µg/L	EPTDS	1/1/2028–12/31/2030
Trifluoroacetic acid (TFA)	76–05–1	EPA 563	0.2 µg/L	EPTDS	1/1/2028–12/31/2030
List 2: Screening Survey					
Reserved	Reserved	Reserved	Reserved	Reserved	Reserved
List 3: Pre-Screen Testing					
Reserved	Reserved	Reserved	Reserved	Reserved	Reserved

Column headings are:

1—Contaminant: The name of the contaminant to be analyzed.

2—CASRN (Chemical Abstracts Service Registry Number) or Identification Number: A unique number identifying the chemical contaminants.

3—Analytical Methods: Method numbers identifying the methods that must be used to test the contaminants. The analytical procedures shall be performed in accordance with the documents associated with each method, see paragraph (c) of this section.

4—Minimum Reporting Level (MRL): The value and unit of measure at or above which the concentration of the contaminant must be measured using the approved drinking water analytical methods. The MRL is the minimum concentration of each analyte that must be reported to EPA.

If EPA determines, after the first six months of monitoring that the specified MRLs result in excessive resampling, EPA will establish alternate MRLs and will notify affected PWSs and laboratories of the new MRLs. N/A is defined as non-applicable.

5—Sampling Location: The locations within a PWS at which samples must be collected. Sampling must occur at your PWS's entry points to the distribution system (EPTDSs), after treatment is applied, that represent each non-emergency water source in routine use over the 12-month period of monitoring. Systems that purchase water with multiple connections from the same wholesaler may select one representative connection from that wholesaler. The representative EPTDS must be a location within the purchaser's water system. This EPTDS sampling location must be representative of the highest annual volume connections. If the connection selected as the representative EPTDS is not available for sampling, an alternate highest volume representative connection must be sampled. See 40 CFR 141.35(c)(3) for an explanation of the requirements related to the use of representative GW EPTDSs.

6—Period During Which Sample Collection to be Completed: The time period during which the sampling and testing will occur for the indicated contaminant. PWSs must complete their monitoring by December 31, 2031.

* * * * *

(c) *Incorporation by reference.* The standards required in this section are incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C.

552(a) and 1 CFR part 51. All approved material is available for inspection at U.S. Environmental Protection Agency, Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004, (202) 566–1744,

email Docket-customerservice@epa.gov, or go to <https://www.epa.gov/dockets/epa-docket-center-reading-room>, and is available from the sources indicated elsewhere in this paragraph. The material is also available for inspection

at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to:

(1) U.S. Environmental Protection Agency, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004; telephone: (202) 566-1744.

(i) Method 524.3, “Measurement of Purgeable Organic Compounds in Water by Capillary Column Gas Chromatography/Mass Spectrometry,” Version 1.0, June 2009, EPA 815-B-09-009. Available at <https://www.epa.gov/dwanalyticalmethods>.

(ii) Method 524.3 “Recommended Parameters to Enhance Sensitivity for

the Analysis of Select Purgeable Organic Compounds using EPA Method 524.3 (EPA 815-B-09-009) in Selected Ion Monitoring (SIM) Mode,” Version 1.0, February 2026, EPA 815-B-26-002. Available at <https://www.epa.gov/dwanalyticalmethods>.

(iii) Method 525.3, “Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction (SPE) and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),” Version 1.0, February 2012, EPA/600/R-12/01. Available at <https://www.epa.gov/dwanalyticalmethods>.

(iv) Method 540, “Determination of Selected Organic Chemicals in Drinking

Water by Solid Phase Extraction and Liquid Chromatography/Tandem Mass Spectrometry (LC/MS/MS),” Version 1.0, September 2013, EPA/600/R-13/119. Available at <https://www.epa.gov/dwanalyticalmethods>.

(v) Method 563 “Determination of Selected Ultrashort Organofluorine Compounds in Drinking Water by Liquid Chromatography/Tandem Mass Spectrometry,” Version 1.0, January, 2026, EPA 815-F-26-02. Available at <https://www.epa.gov/dwanalyticalmethods>.

(2) [Reserved]

[FR Doc. 2026-13263 Filed 6-30-26; 8:45 am]

BILLING CODE 6560-50-P

Notices

Federal Register

Vol. 91, No. 125

Wednesday, July 1, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2025–1067]

Soil Culture Solutions, LLC: Determination of Nonregulated Status of HLB-Resistant Carrizo Citrange Rootstock (CarriCea T1)

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that HLB-resistant Carrizo citrange rootstock, designated as event CarriCea T1, which was developed using genetic engineering for improved resistance to citrus greening disease (also known as Huanglongbing or HLB), is no longer considered regulated. Our determination is based on our evaluation of information and data submitted by Soil Culture Solutions, LLC in its petition for a determination of nonregulated status, available scientific data, the plant pest risk assessment, and public comments received in response to a previous notice announcing the availability of the petition for nonregulated status and a draft plant pest risk assessment. This notice announces the availability of our written determination and supporting documents.

DATES: This change in regulatory status is recognized as of June 30, 2026.

ADDRESSES: You may read the petition, our determination referenced in this notice, and supporting documents by any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS–2025–1067 in the Search field.
- Our reading room, located in 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: Mr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 5601 Sunnyside Avenue, AP100–3–WS–1151, Beltsville, MD 20705; (301) 851–3944; email: alan.pearson@usda.gov.

SUPPLEMENTARY INFORMATION: Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701–7772, 7781–7786) and the regulations in 7 CFR part 340, “Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,” APHIS regulates, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such organisms and products are considered “regulated articles.”

Section 340.6(a) of the regulations provides that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340.

APHIS received a petition (APHIS Petition Number 25–125–01p) from Soil Culture Solutions, LLC (Soilcea) seeking a determination of nonregulated status for HLB-resistant Carrizo citrange rootstock, designated as event CarriCea T1,¹ which has been developed using genetic engineering for improved resistance to citrus greening disease (also known as Huanglongbing or HLB). The petition provides information in support of petitioners’ position that CarriCea T1 is unlikely to pose a plant pest risk and therefore should not be regulated under APHIS’ regulations in 7 CFR part 340.

As part of our decision-making process regarding the organism’s regulatory status, APHIS prepared a draft plant pest risk assessment (PPRA) to assess the plant pest risk of the organism.

¹ The *Federal Register* notice published on February 11, 2026 referred to the event as CarriCea instead of CarriCea T1. The petition and draft PPRA used CarriCea T1. This *Federal Register* notice corrects the name to CarriCea T1.

APHIS published the petition and draft PPRA in the *Federal Register* (91 FR 6180–6181, APHIS–2025–1067) and accepted public comments from February 11, 2026, through April 13, 2026. APHIS received 10 comments by the close of the comment period. Comments were received from the citrus industry, non-government organizations, and individuals. One commenter neither supported nor opposed the action and only attached our draft PPRA. The remaining nine comments expressed support of the deregulation of CarriCea T1.

Determination

Based on APHIS’ evaluation in the PPRA of information and data submitted by Soilcea in its petition, available scientific data, and public comments received in response to the petition and draft PPRA, APHIS has determined that CarriCea T1 is unlikely to pose a greater plant pest risk than the nonmodified comparator and therefore is no longer subject to the regulations in 7 CFR part 340 governing the introduction of certain organisms developed using genetic engineering.

Copies of the signed determination, PPRA, and the previously published petition and supporting documents, are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of June 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–13238 Filed 6–30–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0662]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Virus-Serum- Toxin Act and Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the Virus-Serum-Toxin Act and regulations.

DATES: We will consider all comments that we receive on or before August 31, 2026.

You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Enter APHIS–2026–0662 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–2026–0662, 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 www.regulations.gov or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations related to the Virus-Serum-Toxin Act and regulations, contact Ms. Amber Peterson, Section Leader, Program Information Management and Security, Center for Veterinary Biologics, Director's Office, VS, APHIS, 1920 Dayton Ave, P.O. Box 844, Ames, Iowa 50010; tel. (515) 337–7543; email amber.l.peterson@usda.gov. For information on the information collection process, contact Ms. Sheniqua Harris, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2528 or email APHIS.PRA@usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Virus-Serum-Toxin Act and Regulations.

OMB Control Number: 0579–0013.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Virus-Serum-Toxin Act (21 U.S.C. 151–159), the Animal and Plant Health Inspection

Service (APHIS) is authorized to promulgate regulations designed to prevent the importation, preparation, sale, or shipment of harmful veterinary biological products. These regulations are contained in 9 CFR parts 102 through 124.

Veterinary biological products include viruses, serums, toxins, and analogous products of natural or synthetic origin such as vaccines, antitoxins, or the immunizing components of microorganisms intended for the diagnosis, treatment, or prevention of diseases in domestic animals.

APHIS issues licenses to qualified establishments that produce veterinary biological products and issues permits to importers seeking to import such products into the United States. APHIS also enforces regulations concerning production, packaging, labeling, and shipping of these products, and sets standards for the testing of these products. These regulations ensure that veterinary biological products used in the United States are not worthless, contaminated, dangerous, or harmful.

To help ensure that veterinary biological products used in the United States are pure, safe, potent, and effective, APHIS requires certain information collection activities, including, among other things, information needed to issue establishment and product licenses and track personnel qualifications; product permits; packaging and labeling; requests for materials; shipment authorizations; product and test reports; preparation and usage requests; development and field study summaries; stop distribution and sale notifications and inventories; due diligence petitions; and recordkeeping.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years. APHIS has amended this information collection by decreasing the Estimated Annual Number of Responses per Respondent and the Estimate of Burden, and increasing the Estimated Annual Number of Respondents, Estimated Annual Number of Responses, and Annual Burden on Respondents.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

- (2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

- (3) Enhance the quality, utility, and clarity of the information to be collected; and

- (4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.001 hours per response.

Respondents: Veterinary biological product developers and producers, foreign government officials, State government officials, and private individuals.

Estimated annual number of respondents: 1,231.

Estimated annual number of responses per respondent: 640,342.

Estimated annual number of responses: 788,260,796.

Estimated total annual burden on respondents: 53,859 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 24th day of June 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–13285 Filed 6–30–26; 8:45 am]

BILLING CODE 3410–34–P

CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD

[Agency Docket Number: CRCCRRB–2026–0014–N]

Notice of Formal Determination on Records Release

AGENCY: Civil Rights Cold Case Records Review Board.

ACTION: Notice.

SUMMARY: The Civil Rights Cold Case Records Review Board received 4,247 pages of records from the National Archives and Records Administration (NARA) related to two civil rights cold case incidents to which the Review Board assigned the unique identifiers 2024–003–010 and 2024–003–022. The

agencies proposed 519 postponements including postponements of sealed federal grand jury information in the records. On June 26, 2026, the Review Board met and approved all 519 postponements and determined that 3,775 pages in full and 32 pages in part should be publicly disclosed in the Civil Rights Cold Case Records Collection. The Review Board has requested that

the Attorney General petition the relevant court to unseal the federal grand jury information in the records. By issuing this notice, the Review Board complies with the Civil Rights Cold Case Records Collection Act of 2018 that requires the Review Board to publish in the **Federal Register** its determinations on the disclosure or postponement of

records in the Collection no more than 14 days after the date of its decision.

FOR FURTHER INFORMATION CONTACT: Stephannie Oriabure, Chief of Staff, Civil Rights Cold Case Records Review Board, 1800 F Street NW, Washington, DC 20405, (771) 221-0014, *info@coldcaserecords.gov*.

SUPPLEMENTARY INFORMATION:

Incident identifier	Postponement identifier	Review board decision
2024-003-010	2025-NARA-03-0400 through 2025-NARA-03-0577	Approve.
2024-003-022	2024-NARA-03-1217 through 2024-NARA-03-1557	Approve.

Dated: June 29, 2026.
Stephannie Oriabure,
Chief of Staff.
[FR Doc. 2026-13274 Filed 6-30-26; 8:45 am]
BILLING CODE 6820-SY-P

CENTRAL INTELLIGENCE AGENCY

Privacy Act of 1974; System of Records
AGENCY: Central Intelligence Agency.
ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the Central Intelligence Agency (“CIA”) is submitting to the **Federal Register** one (1) new System of Records Notice (SORN), CIA-46 Sexual Harassment/Assault Response and Prevention Office (SHARP) Records. This new SORN covers records related to CIA’s assessment, processing, and tracking of sexual harassment and sexual assault inquiries, allegations, and reports, which includes case management, dispositions, guidance, and reporting to CIA leadership, stakeholders, and oversight bodies.
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. Please submit any comments by July 31, 2026.
ADDRESSES: Comments may be submitted by the following methods: By mail to Mark Mouser, Privacy and Civil Liberties Officer, Central Intelligence Agency, Washington, DC 20505; or by email to *FedRegLiaison@uce.cia.gov*. Please include “NOTICE OF NEW CIA SORN” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Mark Mouser, Privacy and Civil Liberties Officer, Central Intelligence Agency, Washington, DC 20505, (571) 280-2700.
SUPPLEMENTARY INFORMATION: CIA created the Sexual Harassment/Assault Response and Prevention (SHARP) Office to centralize handling and documentation of sexual harassment and sexual assault matters to comply with 50 U.S.C. 3531 to 3533: *Sexual Assault and Sexual Harassment Within the Agency; Reporting and Investigation of Allegations of Sexual Assault and Sexual Harassment*; and *Special Victim Investigator*. The SHARP Office provides an enterprise service responsible for responding to and preventing sexual harassment and sexual assault through a balance of education, trauma-informed care, and victim-centered advocacy. Under 50 U.S.C. 3532, the SHARP Office serves as the primary point of contact and entry point for Agency employees to make “Restricted” or “Unrestricted” reports of sexual harassment and sexual assault. “Restricted” reports are those reports of sexual harassment or sexual assault that are kept confidential and are made to SHARP without notifications or investigation. “Unrestricted” reports are those reports of sexual harassment or sexual assault that are kept confidential, but include notification to management and appropriate investigators. The SHARP Office is also responsible for various notification, reporting, policy setting, training, and data analysis related to reports of sexual harassment and sexual assault by CIA personnel.
CIA proposes a new System of Record Notice (SORN), CIA-46, Sexual Harassment/Assault Response and Prevention (SHARP) Office Records, to cover all records maintained by the SHARP Office related to its official responsibilities, including records used to assess, inquire into, and efficiently

manage allegations of sexual harassment and sexual assault.
In addition to incorporating by reference the “Statement of General Routine Uses for the Central Intelligence Agency,” set out at 87 FR 73198, November 28, 2022, revised and republished at 91 FR 1743 (January 15, 2026), CIA-46, SHARP Records, will include three new routine uses for the records maintained in this system of records. First, consistent with the SHARP Office’s responsibilities, records may be disclosed to individual victims, alleged offenders, Senior Management Official Point of Contacts, witnesses, security officers such as the Special Victim Investigator, and other individuals to the extent necessary to respond to, or to update such individuals on the response regarding Restricted or Unrestricted reports relating to an allegation of sexual harassment, sexual assault, or retaliation/reprisal.
Second, records may be disclosed to any victim or other appropriate individual to the extent necessary to comply with the Agency’s common perpetrator notification requirements, in accordance with all applicable laws and internal Agency regulations. “Common perpetrator notification requirements” generally refer to the laws and internal Agency regulations that require CIA to provide specific notifications upon receipt of an incident report containing an allegation of sexual harassment or sexual assault against an individual known to be the subject of at least one allegation of sexual harassment or sexual assault by another reporter.
Finally, records may be disclosed to a federal, state, local, or Tribal law enforcement agency, or other appropriate entity or individual, when the Special Victim Investigator determines the disclosure is necessary and relevant to conducting inquiries, investigations, or other fact-finding

activities related to Unrestricted reports containing allegations of sexual harassment or sexual assault, in accordance with federal, state, local, Tribal, or other applicable laws, and internal Agency regulations.

The “Special Victim Investigator” referenced in these routine uses, and referenced throughout this SORN, refers to the statutorily-established federal law enforcement officer authorized to investigate or facilitate the investigation of Unrestricted reports containing allegations of sexual harassment or sexual assault by CIA personnel.

Nothing in the new SORN indicates any change in CIA’s authorities or practices regarding the collection and maintenance of information about citizens and lawful permanent residents of the United States, nor does the new SORN change any individual’s rights to access or to amend their records in accordance with the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CIA has provided a report to OMB and Congress on the new system of records.

Dated: June 25, 2026.

Mark Mouser,

Privacy and Civil Liberties Officer, Central Intelligence Agency. (571) 280-2700

CIA-46

SYSTEM NAME AND NUMBER:

Sexual Harassment/Assault Response and Prevention Office (SHARP) Records (CIA-46)

SECURITY CLASSIFICATION:

The classification of records in this system can range from UNCLASSIFIED to TOP SECRET.

SYSTEM LOCATION:

Central Intelligence Agency, Washington, DC 20505.

SYSTEM MANAGER(S):

Director, Sexual Harassment/Assault Response and Prevention Office, Central Intelligence Agency, Washington, DC 20505.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended, 50 U.S.C. 3036 *et seq.*; the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. 3501 *et seq.*; 50 U.S.C. 3531 to 3533: *Sexual Assault and Sexual Harassment Within the Agency; Reporting and Investigation of Allegations of Sexual Assault and Sexual Harassment*; and *Special Victim Investigator*; and Executive Order 12333, as amended, 73 FR 45325.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used by authorized personnel to:

a. ensure process integrity and enable the CIA and the Director of the CIA to carry out their lawful and authorized responsibilities.

b. centralize case level sexual harassment and sexual assault data involving employees of the Agency and those eligible for SHARP services, in accordance with federal laws regarding Restricted and Unrestricted reporting.

c. facilitate reports to, and compile statistical analysis for, Congress and Agency leadership in connection with, disclosures, mandatory reports, Unrestricted Reports, and retaliation reports made by or against Agency personnel and other stakeholders with an official need to know.

d. facilitate Common Perpetrator Notification in accordance with federal laws.

e. facilitate documentation of disclosures and/or allegations of sexual harassment, sexual assault, and retaliation resulting in a SHARP-related inquiry.

f. track appropriate case management and high-risk response team meetings for system coordination and accountability, facilitate a victim’s access to quality services, and provide case status updates.

g. maintain the Victim Reporting Preference Statement, Retaliation Reporting, and Common Perpetrator Notification, to ensure compliance with the federal records retention requirements and allow victims access to their forms.

h. maintain records of all inquiries, investigations, and reports of allegations of sexual harassment and sexual assault.

i. provide information to management and Agency leadership regarding personnel matters.

j. coordinate with, and provide information indicating or relating to a violation or potential violation of criminal law, civil law, or regulation, to appropriate entities responsible with enforcing or implementing such criminal law, civil law, or regulation.

Records may also be used by authorized personnel as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, conducting research and surveys, and case and business management.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees; independent or industrial contractors; detailees and assignees; individuals other than an Agency employee who allege they were sexually harassed or sexually assaulted at a facility associated with the Agency or during the performance of a function

associated with the Agency; alleged offenders; witnesses and bystanders; first responders; partners who provide advocacy and resource support; and personnel from other federal, state, local, Tribal, or other appropriate government departments and agencies.

Sexual harassment and sexual assault victims, family members, and other parties (e.g. co-workers, friends) who report retaliation related to reports of sexual harassment and sexual assault.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents, written correspondence, cables, and materials relating to inquiries, complaints and investigations of actual or alleged incidents of sexual harassment and sexual assault; records related to the processing of allegations of sexual harassment and sexual assault, including tracking referrals to appropriate resources made available to individuals, to include measures taken, products and services provided in response to such allegations; relationship information, and other details related to the individual(s) impacted by, or involved in, an alleged or actual incident of sexual harassment or sexual assault; witness and mandatory reporting information; victim and alleged offender information, including CIA employee number, gender, location of assignment and incident, name, organizational affiliation (agency, directorate/mission center, office, unit), personal contact information (e.g., phone number, address, email address), badge number, identification type (e.g., driver’s license, passport) and identification number, employment data (such as grade), and records on position and job title information; information related to assessment and disposition of the case, including case management and tracking data; other authorized data collected to support inquiries, complaints, and investigations, including but not limited to, date and type of report, case control number, SHARP Advocate assigned, referrals to appropriate resources, victim safety information, medical information, forensic information, information about the presence of drugs, case management meeting information, information on request for reassignment and relocation, information about protective orders, victim reporting preference statements, required 8-day reports; and other sexual harassment or sexual assault data collected to support case and business management.

Retaliation reporter and alleged retaliator information may also be included with the retaliation inquiry control number; referral to appropriate

office to inquire or investigate the retaliation; CIA employee number and name of retaliation reporter, and date of inquiry.

RECORD SOURCE CATEGORIES:

Records and information stored in this system may be provided by any individual who is impacted by, or involved in, an alleged or actual incident of sexual harassment or sexual assault and includes: complainants; victims; witnesses; alleged offenders; mandatory reporters; individuals who respond to an allegation of sexual harassment or sexual assault; individuals covered by this system or derived from other systems covered by other System of Record Notices; CIA management; CIA personnel whose duties include advocacy and support, investigation, and processing of inquiries, complaints or investigations of alleged or actual incidents of sexual harassment or sexual assault; other federal, state, local, Tribal or other appropriate government departments and agencies; physicians and medical practitioners; and other organizations or individuals supporting SHARP's mission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to the disclosures generally permitted under 5 U.S.C. 552a(b), the routine uses set forth in the "Statement of General Routine Uses for the Central Intelligence Agency," 87 FR 73198, November 28, 2022, revised and republished 91 FR 1743, January 15, 2026, are incorporated herein by reference. In addition to the General Routine Uses incorporated by reference, the following additional routine uses also apply to this SORN:

21. Disclosure to individual victims, alleged offenders, Senior Management Official Point of Contacts (POCs), witnesses, security officers such as the Special Victim Investigator (SVI), and other individuals to the extent necessary to respond to, or to update such individuals on the response regarding Restricted or Unrestricted reports relating to an allegation of sexual harassment, sexual assault, or retaliation/reprisal, reported pursuant to federal, state, local, Tribal, or other applicable laws, or internal Agency regulations.

22. Disclosure to any victims or other appropriate individuals to the extent necessary to comply with the Agency's common perpetrator notification requirements, in accordance with federal, state, local, Tribal, or other

applicable laws, and internal Agency regulations.

23. Disclosure to a federal, state, local, Tribal, or other appropriate law enforcement agency, or other appropriate entities or individuals, when the SVI determines the disclosure is necessary and relevant to conducting inquiries, investigations, or other fact-finding activities related to Unrestricted reports containing allegations of sexual harassment or sexual assault, in accordance with federal, state, local, Tribal, or other applicable laws, and internal Agency regulations.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and other hard-copy records are stored in secured areas within the CIA or in CIA-controlled facilities. Electronic records are stored in secure file-servers located within CIA-controlled facilities or in CIA-contracted facilities subject to CIA supervision.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system may be retrieved by name, case control number, CIA employee number, or other unique personal identifier by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, all searches of this system of records will be performed in CIA offices by CIA personnel.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are maintained and disposed of in accordance with applicable Records Control Schedules issued or approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in secure, restricted areas and are accessed only by personnel who have a need for the records in the performance of their official duties and have been authorized for such access. Electronic authorization and authentication access controls are required to prevent against unauthorized access, use, and disclosure.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed as indicated in the notification procedures section below. Regulations for access to individual records or for appealing an initial determination by CIA concerning the access to records are published in the Code of Federal Regulations (32 CFR 1901.11–.45).

CONTESTING RECORD PROCEDURES:

Requests from individuals to correct or amend records should be addressed as indicated in the notification procedures section below. CIA's regulations regarding requests for amendments to, or disputing the contents of, individual records or for appealing an initial determination by CIA concerning these matters are published in the Code of Federal Regulations (32 CFR 1901.21–32, 32 CFR 1901.42).

NOTIFICATION PROCEDURES:

Individuals seeking to learn if this system of records contains information about them should direct their inquiries to: Information and Privacy Coordinator, Central Intelligence Agency, Washington, DC 20505. Identification requirements are specified in the CIA rules published in the Code of Federal Regulations (32 CFR 1901.12–.14). Individuals must comply with these rules in order for their request to be processed.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act, 5 U.S.C. 552a, pursuant to 5 U.S.C. 552a(d)(5), (j)(1), and (k).

HISTORY:

None.

[FR Doc. 2026–13283 Filed 6–30–26; 8:45 am]

BILLING CODE 6310–02–P

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[B–81–2026]

Foreign-Trade Zone (FTZ) 230, Notification of Proposed Production Activity; Corning Optical Communications LLC; (Fiber Optic Cables); Winston-Salem, North Carolina

Corning Optical Communications LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Winston-Salem, North Carolina within Zone 230. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 26, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board.

The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished product is fiber optic cables (duty rate is duty-free).

The proposed foreign-status material/component is optical fiber (duty rate is 6.7%).

The request indicates that the material is subject to duties under section 122 of the Trade Act of 1974 (Section 122), depending on the country of origin. The applicable section 122 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 August 10, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Williams at christopher.williams@trade.gov.

Dated: June 29, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–13308 Filed 6–30–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign Trade Zones Board

[B–80–2026]

Foreign-Trade Zone (FTZ) 57, Notification of Proposed Production Activity; Corning Optical Communications LLC; (Fiber Optic Cables); Newton and Hickory, North Carolina

Corning Optical Communications LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facilities in Newton and Hickory, North Carolina within Subzone 57H. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 25, 2026.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status material(s)/ component(s) and specific finished product(s) described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from

conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via www.trade.gov/ftz.

The proposed finished product is fiber optic cables (duty rate is duty-free).

The proposed foreign-status material/component is optical fiber (duty rate is 6.7%).

The request indicates that the material is subject to duties under section 122 of the Trade Act of 1974 (Section 122), depending on the country of origin. The applicable section 122 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 August 10, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Williams at christopher.williams@trade.gov.

Dated: June 29, 2026.

Juanita Chen,

Acting Executive Secretary.

[FR Doc. 2026–13307 Filed 6–30–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List; Note Regarding Format of Review Requests

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping duty (AD) or countervailing duty (CVD) order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as

amended (the Act), may request, in accordance with 19 CFR 351.213, that the U.S. Department of Commerce (Commerce) conduct an administrative review of that AD or CVD order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Commerce asks that requests for review of multiple companies include an appendix listing, in alphabetical order, the company names for which a review is requested. *See infra* for additional details regarding this request.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR). We intend to release the CBP data under administrative protective order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

1. In general, Commerce finds that determinations concerning whether particular companies should be "collapsed" (*i.e.*, treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*i.e.*, investigation, administrative review, new shipper review, or changed circumstances review).

2. For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

3. Parties are requested to: (a) identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed.

4. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.¹ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested

party submits a PMS allegation, pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial Section D responses.

Opportunity To Request A Review: Not later than the last day of July 2026,² interested parties may request an administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

Antidumping Duty Proceedings	
BELGIUM: Citric Acid And Certain Citrate Salts, A-423-813	7/1/25-6/30/26
BOSNIA AND HERZEGOVINA: Mattresses, A-893-002	7/1/25-6/30/26
BULGARIA: Mattresses, A-487-001	7/1/25-6/30/26
BURMA: Mattresses, A-546-001	7/1/25-6/30/26
CAMBODIA: Paper Shopping Bags, A-555-002	7/1/25-6/30/26
COLOMBIA:	
Citric Acid And Certain Citrate Salts, A-301-803	7/1/25-6/30/26
Paper Shopping Bags, A-301-805	7/1/25-6/30/26
FRANCE: Methionine, A-427-831	7/1/25-6/30/26
INDIA:	
Corrosion-Resistant Steel Products, A-533-863	7/1/25-6/30/26
Fine Denier Polyester Staple Fiber, A-533-875	7/1/25-6/30/26
Paper Shopping Bags, A-533-917	7/1/25-6/30/26
Polyethylene Terephthalate (Pet) Film, A-533-824	7/1/25-6/30/26
IRAN: In-Shell Pistachios, A-507-502	7/1/25-6/30/26
ITALY:	
Certain Pasta, A-475-818	7/1/25-6/30/26
Corrosion-Resistant Steel Products, A-475-832	7/1/25-6/30/26
Mattresses, A-475-845	7/1/25-6/30/26
JAPAN:	
Clad Steel Plate, A-588-838	7/1/25-6/30/26
Cold-Rolled Steel Flat Products, A-588-873	7/1/25-6/30/26
Polyvinyl Alcohol, A-588-861	7/1/25-6/30/26
Stainless Steel Sheet and Strip in Coils, A-588-845	7/1/25-6/30/26
Steel Concrete Reinforcing Bar, A-588-876	7/1/25-6/30/26
MALAYSIA:	
Certain Steel Nails, A-557-816	7/1/25-6/30/26
Paper Shopping Bags, A-557-825	7/1/25-6/30/26
Welded Stainless Steel Pressure Pipe, A-557-815	7/1/25-6/30/26
MEXICO: Fresh Tomatoes, A-201-820	7/14/25-6/30/26
OMAN: Certain Steel Nails, A-523-808	7/1/25-6/30/26
PHILIPPINES: Mattresses, A-565-804	7/1/25-6/30/26
POLAND: Mattresses, A-455-807	7/1/25-6/30/26
PORTUGAL: Paper Shopping Bags, A-471-808	7/1/25-6/30/26

¹ See Trade Preferences Extension Act of 2015, Public Law 114-27, 129 Stat. 362 (2015).

² Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when Commerce is closed.

REPUBLIC OF KOREA:	
Certain Steel Nails, A-580-874	7/1/25-6/30/26
Corrosion-Resistant Steel Products, A-580-878	7/1/25-6/30/26
Fine Denier Polyester Staple Fiber, A-580-893	7/1/25-6/30/26
Passenger Vehicle and Light Truck Tires, A-580-908	7/1/25-6/30/26
Stainless Steel Sheet And Strip In Coils, A-580-834	7/1/25-6/30/26
REPUBLIC OF TÜRKİYE:	
Certain Pasta, A-489-805	7/1/25-6/30/26
Common Alloy Aluminum Sheet ³ , A-489-839	4/1/25-3/31/26
Steel Concrete Reinforcing Bar, A-489-829	7/1/25-6/30/26
SLOVENIA: Mattresses, A-856-002	7/1/25-6/30/26
SOCIALIST REPUBLIC OF VIETNAM:	
Certain Steel Nails, A-552-818	7/1/25-6/30/26
Certain Walk-Behind Lawn Mowers and Parts Thereof, A-552-830	7/1/25-6/30/26
Paper Shopping Bags, A-552-836	7/1/25-6/30/26
Welded Stainless Steel Pressure Pipe, A-552-816	7/1/25-6/30/26
TAIWAN:	
Certain Steel Nails, A-583-854	7/1/25-6/30/26
Corrosion-Resistant Steel Products, A-583-856	7/1/25-6/30/26
Fine Denier Polyester Staple Fiber, A-583-860	7/1/25-6/30/26
Mattresses, A-583-873	7/1/25-6/30/26
Paper Shopping Bags, A-583-872	7/1/25-6/30/26
Passenger Vehicle and Light Truck Tires, A-583-869	7/1/25-6/30/26
Polyethylene Terephthalate (Pet) Film, A-583-837	7/1/25-6/30/26
Stainless Steel Sheet And Strip In Coils, A-583-831	7/1/25-6/30/26
THAILAND:	
Certain Carbon Steel Butt-Weld Pipe Fittings, A-549-807	7/1/25-6/30/26
Citric Acid And Certain Citrate Salts, A-549-833	7/1/25-6/30/26
Passenger Vehicle and Light Truck Tires, A-549-842	7/1/25-6/30/26
Welded Stainless Steel Pressure Pipe, A-549-830	7/1/25-6/30/26
THE PEOPLE'S REPUBLIC OF CHINA:	
Carbon Steel Butt-Weld Pipe Fittings, A-570-814	7/1/25-6/30/26
Certain Chassis and Subassemblies Thereof, A-570-135	7/1/25-6/30/26
Certain Freight Rail Couplers and Parts Thereof, A-570-145	7/1/25-6/30/26
Certain Walk-Behind Lawn Mowers and Parts Thereof, A-570-129	7/1/25-6/30/26
Circular Welded Carbon Quality Steel Pipe, A-570-910	7/1/25-6/30/26
Cold-Rolled Steel Flat Products, A-570-029	7/1/25-6/30/26
Collated Steel Staples, A-570-112	7/1/25-6/30/26
Corrosion-Resistant Steel Products, A-570-026	7/1/25-6/30/26
Fine Denier Polyester Staple Fiber, A-570-060	7/1/25-6/30/26
Paper Shopping Bags, A-570-152	7/1/25-6/30/26
Persulfates, A-570-847	7/1/25-6/30/26
Quartz Surface Products, A-570-084	7/1/25-6/30/26
Steel Grating, A-570-947	7/1/25-6/30/26
Potassium Phosphate Salts, A-570-962	7/1/25-6/30/26
Vanillin, A-570-172	1/16/25-6/30/26
Xanthan Gum, A-570-985	7/1/25-6/30/26
UKRAINE: Oil Country Tubular Goods, A-823-815	7/1/25-6/30/26

Countervailing Duty Proceedings

INDIA:	
Polyethylene Terephthalate (Pet) Film, C-533-825	1/1/25-12/31/25
Corrosion-Resistant Steel Products, C-533-864	1/1/25-12/31/25
Paper Shopping Bags, C-533-918	1/1/25-12/31/25
ITALY:	
Certain Pasta, C-475-819	1/1/25-12/31/25
Corrosion-Resistant Steel Products, C-475-833	1/1/25-12/31/25
REPUBLIC OF KOREA: Corrosion-Resistant Steel Products, C-580-879	1/1/25-12/31/25
REPUBLIC OF TÜRKİYE:	
Certain Pasta, C-489-806	1/1/25-12/31/25
Common Alloy Aluminum Sheet ⁴ , C-489-840	1/1/25-12/31/25
Steel Concrete Reinforcing Bar, C-489-830	1/1/25-12/31/25
SOCIALIST REPUBLIC OF VIETNAM:	
Certain Steel Nails, C-552-819	1/1/25-12/31/25
Passenger Vehicle and Light Truck Tires, C-552-829	1/1/25-12/31/25
THE PEOPLE'S REPUBLIC OF CHINA:	
Certain Freight Rail Couplers and Parts Thereof, C-570-146	1/1/25-12/31/25
Certain Walk-Behind Lawn Mowers and Parts Thereof, C-570-130	1/1/25-12/31/25
Circular Welded Carbon Quality Steel Pipe, C-570-911	1/1/25-12/31/25
Collated Steel Staples, C-570-113	1/1/25-12/31/25
Cold-Rolled Steel Flat Products, C-570-030	1/1/25-12/31/25
Corrosion-Resistant Steel Products, C-570-027	1/1/25-12/31/25
Certain Paper Shopping Bags, C-570-153	1/1/25-12/31/25
Prestressed Concrete Steel Wire Strand, C-570-946	1/1/25-12/31/25
Certain Quartz Surface Products, C-570-085	1/1/25-12/31/25

Potassium Phosphate Salts, C-570-963	1/1/25-12/31/25
Steel Grating, C-570-948	1/1/25-12/31/25
Vanillin, C-570-173	11/18/24-12/31/25
Suspension Agreements	
None.	

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that Commerce conduct an administrative review. For both AD and CVD reviews, the interested party must specify the individual producers or exporters covered by an AD finding or an AD or CVD order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires Commerce to review those particular producers or exporters. If the interested party intends for Commerce to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for Commerce to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

Commerce is instituting a new formatting request. Specifically, Commerce asks that requests for review of multiple companies also include an appendix listing, in alphabetical order, the company names for which a review is requested. The list should be limited

solely to company names and formatted as a single column, with each company name identified on a separate line, except in the case of companies that Commerce previously determined should be collapsed into a single entity or found to be cross-owned with other companies. Companies that Commerce previously determined should be collapsed or found to be cross-owned with one another should be listed together as a group, on one line—or more, as needed, for the group—with the company names within each group listed alphabetically and separated by semicolons.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (June 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to AD findings and orders.⁵

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an AD administrative review.⁶ Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.⁷ In administrative reviews of AD orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce

will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an AD administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at <https://access.trade.gov>.⁸ Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Interested parties should note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁹

Commerce will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of July 2026. If Commerce does not receive, by the last day of July 2026, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those

⁵ See Enforcement and Compliance's website at <https://www.trade.gov/us-antidumping-and-countervailing-duties-home-page>.

⁶ 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).

⁷ In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

⁸ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011).

⁹ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).

³ In the opportunity notice that published on April 2, 2026 (91 FR 16631), Commerce inadvertently listed the wrong case number. The correct case number is listed above. This serves as a correction.

⁴ In the opportunity notice that published on April 2, 2026 (91 FR 16631), Commerce inadvertently listed the wrong case number. The correct case number is listed above. This serves as a correction.

entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures “gap” period of the order, if such a gap period is applicable to the period of review.

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled “*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*” in the **Federal Register**.¹⁰ On September 27, 2021, Commerce also published the notice entitled “*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*” in the **Federal Register**.¹¹ 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.¹²

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS and, on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific

segment type called “AISL-Annual Inquiry Service List.”¹³

As mentioned in the *Procedural Guidance*, beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.¹⁴ Accordingly, Commerce will update the annual inquiry service lists for the above-listed AD and CVD proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) new interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year’s annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from “Active” to “Needs Amendment” for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the *Final Rule*,¹⁵ once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney

representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

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 at <https://access.trade.gov>.

Special Instructions for Petitioners 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.”¹⁶ Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments 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 is not required by statute but is published as a service to the international trading community.

Dated: June 25, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–13341 Filed 6–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–854]

Standard Steel Welded Wire Mesh From Mexico: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

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

¹⁰ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

¹¹ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹² *Id.*

¹³ This segment has been 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.

¹⁴ See *Procedural Guidance*, 86 FR at 53206.

¹⁵ See *Final Rule*, 86 FR at 52335.

¹⁶ *Id.*

SUMMARY: The U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on standard steel welded wire mesh (wire mesh) from Mexico would be likely to lead to continuation or recurrence of countervailable subsidies at the levels indicated in the “Final Results of Sunset Review” section of this notice.

DATES: Applicable July 1, 2026.

FOR FURTHER INFORMATION CONTACT: David De Falco, Trade Agreements Policy and Negotiations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–2178.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 2021, the U.S. Department of Commerce (Commerce) published the *Order* on wire mesh from Mexico.¹ On March 2, 2026, Commerce published the notice of initiation of the first sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930 (the Act) and 19 CFR 351.218(c).²

On March 16, 2026, Commerce received a notice of intent to participate in this review from the domestic interested parties,³ within the deadline specified in 19 CFR 351.218(d)(1)(i).⁴ The domestic interested parties claim it has interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as U.S. producers of the domestic like product.⁵

On March 31, 2026, Commerce received an adequate substantive response from the domestic interested parties, within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ Commerce did not receive a substantive response from either the Government of Mexico or a respondent interested party to this proceeding. On April 29, 2026,

Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁷ As a result, Commerce conducted an expedited (120-day) sunset review of the *Order*, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Scope of the Order

The product covered by this *Order* is wire mesh from Mexico. For the full description of the scope of the *Order*, see the Issues and Decisions Memorandum.⁸

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is contained in the accompanying Issues and Decision Memorandum.⁹ A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Final Results of Sunset Review

Pursuant to sections 751(c) and 752(b) of the Act, Commerce determines that revocation of the *Order(s)* would be likely to lead to continuation or recurrence of countervailable subsidies at the following net countervailable subsidy rates:

Producers/exporters	Net countervailable subsidy rate (percent <i>ad valorem</i>)
Aceromex S.A. De C.V. (Aceromex)	1.03
Deacero S.A.P.I. de C.V.	102.10
All Others	1.03

⁷ See Commerce’s Letter, “Sunset Reviews Initiated on March 2, 2026,” dated April 29, 2026.

⁸ See Memorandum, “Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Countervailing Duty Order on Standard Steel Welded Wire Mesh from Mexico,” dated concurrently with, and hereby adopted by, this notice.

⁹ *Id.*

Notification Regarding Administrative Protective Orders

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective, orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.221(c)(5)(ii).

Dated: June 26, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 - 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 - 2. Net Countervailable Subsidy Rates Likely to Prevail
 - 3. Nature of the Subsidies
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2026–13342 Filed 6–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of an antidumping duty or countervailing

¹ See *Standard Steel Welded Wire Mesh from Mexico: Countervailing Duty Order*, 86 FR 18940 (April 12, 2021).

² See *Initiation of Five-Year (Sunset) Reviews*, 91 FR 10053 (March 2, 2026).

³ The domestic interested parties are Keysteel Corporation, Mid-South Wire Company, National Wire LLC, Oklahoma Steel & Wire Co., and Wire Mesh Corp.

⁴ See Domestic Interested Parties’ Letter, “Five-Year (1st Sunset) Review of the Countervailing Duty Order on Steel Welded Wire Mesh from Mexico—Domestic Interested Parties’ Notice of Intent to Participate,” dated March 16, 2026.

⁵ *Id.*

⁶ See Domestic Interested Parties’ Letter, “Five-Year (1st Sunset) Review of the Countervailing Duty Order on Standard Steel Welded Wire Mesh from Mexico—Domestic Interested Parties’ Substantive Response to the Notice of Initiation,” dated March 31, 2026 (Substantive Response).

duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy

(as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2026

Pursuant to section 751(c) of the Act, the following Sunset Reviews are

scheduled for initiation in August 2026 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Commerce contact
Antidumping Duty Proceedings Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China A-570-956 (3rd Review). Countervailing Duty Proceedings Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from China A-570-957 (3rd Review). Suspended Investigations No Sunset Reviews of suspended investigations are scheduled for initiation in August 2026.	Thomas Martin (202) 482-3938. Mary Kolberg (202) 482-1785.

Commerce's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service lists, it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹ An electronically-filed document must be received successfully in its entirety via Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS) by 5:00 p.m. Eastern Time on the day on which it is due. For further information on procedures for filing information with Commerce through ACCESS, refer to User Guide found at <https://access.trade.gov/help>.

In prior proceedings we have encouraged interested parties to provide an executive summary of their comments, including footnotes. In these sunset reviews, we request that interested parties provide, at the beginning of their comments, an executive summary for each issue raised in their comments. 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 decision memorandum that will accompany the notice to be published in the **Federal Register**. Finally, we request that interested parties include footnotes for relevant citations in the public executive summary of each issue.

Notification to Interested Parties

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 26, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026-13343 Filed 6-30-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration [C-489-819]

Steel Concrete Reinforcing Bar From the Republic of Türkiye: Final Results of Countervailing Duty Administrative Review; 2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines countervailable subsidies were provided to producers and exporters of steel concrete reinforcing bar (rebar) from the Republic of Türkiye (Türkiye) during the period of review (POR) January 1, 2023, through December 31, 2023.

DATES: Applicable July 1, 2026.

FOR FURTHER INFORMATION CONTACT: Ajay K. Menon, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0208.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 2026, Commerce published the *Preliminary Results* of this administrative review and invited interested parties to comment.¹ On May 7, 2026, we extended the deadline for the final results of this review.² On June 10, 2026, we further extended the deadline for the final results of this review to no later than June 25, 2026.³ For a complete description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.⁴

¹ See *Steel Concrete Reinforcing Bar from the Republic of Türkiye: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 2023*, 91 FR 3122 (January 26, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated May 7, 2026.

³ See Memorandum, "Second Extension of Deadline for Final Results of Countervailing Duty Administrative Review," dated June 10, 2026.

⁴ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Türkiye; 2023," dated concurrently with, and

Continued

¹ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023)

Scope of the Order ⁵

The merchandise covered by this *Order* is rebar from Türkiye. For a complete description of the scope of this *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Methodology

Commerce conducted this 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 to be countervailable, we find that there is a subsidy, *i.e.*, a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology underlying all of Commerce's conclusions, see the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on comments received from interested parties, we made certain changes to the subsidy rate calculations for Colakoglu Metalurji A.S. (Colakoglu) from the *Preliminary Results*. For a discussion of these changes, see the Issues and Decision Memorandum.

Final Results of Review

We determine that, for the period January 1, 2023, through December 31, 2023, the following total net countervailable subsidy rate exists:

Producer/exporter	Subsidy rate (percent <i>ad valorem</i>)
Colakoglu Metalurji A.S.	1.26

hereby adopted by, this notice (Issues and Decision Memorandum).

⁵ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Countervailing Duty Order*, 79 FR 65926 (November 6, 2014) (*Order*).

⁶ 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 performed in connection with the final results of review to interested parties within five days of public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rates

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown above for Colakoglu for shipments of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms subject to the *Order*, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposits, effective upon the publication of the final results of this review, shall remain in effect until further notice.

Administrative Protective Order

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

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: June 25, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1: Whether to Rely on Adverse Facts Available (AFA) to Determine the Benefit Received Under the Assistance to Offset Costs Related to Antidumping Duty (AD)/CVD Investigations Program
 - Comment 2: Whether to Find the Exemptions from Banking and Insurance Transaction Tax (BITT) on Foreign Exchange Transactions Program Countervailable
 - Comment 3: Whether to Find the Corporate Tax Reduction for Manufacturers Program Countervailable
- VII. Recommendation

[FR Doc. 2026–13345 Filed 6–30–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF811]

Endangered Species; File No. 29126

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Florida Sea Grant, P.O. Box 7640, St. Thomas, Virginia 00801 (Logan Williams, Responsible Party), has applied in due form for a permit to take pillar coral (*Dendrogyra cylindrus*) for purposes of scientific research and enhancement.

DATES: Written comments must be received on or before July 31, 2026.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species home page, <https://apps.nmfs.noaa.gov>, and then selecting

File No. 29126 from the list of available applications. These documents are also available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 29126 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin, Ph.D., or Jennifer Skidmore, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The applicant proposes to collect, propagate, rescue, and restore pillar corals in the U.S. Virgin Islands (USVI). The objective of this project is to support the recovery and long-term survival of pillar corals in the USVI by preserving wild genets, propagating diverse colonies, and restoring populations. Up to 164 colonies may be rescued, relocated, reattached, and/or stabilized, annually. Mucus and tissue samples may be collected from a subset of these. Annually, up to 100 corals may be outplanted for restoration. Gametes may be collected from up to 60 colonies annually for transfer to *ex situ* nurseries for propagation. The permit is requested for 10 years.

Dated: June 24, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026-13232 Filed 6-30-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). This meeting will be held virtually for members of the public, and both virtually and in-person for SEAB members. The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, July 20, 2026; 4 to 5 p.m. EDT.

ADDRESSES: This meeting is open to the public virtually via Zoom. SEAB members only will participate in-person in Washington, DC. Registration is required by registering at the SEAB meeting page at: www.energy.gov/seab/seab-meetings.

FOR FURTHER INFORMATION CONTACT:

David Borak, Designated Federal Officer; U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (202) 586-5216 or Email: seab@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board was established to provide advice and recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy; and other activities as directed by the Secretary.

Tentative Agenda: The tentative meeting agenda includes: roll call, remarks from the SEAB co-chairs, remarks from the Secretary, discussion of SEAB working groups, and public comment. The meeting will conclude at approximately 5 p.m. Meeting materials can be found here: www.energy.gov/seab/seab-meetings.

Public Participation: The meeting is open to the public via a virtual meeting option. Individuals who would like to attend must register for the meeting here: <https://www.energy.gov/seab/seab-meetings>.

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed three minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email, seab@hq.doe.gov, no later than 5 p.m. Eastern Time on Friday, July 17, 2026.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to David Borak, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to: seab@hq.doe.gov.

Minutes: The minutes of the meeting will be available on the SEAB website or by contacting David Borak. He may be reached at the above postal address

or email address, or by visiting SEAB's website at www.energy.gov/seab.

Signing Authority: This document of the Department of Energy was signed on June 29, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 29, 2026.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026-13252 Filed 6-30-26; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20-391-018; ER24-72-005; ER24-1275-004; ER24-2857-005; ER25-941-003.

Applicants: Aron Energy Prepay 54 LLC, Aron Energy Prepay 47 LLC, Aron Energy Prepay 34 LLC, Aron Energy Prepay 29 LLC, J. Aron & Company LLC.

Description: Updated Market Power Analysis for Northeast Region of J. Aron & Company LLC, et al.

Filed Date: 6/25/26.

Accession Number: 20260625-5236.

Comment Date: 5 p.m. ET 8/24/26.

Docket Numbers: ER23-1569-006.

Applicants: Yellowbud Solar, LLC.

Description: Compliance filing:

Revised Tariff Records.

Filed Date: 6/26/26.

Accession Number: 20260626-5071.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER23-2625-004; ER14-1219-021; ER16-1732-021; ER17-989-020; ER11-1850-016; ER25-2956-002; ER11-1846-016; ER26-2334-002; ER11-2062-033; ER22-425-010; ER17-990-020; ER11-2598-019; ER11-4307-034; ER17-1946-020; ER12-261-033; ER10-3223-012; ER11-3320-027; ER10-2355-013; ER16-10-006; ER18-

1160-007; ER21-2826-006; ER14-2548-016; ER24-671-004; ER11-4308-034; ER10-2744-028; ER16-2405-021; ER16-2406-022; ER11-2175-011; ER17-992-020; ER12-224-012; ER17-767-011; ER17-765-011; ER11-3188-011; ER12-225-012; ER12-2301-011; ER11-2176-010; ER17-764-011; ER10-2678-027; ER10-1631-027; ER10-2947-018; ER11-3321-018; ER11-3418-013

Applicants: Xoom Energy, LLC, Wallingford Energy LLC, Vienna Power LLC, University Park Energy, LLC, Troy Energy, LLC, Stream Ohio Gas & Electric, LLC, Stream Energy Pennsylvania, LLC, Stream Energy New York, LLC, Stream Energy New Jersey, LLC, Stream Energy Maryland, LLC, Stream Energy Illinois, LLC, Stream Energy Delaware, LLC, Stream Energy Columbia, LLC, Springdale Energy, LLC, SGE Energy Sourcing, LLC, Rockford Power, LLC, Rockford Power II, LLC, Riverside Generating Company, L.L.C., Reliant Energy Northeast LLC, Helix Ravenswood, LLC, Ocean State Power, NRG Curtailment Solutions, Inc., NRG Cottonwood Tenant LLC, NRG Chalk Point CT LLC, Midwest Generation LLC, LSP University Park, LLC, Indian River Power LLC, Independence Energy Group LLC, Helix Ironwood, LLC, Green Mountain Energy Company, Gateway Energy Services Corporation, Gans Energy, LLC, Enerwise Global Technologies, LLC, Energy Plus Holdings LLC, Doswell, LLC, Direct Energy Services, LLC, Direct Energy Marketing LLC, Direct Energy Business, LLC, Chambersburg Energy, LLC, Aurora Generation, LLC, Armstrong Power, LLC, NRG Business Marketing LLC.

Description: Updated Market Power Analysis for Northeast Region of NRG Business Marketing LLC, et al.

Filed Date: 6/24/26.

Accession Number: 20260624-5264.

Comment Date: 5 p.m. ET 8/24/26.

Docket Numbers: ER25-2439-002.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Compliance Filing to Implement Settlement Agreement and Revise RS 260 to be effective 6/25/2026.

Filed Date: 6/25/26.

Accession Number: 20260625-5199.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26-2417-001.

Applicants: Duke Energy Progress, LLC.

Description: Tariff Amendment: Amendment—Order No. 898 Revisions to be effective 1/1/2025.

Filed Date: 6/25/26.

Accession Number: 20260625-5191.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26-2425-002.

Applicants: Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Amendment—Order No. 898 Revisions to be effective 1/1/2025.

Filed Date: 6/25/26.

Accession Number: 20260625-5197.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26-2965-000.

Applicants: Alist Energy LLC.

Description: Initial Rate Filing: Application for Market-Based Rate Authority with Expedited Treatment to be effective 7/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625-5202.

Comment Date: 5 p.m. ET 7/16/26.

Docket Numbers: ER26-2966-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3620R9 Kansas City Board of Public Utilities NITSA NOA to be effective 9/1/2026.

Filed Date: 6/26/26.

Accession Number: 20260626-5015.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26-2967-000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii): 2026-06-26 SA 4794 Ameren IL-City of Marshall-IMEA WCA to be effective 8/26/2026.

Filed Date: 6/26/26.

Accession Number: 20260626-5051.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26-2968-000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 17 to be effective 8/26/2026.

Filed Date: 6/26/26.

Accession Number: 20260626-5057.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: HC26-1-000; PH26-16-000.

Applicants: AlphaStruxure ProjectHoldCo, L.P., Holding Company Notification.

Description: AlphaStruxure ProjectHoldCo, L.P. submits FERC-65 Notification of Holding Company Status and FERC 65-B Notice of Change in Fact to Waiver Notification.

Filed Date: 6/25/26.

Accession Number: 20260625-5238.

Comment Date: 5 p.m. ET 7/16/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: June 26, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-13264 Filed 6-30-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26-536-000]

Texas Gas Transmission, LLC; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Dearborn County Lateral Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the Dearborn County Lateral Project involving construction and operation of facilities by Texas Gas Transmission, LLC (Texas Gas) in Dearborn County, Indiana, Boone County, Kentucky, and Hamilton County, Ohio. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may

have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as “scoping.” The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission’s NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 27, 2026. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on May 29, 2026, you will need to file those comments in Docket No. CP26–536–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission’s current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could

initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Texas Gas provided landowners with a fact sheet prepared by the FERC entitled “An Interstate Natural Gas Facility On My Land? What Do I Need To Know?” which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission’s proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (www.ferc.gov) under the Natural Gas, Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or FercOnlineSupport@ferc.gov.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission’s website (www.ferc.gov) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is located 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 will be asked to select the type of filing you are making; a comment on a particular project is considered a “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 (CP26–536–000) 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, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to <https://www.ferc.gov/ferc-online/overview> to register for eSubscription.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202)502–6595 or OPP@ferc.gov.

Summary of the Proposed Project

Texas Gas proposes to construct and operate an approximately 12-mile-long, 20-inch-diameter natural gas delivery lateral and appurtenant facilities located in Indiana, Kentucky, and Ohio. According to Texas Gas, the project would provide up to 265,000 dekatherms per day of lateral capacity to provide firm natural gas transportation service from Texas Gas’ existing mainline facilities to Vistra Corp.’s Miami Fort Power Plant. The additional firm transportation capacity would support the Miami Fort Power Plant’s planned conversion from a coal-fueled electric generation facility to a natural gas-fueled electric generation facility.

Specifically, for the Dearborn County Lateral Project, Texas Gas proposes to:

- construct and operate 11.8 miles of 20-inch-diameter natural gas pipeline from Dearborn County, Indiana to Hamilton County, Ohio;
- construct and operate tie-in piping, a pig¹ launcher, and associated infrastructure to the existing Texas Gas 26-inch-diameter Mainline System in Dearborn County, Indiana;
- construct and operate a new measurement and flow control station and associated infrastructure in Dearborn County, Indiana; and
- construct and operate a new pig receiver and associated infrastructure in Hamilton County, Ohio.

The general location of the project facilities is shown in appendix 1.²

¹ A “pig” is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

² The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this

Land Requirements for Construction

Construction of the proposed facilities would disturb about 199.0 acres of land. Following construction, Texas Gas would maintain about 76.0 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as

necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary³ and the Commission's natural gas environmental documents web page (<https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents>). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.⁴ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.⁵ The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes

within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to GasProjectAddressChange@ferc.gov stating your request. You must include the docket number CP26–536–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached "Mailing List Update Form" (appendix 2).

Additional Information

Additional information about the project is available from the FERC website at <http://www.ferc.gov> using the eLibrary link. Click on the eLibrary link, click on "General Search" and enter the docket number in the "Docket Number" field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at <https://www.ferc.gov/news-events/events> along with other related information.

(Authority: 18 CFR 2.1)

Dated: June 26, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–13275 Filed 6–30–26; 8:45 am]

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notice in the mail and are available at www.ferc.gov using the link called "eLibrary." For instructions on connecting to eLibrary, refer to the last page of this notice. For assistance, contact FERC at FercOnlineSupport@ferc.gov or call toll free, (886) 208–3676 or TTY (202) 502–8659.

³ For instructions on connecting to eLibrary, refer to the last page of this notice.

⁴ Cooperating agency responsibilities are addressed in Section 107(a)(3) of NEPA (42 U.S.C. 4336(a)(3)).

⁵ The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER26–2969–000.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: TO: TO20 Rate Year 2022 Settlement, RY2024 AU Docket No. ER24–529 to be effective N/A.

Filed Date: 6/26/26.

Accession Number: 20260626–5105.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2970–000.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: TO: TO21 Rate Year 2022 Settlement, RY2025 AU Docket No. ER25–624 to be effective N/A.

Filed Date: 6/26/26.

Accession Number: 20260626–5107.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2971–000.

Applicants: Puget Sound Energy, Inc.

Description: § 205(d) Rate Filing: Revisions to LGIP Section 3 Regarding Start Date of Initial Cluster Window to be effective 6/27/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5110.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2972–000.

Applicants: Pacific Gas and Electric Company.

Description: Compliance filing: TO: TO21 Rate Year 2022 Settlement, RY2026 AU Docket No. ER26–631 to be effective N/A.

Filed Date: 6/26/26.

Accession Number: 20260626–5114.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2973–000.

Applicants: Evergy Kansas Central, Inc.

Description: § 205(d) Rate Filing: RS 195 DFPA (KEPCo) to be effective 8/25/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5118.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2974–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–06–26_Deliverability in Accreditation of Capacity Resources to be effective 9/1/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5140.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2975–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of CSA, SA No. 7412; Project Identifier AF2–029 to be effective 6/1/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5146.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2976–000.

Applicants: KCE NY 1, LLC.

Description: § 205(d) Rate Filing: Normal filing 2026 to be effective 6/27/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5153.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2977–000.

Applicants: KCE NY 6, LLC.

Description: § 205(d) Rate Filing: Normal filing 2026 to be effective 6/27/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5155.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: ER26–2978–000.

Applicants: Flat Ridge 3 Wind Energy, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence to be effective 8/8/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5156.

Comment Date: 5 p.m. ET 7/17/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: June 26, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–13265 Filed 6–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 3015–020]

**Southeast Alaska Power Agency;
Notice of Intent To File License
Application, Filing of Pre-Application
Document, and Approving Use of the
Traditional Licensing Process**

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3015–020.

c. *Dated Filed:* April 29, 2026.

d. *Submitted By:* Southeast Alaska Power Agency (SEAPA).

e. *Name of Project:* Tyee Lake Hydroelectric Project (project).

f. *Location:* The project is located near the head of Bradfield Canal, approximately 40 miles southeast of Wrangell, Alaska. The project occupies federal land within the Tongass National Forest administered by the U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Applicant Contact:* Mark Hilson, Southeast Alaska Power Agency, 55 Don Finney Lane, Ketchikan, Alaska 99901; (907) 228–2017; or email at mhilson@seapahydro.org.

i. *FERC Contact:* Ingrid Brofman at (202) 502–8347; or email at Ingrid.brofman@ferc.gov.

j. SEAPA filed their request to use the Traditional Licensing Process on April 29, 2026, and provided public notice of its request on June 22, 2026. In a letter dated June 25, 2026, the Director of the Division of Hydropower Licensing approved SEAPA's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and the National Marine Fisheries Service under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Alaska State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the

implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating SEAPA as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. SEAPA filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

You may register online at <https://ferconline.ferc.gov/FEROnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3015. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2029.

p. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202)502-6595 or OPP@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: June 26, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-13271 Filed 6-30-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP25-514-000, CP25-517-000]

Tennessee Gas Pipeline Company, LLC, Southern Natural Gas Company, LLC, Elba Express Company, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Mississippi Crossing Project and South System Expansion 4 Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the Mississippi Crossing Project (MSX), proposed by Tennessee Gas Pipeline Company, LLC (TGP) and the South System Expansion 4 Project (SSE4), proposed by Southern Natural Gas Company, LLC (SNG) and Elba Express Company, LLC (EEC).¹ TGP requests authorization to construct and operate approximately 208 miles of natural gas pipeline and pipeline lateral facilities in Washington, Sunflower, Humphreys, Holmes, Attala, Leake, Neshoba, Newton, Lauderdale, and Clarke counties, Mississippi and Choctaw County, Alabama. MSX would also include three new compressor stations, modifications to one existing compressor station, four new meter stations, and other appurtenant facilities. SNG/EEC request authorization to construct and operate 22 natural gas pipeline loops totaling approximately 291 miles, modifications to add compression at 14 existing compressor stations on SNG's South Main Line and the Elba Express Pipeline, and three new meter stations and modifications to seven existing meter stations within Clarke and Lauderdale counties, Mississippi; Sumter, Marengo, Perry, Dallas, Autauga, Elmore, Tallapoosa, Macon, Hale, and Lee counties, Alabama; and, Clayton, Muscogee, Harris, Talbot, Upson, Crawford, Monroe, Bibb, Jones, Baldwin, Glascock, Jefferson, Richmond, Spalding, Henry, Lowndes, Burke, Screven, Cobb, Chatham, and Effingham counties, Georgia.

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

final EIS. The final EIS assesses the potential environmental effects of the construction and operation of MSX and SSE4 (collectively referred to as "the Projects") 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 final EIS 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 EIS concludes that approval of the proposed Projects would have some limited adverse environmental effects; however, with implementation of TGP, SNG, and EEC's avoidance, minimization, and mitigation measures, as well as adherence to Commission staff's mitigation measures recommended in the EIS, these effects would be less than significant.

Three districts of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the National Park Service, National Oceanic and Atmospheric Administration, the Alabama Department of Conservation and Natural Resources, and the Mississippi Department of Wildlife, Fisheries, and Parks participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. The U.S. Army Corps of Engineers will adopt and use the EIS to consider the issuance of Section 404 of the Clean Water Act. Although the cooperating agencies provided input towards the conclusions and recommendations presented in the final EIS, the agencies will present their own conclusions and recommendations in their respective records of decision (where applicable) for the Projects.

The final EIS addresses the potential environmental effects of construction and operation in Mississippi and Alabama of the following MSX facilities:

- Approximately 177 miles of new 42-inch-diameter natural gas pipeline and 22 miles of 36-inch-diameter natural gas pipeline in Mississippi and Alabama;

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.

¹ For tracking purposes under the National Environmental Policy Act, the unique identification number for documents relating to this environmental review is FERC/EISX-019-20-000-1751972052.

- Five new lateral natural gas pipelines:
 - Seven-mile-long, 36-inch-diameter Columbia Gulf Transmission Lateral in Humphreys and Sunflower counties, Mississippi;
 - A 0.9-mile-long, 30-inch-diameter Texas Eastern Transmission, LP Lateral in Attala County, Mississippi;
 - A 0.7-mile-long, 30-inch-diameter Texas Gas Lateral in Attala County, Mississippi;
 - A 0.1-mile-long, 30-inch-diameter TGP 500 Lateral in Attala County, Mississippi;
 - A 0.5-mile-long, 36-inch-diameter Transcontinental Gas Pipe Line Company Lateral in Choctaw County, Alabama;
 - Three new natural gas compressor stations:
 - Station 602—95,700 International Organization for Standardization (ISO) horsepower (hp) station in Humphreys County, Mississippi;
 - Station 606A—23,470 ISO hp station in Attala County, Mississippi;
 - Station 610—63,800 ISO hp station in Lauderdale County, Mississippi;
 - Modifications at existing compressor station 54 located in Washington County, Mississippi;
 - Four new meter stations;
 - Three new overpressure protection facilities; and
 - Appurtenant facilities such as mainline valves, cathodic protection, and pipeline inspection gauge trap facilities throughout the MSX area.
- The final EIS also addresses the potential environmental effects of construction and operation in Mississippi, Alabama, and Georgia of the following SSE4 facilities:
- 22 new gas pipeline loops, organized into 14 segments, totaling approximately 291 miles and located mainly parallel to SNG's existing South Main Line in Mississippi, Alabama, and Georgia;
 - Modifications and/or horsepower expansions to increase compression at 14 existing stations located along SNG's South Main Line and EEC's Elba Express Pipeline; and
 - Three new meter stations and modifications to seven existing meter stations along the South Main Line and Elba Express Pipeline.
- In addition, SSE4 would include abandonment of approximately 4.4 miles of SNG's existing 16-inch-diameter K Gen Lateral in Clarke County, Mississippi.

The Commission mailed a copy of the *Notice of Availability* of the final EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public

interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. The final EIS 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 final EIS 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.* CP25–514 or CP25–517). 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 final EIS 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.

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: June 26, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–13277 Filed 6–30–26; 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: PR26–63–000.

Applicants: UGI Utilities, Inc.

Description: § 284.123(g) Rate Filing: Rate Election Effective July 2026 to be effective 7/1/2026.

Filed Date: 6/25/26.

Accession Number: 20260625–5106.

Comment Date: 5 p.m. ET 7/16/26.

§ 284.123(g) Protest: 5 p.m. ET 8/24/26.

Docket Numbers: PR26–64–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: § 284.123 Rate Filing: Application to Revise SOC Effective May 2026 to be effective 5/27/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5058.

Comment Date: 5 p.m. ET 7/17/26.

Docket Numbers: RP26–934–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Shell Aug-Oct 2026) to be effective 8/1/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5072.

Comment Date: 5 p.m. ET 7/8/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR26–52–001.

Applicants: The East Ohio Gas Company.

Description: Amendment Filing: Operating Statement of the East Ohio Gas Company 4/1/2026 to be effective 4/1/2026.

Filed Date: 6/26/26.

Accession Number: 20260626–5046.

Comment Date: 5 p.m. ET 7/10/26.

Protest Due Date: 5 p.m. ET 7/10/26.

Docket Numbers: RP23–1099–008.

Applicants: Gas Transmission Northwest LLC.

Description: Compliance filing: Unopposed Petition to Amend Settlement to Extend in Docket No. RP23–1099 to be effective N/A.

Filed Date: 6/25/26.

Accession Number: 20260625–5192.

Comment Date: 5 p.m. ET 7/7/26.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: June 26, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–13266 Filed 6–30–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8369–050]

Village of Saranac Lake; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 8369–050.

c. *Date Filed:* September 30, 2025.

d. *Applicant:* Village of Saranac Lake (Village).

e. *Name of Project:* Lake Flower Dam Hydroelectric Project.

f. *Location:* On the Saranac River in Franklin and Essex Counties, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Brandee Reiley, Village Manager, Village of Saranac Lake, 39 Main Street, Saranac Lake, New York 12983; telephone at (518) 891–4150; email at manager@saranacakeny.gov.

i. *FERC Contact:* Arash Barsari, Project Coordinator, Great Lakes Branch, Division of Hydropower Licensing; telephone at (202) 502–6207; email at Arash.JalaliBarsari@ferc.gov.

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* on or before 5:00 p.m. Eastern Time on August 25, 2026; reply comments are due on or before 5:00 p.m. Eastern Time on October 9, 2026.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FEROnline.aspx>. Commenters can submit brief comments up to 10,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. For assistance, please contact FERC Online Support at FEROnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy via the U.S. Postal Service to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–8369–050.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Project Description:* The project includes a 134-foot-long, 33-foot-high dam that includes a 49-foot-long spillway with a crest elevation of 1,528.0 feet National Geodetic Vertical Datum of 1929 (NGVD 29), two 8-foot-long slide gates, and two 6-foot-long sluice gates with trashracks that have 1.75-inch clear bar spacing. The dam creates an impoundment that has a surface area of 1,455 acres at an elevation of 1,528.67 feet NGVD 29. From the impoundment, water flows through an intake structure that includes two 8.5-foot-long slide gates located on the southern shoreline of the impoundment, approximately 100 feet upstream of the dam. The intake structure includes two trashracks with 1-inch clear bar spacing. From the intake structure, water flows to a powerhouse that contains a 200-kilowatt Kaplan turbine-generator unit. Water discharges from the powerhouse to a tailrace that empties into the Saranac River.

Electricity generated at the powerhouse is transmitted to the electric grid via an underground generator lead line, three 0.48/13.2-kilovolt (kV) step-up transformers, and a 130-foot-long, 13.2-kV overhead transmission line.

Project recreation facilities include: (1) Riverside Park that includes picnic tables and a pavilion; (2) Hydropoint Park that includes a hand-carry boat access site on the shoreline of the impoundment; (3) Beaver Park that includes a hand-carry boat put-in site on the west bank of the Saranac River downstream of the dam; and (4) the River Walk that includes a recreation trail along the Saranac River.

The Village proposes to: (1) continue operating the project in a run-of-river mode such that project outflow approximates inflow to the impoundment and the normal maximum surface elevation of the impoundment is maintained at 1,528.67 feet NGVD 29; (2) continue releasing a minimum flow of 55 cubic feet per second or inflow, whichever is less, as measured immediately downstream of the dam; (3) continue maintaining the project recreation facilities; (4) develop a whitewater park (Boothe River Park) downstream of the dam; and (5) implement an invasive species plan, bat and bald eagle plan, impoundment drawdown plan, and operation compliance monitoring plan filed with the license application.

m. A copy of the application may be viewed on the Commission's website at <http://www.ferc.gov> using the

“eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–8369). For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the Saranac Free Library, 109 Maine St., Saranac Lake, NY 12983.

All filings must (1) bear in all capital letters the title “COMMENTS,” “REPLY COMMENTS,” “RECOMMENDATIONS,” “TERMS AND CONDITIONS,” or “PRESCRIPTIONS;” (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at <https://ferconline.ferc.gov/FERCOnline.aspx> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

o. The applicant must file the following on or before 5:00 p.m. Eastern Time on August 25, 2026: (1) a copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. Final amendments to the application must be filed with the Commission on or before 5:00 p.m. Eastern Time on July 26, 2026.

(Authority: 18 CFR 2.1)

Dated: June 26, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–13269 Filed 6–30–26; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 10 a.m., Thursday, July 9, 2026.

PLACE: You may observe this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit [FCA.gov](https://www.fca.gov), select “Newsroom,” then select “Events.” From there, access the linked “Instructions for board meeting visitors” and complete the described registration process.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following matters will be considered:

- Approval of June 11, 2026, Minutes.
- Update on Farm Credit System

Funding Conditions.

CONTACT PERSON FOR MORE INFORMATION:

If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2026–13297 Filed 6–29–26; 4:15 pm]

BILLING CODE 6705–01–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Board of Directors Meeting

SUMMARY: Notice of the forthcoming regular meeting of the Board of Directors of the Farm Credit System Insurance Corporation (FCSIC), is hereby given in accordance with the provisions of the Bylaws of the FCSIC.

DATES: 10 a.m., Wednesday, July 8, 2026.

ADDRESSES: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit [FCSIC.gov](https://www.fcsic.gov), select “News & Events,” then select “Board Meetings.” From there, access the linked “Instructions for board meeting visitors” and complete the described registration process.

FOR FURTHER INFORMATION CONTACT: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. The following matters will be considered:

Portions Open to the Public

- Approval of April 8, 2026, Minutes.
- Quarterly FCSIC Financial Reports.
- Quarterly Report on Insured Obligations.
- Quarterly Report on Annual Performance Plan.
- Mid-Year Review of Insurance Premium Rates.

Portions Closed to the Public

- Quarterly Report on Insurance Risk.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2026–13299 Filed 6–30–26; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1319; FR ID 352685]

Information Collection 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. 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 August 31, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of

time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1319.

Title: Enhanced A–CAM Cybersecurity and Supply Chain Risk Management Plan Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, and State, Local or Tribal governments.

Number of Respondents and Responses: 450 respondents; 900 responses.

Estimated Time per Response: 10–50 hours.

Frequency of Response: One-time and on occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 214, 218–220, 254, 303(r), and 403.

Total Annual Burden: 27,000 hours.

Total Annual Cost: No Cost.

Needs and Uses: On July 24, 2023, the Commission released the *Enhanced A–CAM Order* (Order), 88 FR 55918, August 17, 2023, WC Docket No. 10–90 et al., FCC 23–60, which adopted a voluntary path for supporting the widespread deployment of 100/20 Mbps broadband service throughout the rural areas served by carriers currently receiving Alternative Connect America Cost Model (A–CAM) support and in areas served by rate-of-return carriers eligible to receive legacy support by the end of 2028. The Commission extended by 10 years beyond the remaining five years, for a total of 15 years, the term of support for electing carriers and set a methodology for determining support amounts for locations without 100/20 Mbps broadband service within a potential budget of no more than \$1.27 billion annually, or no more than \$1.33 billion annually if certain conditions are met, using an updated version of the A–CAM. By adopting this program, the Commission furthered its long-standing goals by promoting the universal availability of voice and broadband networks, while also taking measures to minimize the burden on the nation's ratepayers. The Commission also adopted requirements for the Enhanced A–CAM program to complement

existing Federal, state, and local funding programs, so that broadband funding can be used efficiently to maximize the deployment of high-quality broadband service across the United States.

To ensure that the Enhanced A–CAM program does not deprive rural consumers in high-cost areas of broadband service that is as secure as the service deployed pursuant to other Federal funding initiatives, the Commission required Enhanced A–CAM carriers to implement operational cybersecurity and supply chain risk management plans by January 1, 2024—the start of the Enhanced A–CAM support term. Enhanced A–CAM carriers were required to submit such plans to the Universal Service Administrative Company (USAC) and certify they have done so, by February 12, 2024. Failure to submit the plans and make the certification results in 25% of monthly support being withheld until the carrier comes into compliance. If a carrier makes a substantive modification to its cybersecurity or supply chain risk management plan, the Commission requires that the carrier submit its updated plan to USAC within 30 days of making that modification.

The purpose of this information collection is to collect the operational cybersecurity and supply chain risk management plans required of the Enhanced A–CAM carriers and address the burdens associated with that requirement.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–13213 Filed 6–30–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0208, OMB 3060–0250, OMB 3060–1039, OMB 3060–1167, OMB 3060–1316; FR ID 353230]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection.

Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 31, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the

following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

OMB Control Number: 3060-0208.

Title: Section 73.1870, Chief

Operators.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit; Not-for-profit institutions.

Number of Respondents and

Responses: 18,498 respondents; 36,996 responses.

Estimated Time per Response: 0.166–26 hours.

Frequency of Response:

Recordkeeping requirement; Third party disclosure requirement; Weekly reporting requirement.

Total Annual Burden: 484,019 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 154(i) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1870 require that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action which may be necessary and advise the station licensee of any condition which

is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to ensure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

OMB Control Number: 3060-0250.

Title: Sections 73.1207, 74.784, and 74.1284, Rebroadcasts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities, Not for-profit institutions and State, local or Tribal Governments.

Number of Respondents and

Responses: 6,462 respondents and 11,012 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response:

Recordkeeping requirement; on occasion reporting requirement; semi-annual reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i) and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 5,506 hours.

Total Annual Cost: No cost.

Needs and Uses: The Commission adopted on April 17, 2023, the Report and Order (R&O), In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television and Television Translator Stations, Update of Parts 74 of the Commission's Rules Related to Low Power Television and Television Translator Stations, MB Docket Nos. 03-185 and 22-261, FCC 23-25. The Report and Order adopted the following revision to 47 CFR 74.784(b):

47 CFR 74.784(b) states that a licensee of a low power television or TV translator station shall not rebroadcast the programs of any other TV broadcast station without obtaining prior consent of the station whose signals or programs are proposed to be retransmitted. Section 74.784(b) requires licensees of low power television and TV translator stations to notify the Commission when rebroadcasting programs or signals of another station. This notification shall include the call letters of each station rebroadcast. The licensee of the low power television or TV translator station shall certify that written consent has been obtained from the licensee of the station whose programs are

retransmitted. This notification shall be provided by email to TVRebroadcast@fcc.gov, the Media Bureau, Video Division's email box.

The information collection requirements contained in 47 CFR 73.1207 and 74.1284 remain the same. They are as follows:

47 CFR 73.1207 requires that licensees of broadcast stations obtain written permission from an originating station prior to retransmitting any program or any part thereof. A copy of the written consent must be kept in the station's files and made available to the FCC upon request. Section 73.1207 also specifies procedures that broadcast stations must follow when rebroadcasting time signals, weather bulletins, or other material from non-broadcast services.

47 CFR 74.1284 requires that the licensee of a FM translator station obtain prior consent to rebroadcast programs of any broadcast station or other FM translator. The licensee of the FM translator station must notify the Commission of the call letters of each station rebroadcast and must certify that written consent has been received from the licensee of that station. Also, AM stations are allowed to use FM translator stations to rebroadcast the AM signal. FM translator stations are low power facilities licensed for the limited purpose of retransmitting the signals of either a full power radio station or another translator station. See 47 CFR 74.1201.

OMB Control No.: 3060-1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03-128.

Form No.: FCC Form 620 and 621, TCNS E-filing.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 70,152 respondents and 70,152 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response:

Recordkeeping requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 303(q), 303(r), 309(a), 309(j) and 319, sections 101(d)(6) and 106 of the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. 470a(d)(6) and 470f, and section 800.14(b) of the

rules of the Advisory Council on Historic Preservation, 36 CFR 800.14(b).

Total Annual Burden: 97,929 hours.

Annual Cost Burden: \$13,087,425.

Needs and Uses: FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council of Historic Preservation (ACHP) use the data to take such action as may be necessary to ascertain whether a proposed action may affect sites of cultural significance to tribal nations and historic properties that are listed or eligible for listing on the National Register as directed by section 106 of the National Historic Preservation Act (NHPA) and the Commission's rules. FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under section 106 of the NHPA prior to beginning construction may violate section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office ("SHPO") or to the Tribal Historic Preservation Office ("THPO"), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under section 106 of the NHPA prior to beginning construction or other installation activities may violate section 110(k) of the NHPA and the Commission's rules.

The Tower Construction Notification System (TCNS) is used by or on behalf of Applicants proposing to construct new antenna support structures, and some collocations, to ensure that Tribal Nations have the requisite opportunity to participate in review prior to construction. To facilitate this coordination, Tribal Nations have designated areas of geographic preference, and they receive automated notifications based on the site coordinates provided in the filing. Applicants complete TCNS before filing

a 620 or 621 and all the relevant data is pre-populated on the 620 and 621 when the forms are filed electronically.

OMB Control Number: 3060-1167.

Title: Accessible Telecommunications and Advanced Communications Services and Equipment.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents and

Responses: 4,024 respondents; 48,056 responses.

Estimated Time per Response: .50 hours (30 minutes) to 35 hours.

Frequency of Response: Annual, reporting requirements; recordkeeping requirement; third-party disclosure requirement.

Obligation to Respond: Required to retain or obtain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151-154, 255, 303(r), 403, 503, 617, 618, and 619.

Total Annual Burden: 90,187 hours.

Total Annual Cost: \$14,800.

Needs and Uses: In 2011, in document FCC 11-151, published at 76 FR 82354, December 30, 2011, the FCC adopted rules to implement sections 716 and 717 of the Communications Act of 1934 (the Act), as amended, which were added to the Act by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). See Public Law 111-260, 104. Section 716 of the Act requires providers of advanced communications services and manufacturers of equipment used for advanced communications services to make their services and equipment accessible to individuals with disabilities, unless doing so is not achievable. 47 U.S.C. 617. Section 717 of the Act established new recordkeeping requirements and enforcement procedures for service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act. 47 U.S.C. 618. Section 255 of the Act requires telecommunications and interconnected VoIP services and equipment to be accessible to individuals with disabilities, if readily achievable. 47 U.S.C. 255. Section 718 of the Act requires internet browsers built into mobile phones to be accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. 47 U.S.C. 619.

In document FCC 11-151, the Commission adopted rules relating to the following:

(a) Service providers and equipment manufacturers that are subject to

sections 255, 716, and 718 of the Act must ensure that the information and documentation that they provide is accessible to individuals with disabilities.

(b) Service providers and equipment manufacturers may seek waivers from the accessibility obligations of section 716 of the Act for services or equipment that are designed for multiple purposes, including advanced communications services, but are designed primarily for purposes other than using advanced communications services.

(c) Service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act must maintain records of their efforts to implement those sections.

(d) Service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act must certify annually to the Commission that records are kept in accordance with the recordkeeping requirements. The certification must include contact details of the person(s) authorized to resolve accessibility complaints and the agent designated for service of process.

(e) The Commission established procedures to facilitate the filing of formal and informal complaints alleging violations of sections 255, 716, or 718 of the Act. Those procedures include a nondiscretionary pre-filing notice procedure to facilitate dispute resolution, that is, as a prerequisite to filing an informal complaint, complainants must first request dispute assistance from the Consumer and Governmental Affairs Bureau's Disability Rights Office.

In 2013, in document FCC 13-57, published at 78 FR 30226, May 22, 2013, the FCC adopted rules to implement section 718 of the Act.

OMB Control Number: 3060-1316.

Title: Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 22-2, FCC 22-86 (Broadband Label Order).

Form Number: N/A.

Type of Review: Extension of an currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and

Responses: 6,010 respondents; 30,050 responses.

Estimated Time per Response: 0.5 (30 minutes) to 9 hours.

Frequency of Response: On-occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is contained in sections 4(i), 4(j), 13, 201(b), 254, 257, 301, 303, 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 163, 201(b), 254, 257, 301, 303, 316, 332, section 60504 of the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), and section 904 of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182 (2020), as amended.

Total Annual Burden: 983,493 hours.

Total Annual Cost: \$4,250,000.

Needs and Uses: This information collection pertains to the Empowering Broadband Consumers Through Transparency, Report and Order and Further Notice of Proposed Rulemaking, published at 87 FR 76959 (Dec. 16, 2022) (Broadband Label Order). The information will be used to implement section 60504(a) of the Infrastructure Investment and Jobs Act (Infrastructure Act). The Infrastructure Act, in relevant part, directed the Commission “[n]ot later than 1 year after the date of enactment of th[e] Act, to promulgate regulations to require the display of broadband consumer labels, as described in the Public Notice of the Commission issued on April 4, 2016 (DA 16–357), to disclose to consumers information regarding broadband internet access service plans.” Further, the Infrastructure Act required that the label “include information regarding whether the offered price is an introductory rate and, if so, the price the consumer will be required to pay following the introductory period.”

On January 27, 2022, the Commission released a Notice of Proposed Rulemaking, published at 87 FR 6827 (Feb. 7, 2022), initiating a proceeding to implement section 60504 of the Infrastructure Act. Specifically, the Commission proposed to require that broadband internet access service providers (ISPs or providers) display, at the point of sale, labels that disclose to consumers certain information about prices, introductory rates, data allowances, broadband speeds, and management practices, among other things.

On November 14, 2022, the Commission adopted the Broadband Label Order requiring ISPs to display a new broadband label to help consumers comparison shop among broadband services, thereby implementing section 60504 of the Infrastructure Act. Specifically, the Commission required ISPs to display, at the point of sale, a broadband consumer label containing

critical information about the provider’s service offerings, including information about pricing, introductory rates, data allowances, performance metrics, and whether the provider participates in the Affordable Connectivity Program (ACP). The Commission required that ISPs display the label for each stand-alone broadband internet access service they currently offer for purchase, and that the label link to other important information such as network management practices, privacy policies, and other educational materials. Consistent with the Infrastructure Act, the label adopted for fixed and mobile broadband internet access service is similar to the two voluntary labels the Commission approved in 2016, with certain modifications. The label resembles the well-known nutrition labels that consumers have come to rely on when shopping for food products.

In addition to label content, the Commission adopted requirements for the label’s format and display location to ensure consumers can make side-by-side comparisons of various service offerings from an individual provider or from alternative providers—something essential for making informed decisions. Labels must be displayed on providers’ websites and at alternate sales channels such as retail locations and over the phone. The label must be accessible for people with disabilities and for non-English speakers. Labels must also be available via a customer’s online account portal. ISPs shall maintain an archive of all labels for a period of no less than two years from the time the service plan reflected in the label is no longer available for purchase by a new subscriber and the provider has removed the label from its website or alternate sales channels. In addition, third parties will be able to easily analyze information contained in the labels and help consumers with their purchase decisions, as providers are required to make the label content available in a machine-readable format on their websites. Finally, the Commission adopted a label template that all ISPs are required to display at the point of sale. This label establishes the formatting and content of all requirements adopted in the Broadband Label Order.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–13220 Filed 6–30–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at Secretary@fmc.gov, or by mail, 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 the agreement 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.: 201472.

Agreement Name: Mitsui O.S.K. Lines Ltd./Grimaldi Deep Sea S.p.A./Grimaldi Euromed S.p.A. South America Space Charter Agreement.

Parties: Mitsui O.S.K. Lines Ltd.; and Grimaldi Deep Sea S.P.A. and Grimaldi Euromed S.p.A. (acting as a single party).

Filing Party: Rebecca Fenneman, Jeffrey Fenneman Law and Strategy, PLLC.

Synopsis: The Agreement authorizes the parties to charter space for the carriage of cargo including, but not limited to any and all classes of roll-on/roll-off cargo to/from one another in the trade on an “as needed/as available” basis.

Proposed Effective Date: 6/19/2026.

Location: <https://www2.fmc.gov/FMC/Agreements/Web/Public/Document/131579>.

Dated: June 29, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026–13291 Filed 6–30–26; 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 July 16, 2026.

A. Federal Reserve Bank of Dallas (Lindsey Wieck, Director, Mergers & Acquisitions) 2200 North Pearl Street, Dallas, Texas 75201-2272. Comments can also be sent electronically to Comments.applications@dal.frb.org:

1. *Austin Family Trust B, Jeff Austin, Jr. as trustee, both of Jacksonville, Texas; JML Trust, Mary Margaret Austin, as trustee, both of Jacksonville, Texas; and LAPA Trust, Carole Leigh Austin Mattson, as trustee, both of Georgetown, Texas; to join the Austin/Chapman Family Control Group, a group acting in concert, to acquire voting shares of Austin Bancorp, Inc., and thereby indirectly acquire voting shares of Austin Bank, Texas National Association, both of Jacksonville, Texas.*

2. *Austin Family Trust B, Jeff Austin, Jr. as trustee, both of Jacksonville, Texas; to acquire voting shares of Capital Bancorp, Inc., Jacinto City, Texas, and thereby indirectly acquire voting shares of Capital Bank, Houston, Texas.*

In addition, *JML Trust, Mary Margaret Austin, as trustee, both of Longmont, Colorado; LAPA Trust, Carole Leigh Austin Mattson, as trustee, both of Littleton, Colorado; Jessica Leigh Neill*

Swinnea, Chandler, Texas; and Austin Kyle Neill, Dallas, Texas; to join the Austin/Chapman Family Control Group, a group acting in concert, to retain voting shares of Capital Bancorp, Inc., and thereby indirectly retain voting shares of Capital Bank.

3. *Austin Family Trust B, Jeff Austin, Jr. as trustee, both of Jacksonville, Texas; to join the Austin/Chapman Family Control Group, a group acting in concert, to acquire voting shares of Athens, TX Bancshares, Inc., and thereby indirectly acquire voting shares of First State Bank, both of Athens, Texas.*

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026-13287 Filed 6-30-26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2025-N-6869]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medication Guides for Prescription Drug Products

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 July 31, 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 0910-0393. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations,

Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRAStaff@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.

Medication Guide Requirements for Prescription Drug Product Labeling

OMB Control Number 0910-0393—Reinstatement with change

This information collection supports FDA regulations pertaining to the distribution of patient labeling, called Medication Guides, for human prescription drug and biological products used primarily on an outpatient basis, and required for products that pose a serious and significant public health concern. Agency regulations codified in part 208 (21 CFR part 208): *Medication Guides for Prescription Drug Products* set forth general requirements applicable to both content and format elements for Medication Guides, as well as provide for exemption and deferral requests. Medication Guides provide patients with important information about drug products, including the drug's approved uses, contraindications, adverse drug reactions, cautions for specific populations, and are required in accordance with applicable regulations.

To assist consumers and industry with understanding regulatory requirements applicable to, and the purpose of, Medication Guides, we have developed resources and made them available on our website at <https://www.fda.gov/drugs/fdas-labeling-resources-human-prescription-drugs/patient-labeling-resources#medication-guides>. Among the resources, we include the guidance document titled *Medication Guides—Distribution Requirements and Inclusion in Risk Evaluation and Mitigation Strategies (REMS)* (November 2011), (available at <https://www.fda.gov/media/79776/download>), as well as a discussion of the distinction between Medication Guides and Consumer Medication information. The regulations in 21 CFR part 208, the associated guidance document, and the informational resources are intended to enable patients to use medications most safely and effectively.

Included among the requirements in 21 CFR part 314 that govern applications for FDA approval to market a new drug is the submission of any Medication Guide (see 21 CFR part

314.50), as applicable under 21 CFR part 208, as well as any supplemental changes (see 21 CFR 314.70). The Agency uses the information submitted to determine whether the Medication Guide complies with applicable regulatory requirements. Information collection activities applicable to regulations in 21 CFR part 314 are currently approved in OMB control no. 0910–0001. In this request FDA is accounting for information collection burden we believe attributable to regulatory requirements 21 CFR part 208.

In the **Federal Register** of January 27, 2026 (91 FR 3511), we published a 60-day notice requesting public comment on the proposed collection of information. We received a number of comments. Some comments discussed FDA's proposed rule (RIN 0910–AH68) that issued on May 31, 2023, "Medication Guides: Patient Medication Information (PMI)," (88 FR 35694). While we reviewed these comments in the context of this reinstatement request, we have also added them to the rulemaking docket (FDA–2019–N–5959)

for continued consideration. Other comments communicated general support for improving the content, clarity, and readability of Medication Guides, including the use of electronic delivery. Finally, some comments questioned the accuracy of FDA's burden assessment attributable to authorized dispensers who provide Medication Guides to patients. FDA is most appreciative of all public input regarding its information collection activities and as a result of these latter comments, together with a reexamination of previous submissions for OMB review and approval of ICR 0910–0393, we have significantly revised our assessment of the disclosure burden attributable to requirements established in 21 CFR part 208 for distributors and authorized dispensers of Medication Guides.

Our 60-day notice states that respondents to the information collection are sponsors of new drug applications, distributors of prescription drug products, and authorized dispensers of prescription drug products. We determined the number of

respondents to the annual recordkeeping requirements based on the number of new drug sponsors whose product applications we believe are subject to the requirements in 21 CFR 208, consistent with internal Agency data and a recent preliminary regulatory impact analysis in support of rulemaking RIN 0910–AH68. We retain those estimates provided in our 60-day notice, as reflected below in table 1.

At the same time, we have adjusted our assessment of disclosure burden. Specifically, we previously calculated burden we believe attributable to requirements in 21 CFR 208.24 and applied our assessment to distributors and authorized dispensers collectively. Upon reexamination of the information collection requirements applicable to 21 CFR part 208.24, we have separated burden to align with tasks that apply to manufacturers, distributors, and authorized dispensers, respectively, as reflected below in table 2.

We estimate the burden of the collections of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

Activity; 21 CFR Section 208 (obtaining the PMI)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Content and format of a Medication Guide; § 208.20	70	1	70	320	22,400
Exemptions and deferrals; § 208.26(a)	1	1	1	4	4
Total .....	.....	.....	71	.....	22,404

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Noting that 5 CFR 1320.3(m) defines a recordkeeping requirement to include the reporting to the Federal government regarding such records, we have characterized the submission of Medication Guides to FDA as reporting activity required as a function of certain NDA submissions (currently approved under OMB control no. 0910–0001).

Based on our evaluation of internal data, we estimate that, in the next three years, 70 holders of applications will prepare and submit one Medication Guide annually for our review. We estimate that the application holders will expend 320 hours to prepare and submit the Medication Guide. In addition, we estimate that, in the next three years,

one sponsor of one of the new or supplementary applications will request an exemption under § 208.26(a) from at least some of the Medication Guide format or content requirements, annually. We assume sponsors will expend an average of 4 hours annually to prepare and submit a request for exemption.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN¹

Activity; 21 CFR Section 208 (Providing the PMI for Distribution)	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure ²	Total hours
Manufacturer ensures that Medication Guides are provided in adequate supply to authorized dispensers, or provides means to produce Medication Guide; § 208.24(b)(1) and (b)(2)	70	9,000	630,000	1.25	787,500
Distributor provides Medication Guides or means to produce to authorized dispensers § 208.24(c)	191	9,000	1,719,000	1.25	2,148,750
Dispensing Medication Guide to patient 208.24(e)	88,736	5,705	506,238,880	.0027	1,366,845
Total .....	.....	.....	508,587,880	.....	4,303,095

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Figures have been rounded to the nearest one, one-thousandth.

Assuming that the same 70 application holders of products requiring Medication Guides must ensure that distributors and authorized dispensers are provided with an adequate supply or means to produce the required Medication Guide, as required under 21 CFR 208.24(b)(1) and (b)(2), we calculate an average of 9,000 disclosures annually and an average of 1.25 hours per disclosure, as reflected in row 1, table2.

Similarly, assuming 12% of 1,600 distributors (191), based on figures consistent with, accounted for, and approved in OMB control number 0910–0806 (Pharmaceutical Distribution Supply Chain) will ship drug products that require a Medication Guide and must provide the Medication Guide or the means to produce it to authorized dispensers, as required under 21 CFR 208.24(c), we calculate an average of 9,000 disclosures annually and an average of 1.25 hours per disclosure, as reflected in row 2, table 2.

Regarding authorized dispensers, we currently assume 88,736 authorized dispensers based on informal data and reports from various pharmacy trade associations and have retained this figure. We also retain our estimated average of 5,705 patients to whom Medication Guides will be distributed annually. However, we have revised the time we attribute necessary to the task of dispensing Medication Guides to patients, as required under 21 CFR part 208.24(e). FDA originally proffered 5 seconds in its proposed rule of August 24, 1995 (60 FR 44182) inviting comment under the Paperwork Reduction Act of 1980. In our final rule on December 1, 1998 (63 FR 66378), after enactment of the Paperwork Reduction Act of 1995, FDA again estimated 5 seconds of burden for the task of dispensing a Medication Guide to a patient and invited public comment. No comments were posted to the rulemaking docket (Legacy Docket No. 93–0371; RIN 0910–AA37) regarding the 5-second estimate.

Upon further review, we find that in 2008 FDA revised its original estimate from 5 seconds to 3 minutes based on

a public comment that the estimate had remained unchanged since 1998, “while the program continue[d] to expand in an unchecked manner,” (emphasis added), and that FDA’s estimate failed to consider “realities pharmacists face in complying with the program” (emphasis added). See Docket No. FDA–2008–N–0162. We are now adjusting that estimate to 10 seconds noting the following:

- As required by the PRA of 1995, FDA has confined its estimate of burden attributable to that we believe is required by 21 CFR 208.24(e), which entails the task of dispensing the Medication Guide. Effort that may be attributable to counseling patients, dispensing literature not required by 21 CFR 208.24(e), and to patients reading the Medication Guide is not included in our estimate.
- As provided for by the PRA of 1995, FDA believes that tasks that may be associated with dispensing a Medication Guide, such as counseling patients, dispensing literature not required by our regulations, and recordkeeping that may be required by other authorities such as State licensing agents and the Drug Enforcement Administration, to be usual and customary as part of the practice of pharmacy. Therefore, we estimate no burden for efforts relating to tasks that fall beyond the scope of 21 CFR part 208.
- FDA does account for various tasks that may be performed by authorized dispensers in its active collection inventory including OMB control numbers 0910–0800 (Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act); 0910–0806 (Pharmaceutical Distribution Supply Chain); and 0910–0858 (Human Drug Compounding, Repackaging, and Related Activities Regarding Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act); and
- FDA believes that the advent of technology has facilitated, not prolonged, the effort necessary in satisfying existing requirements under 21 CFR part 208.

Upon adjusting our estimates accordingly, the information collection reflects a decrease of 22,938,375 hours and an increase of 4,829,782 responses annually. We believe these estimates are consistent with current submission figures and the specific tasks required in 21 CFR part 208.

Grace R. Graham,
Deputy Commissioner for Policy, Legislation, and International Affairs.
[FR Doc. 2026–13346 Filed 6–30–26; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Rural Health Innovation and Transformation Technical Assistance

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice of supplemental funding.

SUMMARY: HRSA will provide additional award funds to the Rural Health Innovation and Transformation Technical Assistance (RHIT–TA) recipient, the University of Iowa, to provide additional technical assistance on rural value-based care-related activities and support the improvement of health care in rural areas.

FOR FURTHER INFORMATION CONTACT: Lawrence Afagbedzi, Health Insurance Specialist, Federal Office of Rural Health Policy, HRSA at lafagbedzi@hrsa.gov and 301–443–3196.

SUPPLEMENTARY INFORMATION:
Intended Recipient of the Award: The University of Iowa.

Amount of Non-Competitive Award: One supplemental award for \$150,000.

Project Period: August 1, 2023, to July 31, 2027.

Assistance Listing Number: 93.692.

Award Instrument: Cooperative Agreement Supplement for Services.

Authority: Section 711 of the Social Security Act (42 U.S.C. 912).

TABLE 1—RECIPIENT AND AWARD AMOUNT

Grant No.	Award recipient name	City, state	Supplemental award amount
UB7RH25011	University of Iowa	Iowa City, IA	\$150,000

Justification: This funding will provide a one-time supplement to the University of Iowa through the RHIT–

TA Cooperative Agreement with a budget period of August 1, 2026, through July 31, 2027. This supplement

will allow the University of Iowa to build on past and ongoing projects supported by HRSA to support health

care in rural areas by advancing the knowledge base regarding the unique considerations and barriers facing rural providers implementing value-based care and innovative payment models. The University of Iowa is the recipient of the only award under the RHIT-TA program and has established relationships with rural stakeholders and has longstanding experience developing resources related to rural value-based care. The supplement to the RHIT-TA Cooperative Agreement will allow the University of Iowa to provide additional technical assistance and develop additional resources to promote rural value-based care related activities.

Thomas J. Engels,
Administrator.

[FR Doc. 2026-13243 Filed 6-30-26; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice informs the public of the availability of the complete lists of all geographic areas, population groups, and facilities designated as primary medical care, dental health, and mental health professional shortage areas (HPSA) in a designated status as of April 30, 2026. The lists are available on the shortage area topic page on HRSA's data.hrsa.gov website. Federal law requires publication of an annual **Federal Register** notice (FRN) not later than July 1 of each year listing designated HPSAs. This FRN serves as notice that HPSAs that were placed in a proposed for withdrawal status due to state primary care office (PCO) actions between October 16, 2024, and September 21, 2025, will be withdrawn. HPSAs that did not pass the National Shortage Designation Update conducted in September 2025 will be maintained in a proposed for withdrawal status after the publication of this FRN, and the state PCOs will be allowed additional time to review and update designations. HRSA intends to address those HPSAs with the publication of the FRN on or before July 1, 2027.

ADDRESSES: Complete lists of HPSAs designated as of April 30, 2026, are

available on the website at <https://data.hrsa.gov/topics/health-workforce/shortage-areas/frn>. Frequently updated information on HPSAs is available at <https://data.hrsa.gov/topics/health-workforce/shortage-areas>. Information on shortage designations is available at <https://bhw.hrsa.gov/workforce-shortage-areas/shortage-designation>.

FOR FURTHER INFORMATION CONTACT: For further information on the HPSA designations listed on the website or to request additional designation, withdrawal, or reapplication for designation, please contact Matthew Patterson, Acting Branch Chief, Shortage Designation Branch, Division of Policy and Shortage Designation, Bureau of Health Workforce (BHW), HRSA, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594-5110, sdb@hrsa.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the Public Health Service (PHS) Act, 42 U.S.C. 254e, provides that the Secretary of Health and Human Services shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary of Health and Human Services annually publish lists of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary.

Final regulations (42 CFR part 5) were published on November 17, 1980 (45 FR 75996), that include the criteria for designating HPSAs. Criteria were defined for seven health professional types: primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care. The criteria for correctional facility HPSAs were published on October 29, 1987 (52 FR 41594), and revised March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

HPSA designation offers access to potential federal assistance. Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps personnel to provide primary medical care, mental health, or dental health services in or to these

HPSAs. National Health Service Corps health professionals enter into service agreements to serve in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA. Other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare & Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

In 2023, HRSA published two FRNs related to HPSAs. The first in July 2023 met the statutory requirement to publish an annual FRN and listed all HPSAs in designated and proposed for withdrawal status. The FRN publication did not withdraw any HPSAs, rather it served as a preview to states as to what HPSAs may lose designated status if action was not taken. HRSA then published a second FRN in November 2023 that withdrew any HPSA designations not addressed and still in a proposed for withdrawal status. In 2024, HRSA reverted to a once-annual FRN posting that served to withdraw any HPSAs that no longer met criteria for designation. HRSA reviewed statuses of HPSAs on October 15, 2024, to inform development of the 2024 FRN, posted November 5, 2024, meeting the statutory requirement. In September 2025, HRSA conducted the National Shortage Designation Update that applied new data to existing HPSAs and checked designations against established regulatory criteria. The status of those HPSAs that did not pass the National Shortage Designation Update will be maintained in a proposed for withdrawal status after the publication of this FRN, and the state PCOs will be allowed additional time to review and update designations. HRSA intends to address those HPSAs with the publication of the FRN on or before July 1, 2027.

Content and Format of Lists

The three lists of designated HPSAs are available on the HRSA Data Warehouse shortage area topic web page and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of April 30, 2026. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on November 5, 2024, (FR/Vol. 89, No. 214, Tuesday, November 5, 2024/Document Number 2024-25624).

In addition, all Indian tribes that meet the definition of such tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603, are automatically designated as population groups with primary medical care and dental health professional shortages. Further, the Health Care Safety Net Amendments of 2002 provides eligibility for automatic facility HPSA designations for all federally qualified health centers (FQHC) and rural health clinics that offer services regardless of ability to pay. Specifically, these entities include FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included in this listing. Absence from this list does not exclude them from HPSA designation; facilities eligible for automatic designation are included in the database when they are identified.

Each list of designated HPSAs is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, a county is part of a larger designated service area, or a population group residing in a county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. A county that has a whole county geographic or population group HPSA is indicated by the phrase "County" following the county name.

Development of the Designation and Withdrawal Lists

HRSA continuously receives requests for designation or withdrawal of a particular geographic area, population group, or facility as a HPSA. Under a Cooperative Agreement between HRSA and the 54 state and territorial PCOs, PCOs conduct needs assessments and submit applications to HRSA to designate areas as HPSAs. HRSA refers requests that come from other sources to PCOs for review. In addition, interested parties, including governors, state primary care associations, and state professional associations, are notified of requests so that they may submit their comments and recommendations.

HRSA reviews each recommendation for possible addition, continuation, revision, or withdrawal. Following review, HRSA notifies the appropriate agency, individuals, and interested organizations of each designation of a HPSA, rejection of a recommendation for HPSA designation, revision of a

HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification from HRSA and are updated frequently on the HRSA Data Warehouse website. The effective date of a withdrawal will be the next publication of a notice regarding the list of designated HPSAs in the **Federal Register**.

Ann M. Sheehy,

Principal Deputy Administrator.

[FR Doc. 2026-13309 Filed 6-30-26; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: National Marrow Donor Program Patient Support Center Survey

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than August 31, 2026.

ADDRESSES: Submit your comments to paperwork@hrsa.gov or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email paperwork@hrsa.gov or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443-3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: National Marrow Donor Program Patient

Support Center Survey, OMB No. 0906-0004—Revision.

Abstract: The C.W. Bill Young Cell Transplantation Program (CWBYCTP) was established by the Stem Cell Therapeutic and Research Act of 2005 (Public Law [P.L.] 109-129) and was reauthorized in 2010 (P.L. 111-264), 2015 (P.L. 114-104), and again in 2021 (P.L. 117-15). The CWBYCTP's Office of Patient Advocacy (OPA) is operated by the National Marrow Donor Program, d.b.a. NMDPSM. Through the OPA, NMDPSM provides navigation services, educational resources, and support to people in need of or who have received an allogeneic hematopoietic cell transplant (HCT). As the contractor for the OPA, NMDPSM is required to conduct surveys to evaluate patient satisfaction with the services provided. Accordingly, NMDPSM will solicit feedback from HCT patients, caregivers, and family members who have contacted the NMDPSM Patient Support Center (PSC). The survey is administered through a web-based system. In addition to questions that measure satisfaction, the survey also includes demographic questions to assess the representativeness of the findings.

Need and Proposed Use of the Information: HCT is a complex medical procedure that requires significant support before, during, and after the procedure. Many patients experience barriers that impede access to HCT. Barriers to HCT-related care and educational information are multifactorial. The NMDPSM PSC offers programs and services to support patients, caregivers, and family members throughout their HCT journey. Feedback from recipients of NMDPSM services is essential to understand the changing needs for services and information, as well as to assess the effectiveness of existing services. The primary use of information gathered through the survey is to assess the helpfulness of participants' initial contact with PSC patient navigators and to identify areas for improvement in service delivery. Patient navigators are nurses or oncology certified navigators, who respond to requests for information and support. Program managers and NMDPSM leadership use this evaluation data to understand patient experiences and inform program and resource allocation decisions.

Web-based surveys will be administered to all participants (patients, caregivers, and family members) who have contact with the PSC. All participants for whom an email address is known will be invited to complete the survey online. Survey

respondents will be notified via email invitation and in the survey instructions that participation is voluntary and that responses will be kept confidential. A follow-up invitation will be sent to non-respondents within 2 weeks.

The survey will include these items to measure: (1) their experience; (2) if the contact helped the participant feel more confident in coping with treatment; (3) if the contact helped the participant feel more hopeful; (4) if the contact helped the participant feel less alone; (5) increased awareness of available resources; (6) if the contact helped the participant feel more informed about treatment options; (7) if their questions were answered; and (8) types of challenges faced by participant. The survey data will be analyzed quarterly and annually, and results will be shared with program managers. Feedback indicating a need for improvement will be reviewed by program managers semiannually and implementation of resulting program changes or additions will be documented.

HRSA is revising some of the survey questions and phrasing to improve clarity, without changing the intent of the question. One response option has been added to the question about the respondent's education level. There are no changes to the instructions, frequency of collection, or use of the information.

Likely Respondents: Respondents will include patients, caregivers, and family members who have contact with the PSC via phone or email for HCT navigation services and support (advocacy). The decision to survey all participants was made based on the historically low response rate to this survey due to patients' frequent transitions in health status as well as transfers between home and the hospital for initial treatment and care for complications. Participants will receive the survey once in a 1-year cycle. If a participant contacts the PSC one or more years after the initial contact, the participants will receive a second survey. This is because participants' needs may change over time.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

The total respondent burden for the customer satisfaction survey is estimated to be 75 hours. HRSA expects a total of 1,000 respondents to complete the NMDPSM PSC Survey with an estimated 4.5 minutes to complete each survey.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Be The Match® Patient Support Center Survey	1000	1	1000	0.075	75
Total	1000	1	1000	0.075	75

HRSA specifically requests comments on (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 burden of the information collection.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026-13221 Filed 6-30-26; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Modification of Living Organ Donation Reimbursement Program Eligibility Guidelines in Response To Honor Our Living Donors Act

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of proposed eligibility guideline modifications; request for comment.

SUMMARY: HRSA proposes to modify the eligibility guidelines for the Living Organ Donation Reimbursement Program (LODRP) to align with the Honor Our Living Donors (HOLD) Act, enacted on February 3, 2026. The HOLD Act prohibits consideration of the income of the organ transplant recipient in determining eligibility for reimbursement of qualifying non-medical expenses related to living organ

donation under LODRP. Consistent with this statutory requirement, HRSA proposes to revise the LODRP eligibility guidelines to eliminate recipient income as a factor in eligibility determinations and to establish a donor-focused eligibility framework based on donor household income and financial need. HRSA will continually monitor the effectiveness and availability of funds for LODRP and further modify the eligibility guidelines in the future if needed.

DATES: Submit comments no later than July 31, 2026.

ADDRESSES: Written and/or electronic comments should be submitted by email to livingdonorsupport@hrsa.gov or by mail to Division of Transplantation, Health Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Allison Hutchings, Division of Transplantation, Health Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane,

Rockville, MD 20857 or
livingdonorsupport@hrsa.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

LODRP is authorized by 42 U.S.C. 274f (Section 377 of the Public Health Service (PHS) Act, as amended). Most recently, this authority was amended by the HOLD Act (Section 6503 of the Consolidated Appropriations Act, 2026, P. L. 119–75), enacted February 3, 2026.

II. Background

Under section 377 of the PHS Act, as amended,¹ Congress gives the Secretary of Health and Human Services specific authority to reimburse eligible living donors and donor candidates for qualifying expenses incurred toward living organ donation, with a preference for individuals who the Secretary determines are more likely to be otherwise unable to meet such expenses. Since 2007, HRSA's LODRP has fulfilled this function, reimbursing eligible living organ donor candidates and donors for qualifying non-medical expenses, including travel, meals, lost wages, and child and elder care. Since the program's inception, LODRP (currently operated by the National Living Donor Assistance Center, also known as NLDAC) has received more than 21,000 applications, approving nearly 89 percent of them. During this timeframe, LODRP facilitated over 12,000 living organ donations.

Prior to the enactment of the HOLD Act on February 3, 2026, LODRP's authorizing legislation prohibited donors from receiving reimbursement through the program if they received, or expected to receive, payment related to qualifying non-medical expenses from the recipient of the organ.² Consequently, LODRP's eligibility guidelines centered on recipients' household incomes (HHI), and donors whose intended recipients had HHIs of greater than 350 percent of the HHS Poverty Guidelines³ would not be eligible for reimbursement under LODRP unless the recipient could demonstrate financial hardship.⁴

The HOLD Act removes recipient income as a factor for determining program eligibility, shifting the program's focus solely to donors' financial need.⁵ Additionally, the HOLD Act requires that, by December 31, 2027, HRSA submit an annual report to Congress with estimates for the number of donors participating in the program who did not receive reimbursement for all qualifying expenses and the total funding needed to fully reimburse donors for all qualifying expenses.⁶

III. Proposed LODRP Eligibility Guideline Modifications

The current LODRP eligibility guidelines are established through a **Federal Register** notice (most recently updated in 2020).⁷ HRSA proposes the following changes to the LODRP guidelines to align with the HOLD Act:

i. Removal of Recipient HHI as a Criterion for Eligibility for Reimbursement Under LODRP

Per the HOLD Act, “the recipient of a grant under this section, in providing reimbursement to a donating individual through such grant, shall not give any consideration to the income of the organ recipient.”⁸ Additionally, the HOLD Act removes the “expectation of payments by organ recipients” as a barrier to eligibility in the program.⁹ To comply with these requirements, HRSA will modify LODRP's eligibility guidelines to remove the recipient's HHI as an eligibility criterion for living donors and donor candidates applying for reimbursement through the program.

While recipient income will no longer be used for program consideration, HRSA will continue to monitor the impact of LODRP on both living organ donors and recipients' increased access

to living organ transplants. In order to monitor the impact on recipients, donor applicants will be asked to answer one multiple-choice question on the organ recipient's HHI, with choices including various income ranges and an “I do not know” option for use in cases of non-directed donors, or when the donor applicant does not have a good faith estimate of the recipient's HHI.

Donor applicants will no longer be required to provide written documentation (e.g., tax documents, pay stubs, etc.) of their intended recipient's HHI and recipients' HHI will not be factored into a donor's eligibility or priority for assistance under LODRP. This change will drastically lower the applicant response burden, consistent with Congressional intent of the HOLD Act, while still enabling HRSA to monitor high-level program impact for both donors and recipients with financial needs being served by LODRP.

ii. Establishment of a Household Income Threshold Eligibility Requirement for Living Organ Donors and Donor Candidates Seeking Reimbursement Through LODRP To Ensure That LODRP Resources are Targeted to Donors With Financial Need

The HOLD Act's removal of recipient HHI as an eligibility factor necessitates the establishment of a donor-focused HHI threshold to ensure LODRP resources continue to go toward individuals with demonstrated financial need. HRSA proposes replacing the current four-tier preference category structure, which conditions eligibility and priority primarily on recipient HHI, with a streamlined, donor-centered framework consisting of two eligibility tiers and a capped financial hardship waiver, applicable to both directed and non-directed donors.

Under the proposed framework, both directed and non-directed donors meeting the criteria for reimbursement will be given preference in the following order of priority:

- **Priority Category 1:** Donor applicants with HHIs at or below 350 percent of the HHS Poverty Guidelines at the time of the eligibility determination in their respective states of primary residence would receive the highest priority for reimbursement under LODRP.

- **Priority Category 2:** If sufficient program resources exist, applicants with HHIs between 351 and 500 percent of the HHS Poverty Guidelines would also be eligible to apply for reimbursement.

The cooperative agreement recipient will accept and process applications beginning with *Priority Category 1*. Each month, the cooperative agreement

¹ Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation. 42 U.S.C. 274f. Office of the Law Revision Counsel, U.S. House of Representatives, <https://www.govinfo.gov/link/uscode/42/274f>.

² Reimbursement of Travel and Subsistence Expenses Incurred toward Living Organ Donation. 42 U.S.C. 274f. Office of the Law Revision Counsel, U.S. House of Representatives, <https://www.govinfo.gov/link/uscode/42/274f>.

³ HHS Poverty Guidelines for 2026, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

⁴ U.S. Department of Health and Human Services, Health Resources and Services Administration.

“Reimbursement of Travel and Subsistence Expenses Toward Living Organ Donation Program Eligibility Guidelines.” **Federal Register**, vol. 85, no. 184, 22 Sept. 2020, pp. 59530–59534, FR Doc. No. 2020–20805, www.federalregister.gov/d/2020-20805/p-31.

⁵ United States Congress, House. *Consolidated Appropriations Act*, 2026. H.R. 7148, 119th Congress, 2nd Session. Signed into law 3 Feb. 2026. P.L. 119–75. www.congress.gov/bills/119/75/congress-house-bill/7148/text.

⁶ *Ibid.*

⁷ U.S. Department of Health and Human Services, Health Resources and Services Administration. “Reimbursement of Travel and Subsistence Expenses Toward Living Organ Donation Program Eligibility Guidelines as Amended.” **Federal Register**, 22 Sept. 2020, 85 FR 59530, www.federalregister.gov/documents/2020/09/22/2020-20805/reimbursement-of-travel-and-subsistence-expenses-toward-living-organ-donation-program-eligibility.

⁸ Section 6503 of the Consolidated Appropriations Act, 2026, Pub. L. 119–75.

⁹ Section 6503 of the Consolidated Appropriations Act, 2026, Pub. L. 119–75.

recipient will report the number of applications received and the amount of donor reimbursement issued over the past 30 days to HRSA. By mid-project period, the cooperative agreement recipient will advise HRSA on whether funding levels allow it to begin accepting and processing applications under additional priority categories. If HRSA and the cooperative agreement recipient determine that funding levels are sufficient to accept *Priority Category 2* applications, the cooperative agreement recipient will inform participating transplant programs directly and the public via its website.

HRSA estimates this framework would cover approximately 60 percent of current applicants at the ≤350 percent threshold and approximately 78 percent at the ≤500 percent threshold, including approximately 80 percent of applicants who reported they would be unable to donate without financial support.¹⁰

iii. Establishment of a Capped Financial Hardship Waiver for Donor Applicants Whose HHI is Between 501 and 750 Percent of the HHS Poverty Guidelines if Cooperative Agreement Recipient Is Accepting and/or Processing Applications Under Priority Category 2

Under current LODRP guidelines, financial hardship waivers are available to both recipients and donors whose incomes exceed 350 percent of the HHS Poverty Guidelines,¹¹ but who face difficulty paying qualifying expenses due to other significant financial obligations. Hardship waivers provide flexibility to serve additional living organ donors and members of the NLDAC Advisory Group, which is comprised of researchers, clinicians, transplant program professionals, living donors, and other stakeholders, have expressed support for maintaining a hardship waiver option.¹² As a result, financial hardship waivers will continue to be accepted from eligible living organ donors and donor candidates under the revised eligibility guidelines, if the cooperative agreement

recipient is accepting and/or processing applications under *Priority Category 2*.

Under the proposed framework, if the cooperative agreement recipient is accepting and/or processing applications under *Priority Category 2*, donors with HHIs between 501 and 750 percent of the HHS Poverty Guidelines at the time of the eligibility determination may apply for a financial hardship waiver.

As under current program guidelines, donor waiver requests would be reviewed on a case-by-case basis. Determination of hardship in a particular case will continue to require a fact-specific analysis, but HRSA proposes the following hardship expense categories:

- Lost wages attributable to the donation process and recovery period.
- Travel, lodging, and meals related to the donation process and follow-up appointments.
- Child, elder, or other dependent care costs incurred during the donation process and recovery period.
- Out-of-pocket medical expenses incurred during the donation process.¹³

Based on a complete evaluation of the donor's financial circumstances, a transplant social worker or other appropriate transplant center representative, will submit the written waiver request on the donor's behalf to the cooperative agreement recipient, attesting that the donor has provided documentation outlining significant expenses that reduce their HHI to below 500 percent of the HHS Poverty Guidelines. The waiver request is then reviewed by the cooperative agreement recipient and subject to final determination by HRSA. HRSA will communicate its final determination to the cooperative agreement recipient, and its determination will not be subject to appeal.

Currently, financial hardship waivers are available without an income ceiling. The income cap (750 percent of the HHS Poverty Guidelines) under the proposed framework reflects the program's renewed focus on donor financial need in alignment with the HOLD Act and ensures that waiver flexibility does not undermine the income-targeting purpose of the proposed eligibility thresholds. Capping waiver eligibility at 750 percent of the HHS Poverty Guidelines will also better target limited program resources and reduce administrative burden relative to an uncapped waiver available at any

income level. It is estimated that approximately 92 percent of current donor applicants to the program have incomes at or below 750 percent of the HHS Poverty Guidelines.¹⁴ HRSA will continue to evaluate the waiver eligibility income cap in operation to assess whether it is necessary in light of current program resources.

iv. Annual Report to Congress Requirement

The HOLD Act requires HRSA to submit an annual report to Congress, by December 31, 2027, with the following data:

- Number of donor applicants not fully reimbursed the previous fiscal year under LODRP.
- Estimated LODRP funding needed to fully reimburse all qualifying expenses for all eligible donor applicants under LODRP.

HRSA anticipates submitting a Paperwork Reduction Act package to the Office of Management and Budget to enable the LODRP cooperative agreement recipient to collect estimates of these data from all eligible living organ donors and donor candidates with approved applications for LODRP reimbursement.

v. Education and Dissemination of Eligibility Guidelines

In FY 2025, HRSA awarded a 3-year cooperative agreement to Health Literacy Media under a new program—Public Education for Living Organ Donation Reimbursement Program—to increase access to LODRP resources among medically underserved communities through education and outreach.

In conjunction with HRSA and the LODRP cooperative agreement recipient, the Public Education for Living Organ Donation Reimbursement Program cooperative agreement recipient will develop and disseminate educational materials informing the public about LODRP eligibility changes as a result of the HOLD Act. Additionally, the LODRP cooperative agreement recipient, through NLDAC, will provide targeted education to transplant professionals to inform them of the new guidelines.

vi. Proposed Living Organ Donation and Reimbursement Program Eligibility Guidelines, as Amended

As provided for in the statutory authorization, LODRP is authorized to provide reimbursement only in those circumstances when payment cannot reasonably be covered by other specified

¹⁰ HRSA internal analysis of LODRP data, 1 Sept. 2024–31 Aug. 2025.

¹¹ HRSA notes that, to date, the cooperative agreement recipient has not been required to impose a donor financial hardship waiver threshold in practice, as program resources have been sufficient to cover donors across all income levels. Financial hardship waivers have been routinely submitted on behalf of a donor's intended recipient to demonstrate that the recipient's HHI falls below the 350 percent threshold.

¹² NLDAC National Advisory Group Meeting Notes. 4 Mar. 2026. National Living Donor Assistance Center. For more information about the Advisory Group, see here: <https://www.livingdonorassistance.org/About-Us/Who-We-Are#:~:text=Biography-,National%20Advisory%20Group,-The%20National%20Advisory>.

¹³ Note that recipients' health insurance generally covers all medical expenses related to donation including evaluation, surgery, and immediate follow-up care.

¹⁴ HRSA internal analysis of LODRP data, 1 Sept. 2024–31 Aug. 2025.

sources of reimbursement. The recipient of the cooperative agreement, under federal law, cannot provide reimbursement to any living organ donor for listed qualifying expenses if the donor can receive reimbursement for these expenses from any of the following sources:

- Any state compensation program, an insurance policy, or any federal or state health benefits program; or
- An entity that provides health services on a prepaid basis.

All persons who wish to become living organ donors are eligible to receive reimbursement for their qualifying expenses if they cannot receive reimbursement from the sources outlined above and if all the requirements outlined in the *Criteria for Donor Reimbursement* section below are satisfied. However, because reimbursement is subject to the availability of funds, prospective living organ donors who are most likely not able to cover these expenses will receive priority. The ability to cover these expenses is determined based on an evaluation of (1) the donor's HHI in relation to the HHS Poverty Guidelines and (2) financial hardship. As a general matter, income refers to the donor's total household income.

Criteria for Donor Reimbursement

- Any individual who in good faith incurs travel and other qualifying expenses toward the intended donation of an organ.
- Donor and recipient of the organ are U.S. citizens or lawfully present in the United States.
- Donor and recipient have primary residences in the United States or its territories.
- Travel is originating from the donor's primary residence.
- Donor and recipient certify that they understand and are in compliance with Section 301 of National Organ Transplant Act (42 U.S.C. 274e) which states in part that it shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce.
- The transplant center where the donation procedure occurs certifies to its status of good standing with the Organ Procurement Transplantation Network.

Priority Categories

Non-directed and directed donors meeting the criteria for reimbursement will be given preference in the following order of priority:

- *Priority Category 1:* Donor applicants with HHIs at or below 350 percent of the HHS Poverty Guidelines¹⁵ at the time of the eligibility determination in their respective states of primary residence would receive the highest priority for reimbursement under LODRP.

- *Priority Category 2:* If sufficient program resources exist, applicants with HHIs between 351 and 500 percent of the HHS Poverty Guidelines would also be eligible to apply for reimbursement.

The cooperative agreement recipient will accept and process applications beginning with *Priority Category 1*. Each month, the cooperative agreement recipient will report the number of applications received and the amount of donor reimbursement issued over the past 30 days to HRSA. By mid-project period, the cooperative agreement recipient will advise HRSA on whether funding levels allow it to begin accepting and processing applications under additional priority categories. If HRSA and the cooperative agreement recipient determine that funding levels are sufficient to accept *Priority Category 2* applications, the cooperative agreement recipient will inform participating transplant programs directly and the public via its website.

Financial Hardship Waiver

If the LODRP cooperative agreement recipient is accepting and/or processing applications under *Priority Category 2*, donors with HHIs between 501 and 750 percent of the HHS Poverty Guidelines at the time of the eligibility determination may apply for a financial hardship waiver.

Financial waiver requests will be reviewed on a case-by-case basis. Determination of hardship in a particular case will be based off attestation and documentation of the following types of donation-related expenses incurred by the donor or donor candidate:

- Lost wages attributable to the donation process and recovery period.
- Travel, lodging, and meals related to the donation process and follow-up appointments.
- Child, elder, or other dependent care costs incurred during the donation process and recovery period.
- Out-of-pocket medical expenses incurred during the donation process.¹⁶

¹⁵ HHS Poverty Guidelines for 2026, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

¹⁶ Note that recipients' health insurance generally covers all medical expenses related to donation including evaluation, surgery, and immediate follow-up care.

Based on a complete evaluation of the donor's financial circumstances, a transplant social worker or other appropriate transplant center representative, will submit the written waiver request on the donor's behalf to the cooperative agreement recipient, attesting that the donor has provided documentation outlining significant expenses that reduce their HHI to at or below 500 percent of the HHS Poverty Guidelines. The waiver request is then reviewed by the cooperative agreement recipient and subject to final determination by HRSA. HRSA will communicate its final determination to the cooperative agreement recipient, and its determination will not be subject to appeal.

Qualifying Expenses

The total federal reimbursement for all qualifying expenses during the donation process shall not exceed \$6,000 per potential donor evaluated and/or organ donated. For the purposes of LODRP, qualifying expenses include:

- Travel, lodging, meals and incidental expenses incurred by the donor and/or his/her accompanying person(s) as part of:
 - Donor evaluation and/or
 - Hospitalization for the living donor surgical procedure and/or
 - Medical or surgical follow-up, clinic visits, or hospitalization within 2 calendar years following the living donation procedure (or beyond the 2-year period if exceptional circumstances exist).
- Lost wages, child-care expenses, and elder-care expenses incurred by the donor and/or his/her accompanying or assisting person(s) as part of:
 - Donor evaluation and/or
 - Hospitalization for the living donor surgical procedure and/or
 - Non-hospital post-surgery recovery time and/or
 - Medical or surgical follow-up, clinic visits, or hospitalization within 2 calendar years following the living donation procedure (or beyond the 2-year period if exceptional circumstances exist).

The recipient of the cooperative agreement will pay for a total of up to five trips; three for the donor and two for accompanying individuals. However, in cases in which the transplant center requests the donor to return to the transplant center for additional visits as a result of donor complications or other health related issues, the recipient of the cooperative agreement may provide reimbursement for the additional visit(s) for the donor and an accompanying person. The

accompanying person need not be the same in each trip.

Reimbursement for travel, lodging, meals, and incidental expenses, as appropriate, shall be provided at the federal per diem rate, except for hotel accommodation, which shall be reimbursed at no more than 150 percent of the federal per diem rate.

Donors may receive up to 4 weeks of reimbursement for lost wages, child-care expenses, and elder-care expenses associated with the surgery and recovery time. In addition, donors may receive reimbursement for up to 2 additional weeks for lost wages, child-care expenses, and elder-care expenses if the donor requires follow-up visits and hospitalization as a result of donor complications or other health-related issues. Reimbursement for lost wages is based on the donor providing appropriate documentation, such as pay stubs, to the program. Reimbursement of lost wages is not limited to traditional wage rate income. Donors may receive reimbursement for non-traditional or irregular income through the program if they provide sufficient documentation of the expected lost wages.

To qualify for reimbursement of child-care expenses and elder-care expenses, a donor shall have caretaker responsibilities for:

- A minor child and/or
- An elder who requires caretaker assistance.

Caretaker responsibilities are not limited to familial relationships between the donor and/or the accompanying or assisting person(s), and the aforementioned individuals. In considering requests for reimbursement for child-care expenses and elder-care expenses, the recipient of the cooperative agreement is encouraged to adopt a consistent application of “child” and “elder.” The recipient of the cooperative agreement may consider applicable laws within the jurisdiction in which the caretaker resides in reviewing requests for reimbursement for expenses for care of a “child,” and, in reviewing requests for reimbursement for elder-care expenses, may consider “elder” to refer to an individual age 60 and older, consistent with the Older Americans Act, 42 U.S.C. 3002(40).

Requests for reimbursement for the expenses of persons accompanying or assisting the donor for travel, housing, meals, and incidental expenses are considered under the preference categories and processed for reimbursement at the same time as requests for reimbursement for expenses incurred by the donor. Requests for reimbursement for the expenses of

persons accompanying or assisting the donor for lost wages, child-care expenses, and elder-care expenses are considered under the priority categories and will be processed separately. Requests for these expenses will be processed after all requests for expenses incurred by the donor, and expenses for persons accompanying or assisting the donor for qualifying expenses for travel, housing, meals, and incidental expenses, have been processed under all four preference categories.

Maximum Number of Prospective Donors per Recipient

- *Kidney*: One donor at a time, with a maximum of three donors.
- *Liver*: One donor at a time, with a maximum of five donors.
- *Lung*: Two donors at a time, with a maximum of six donors.

Special Provisions

Many factors may prevent the intended and willing donor from proceeding with the donation. Circumstances that would prevent the transplant or donation from proceeding include present health status of the intended donor or recipient; perceived long-term risks to the intended donor; justified circumstances such as acts of God (major storms or hurricanes); or a circumstance when an intended donor proceeds toward donation in good faith, subject to a case-by-case evaluation by the recipient of the cooperative agreement, but then elects not to pursue donation. In such cases, the intended donor and accompanying persons may receive reimbursement for qualifying expenses incurred as if the donation had been completed. The recipient of the cooperative agreement will file a form with the Internal Revenue Service reporting funds disbursed as income for expenses not incurred.

vii. Other Eligibility Requirements

All other eligibility requirements established under 42 U.S.C. 274f (Section 377 of the PHS Act, as amended) would remain unchanged.

viii. Request for Comment

HRSA invites public comment on the following:

- (1) Proposed donor HHI eligibility thresholds and priority categories, as outlined in III.ii of this notice.
- (2) Proposed financial hardship waiver cap for donor applicants with HHIs between 501–570 percent of the HHS Poverty Guidelines, as outlined in III.iii of this notice.
- (3) Proposed categories for donors’ financial hardship expenses as outlined in III.iii of this notice.

(4) Recommendations for forums, resources, and venues to distribute information about LODRP and the program’s new eligibility guidelines, including suggestions for community-based outreach and education.

Please indicate which requests for comment (from above) you are responding to and provide recent and accurate quantitative and qualitative data and information to support your comment(s). Please note that comments on other program guidelines are outside of the scope of this **Federal Register** notice and HRSA will not respond to comments received that do not directly pertain to the above request for comment.

IX. Paperwork Reduction Act of 1995

The proposed changes may result in revisions to information collection requirements subject to review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

X. Regulatory Impact

This notice does not establish binding requirements and is not a significant regulatory action under Executive Order 12866.

XI. Implementation

After consideration of public comments, HRSA will publish final eligibility guidelines in the **Federal Register** with the goal of implementing the new guidelines no later than September 1, 2026.

XII. Non-Binding Guidance

This notice sets forth proposed program eligibility guidelines and does not establish legally enforceable rights or obligations. HRSA retains discretion to apply the guidelines based on program requirements and available funding.

Thomas J. Engels,
Administrator.

[FR Doc. 2026–13250 Filed 6–30–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Notice of Proposed Purchased/ Referred Care Delivery Area Redesignation for Ysleta Del Sur Pueblo

AGENCY: Indian Health Service, Department of Health and Human Services

ACTION: Notice.

SUMMARY: This notice advises the public that the Indian Health Service (IHS) proposes to expand the geographic boundaries of the Purchased/Referred Care Delivery Area (PRCDA) for Ysleta Del Sur Pueblo ("YDSP" or "Tribe") to include the Dona Ana County of New Mexico. The current PRCDA for YDSP includes the Texas counties of El Paso and Hudspeth. While recent PRCDA listings have not included Hudspeth County, this was a clerical error and unintentional omission that the IHS has corrected.

YDSP Tribal members who reside outside of the PRCDA are eligible for direct care services; however, they are not eligible for Purchased/Referred Care (PRC) services. The sole purpose of this expansion would be to authorize additional YDSP Tribal members and beneficiaries to receive PRC services.

DATES: Comments must be submitted by July 31, 2026.

ADDRESSES: Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a Comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Carl Mitchell, Director, Division of Regulatory and Policy Coordination, Indian Health Service, 5600 Fishers Lane, Mail Stop: 06SWH03, Rockville, Maryland 20857.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the above address.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to the address above.

If you intend to deliver your comments to the Rockville address, please call the telephone number (301) 651-0489 in advance to schedule your arrival with a staff member.

SUPPLEMENTARY INFORMATION:

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.

FOR FURTHER INFORMATION CONTACT: CDR Tracy Sanchez, Acting Director, Office

of Resource Access and Partnerships, Indian Health Service, 5600 Fishers Lane, Mail Stop 06SEH03, Rockville, Maryland 20857. Telephone (301) 443-0969 (This is not a toll-free number).

Background: The IHS provides services under regulations in effect as of September 15, 1987, and republished at 42 CFR part 136, subparts A—C. Subpart C defines a Contract Health Service Delivery Area (CHSDA), now referred to as a PRCDA, as the geographic area within which PRC will be made available by the IHS to members of an identified Indian community who reside in the PRCDA. Residence within a PRCDA by a person who is within the scope of the Indian health program, as set forth in 42 CFR 136.12, creates no legal entitlement to PRC services but only potential eligibility for services. Services needed, but not available at an IHS/Tribal facility, are provided under the PRC program depending on the availability of funds, the relative medical priority of the services to be provided, and the actual availability and accessibility of alternate resources in accordance with the regulations.

The regulations at 42 CFR part 136, subpart C provide that, unless otherwise designated, a PRCDA shall consist of a county which includes all or part of a reservation and any county or counties which have a common boundary with the reservation. 42 CFR 136.22(a)(6). The regulations also provide that after Tribal Consultation with the Tribal governing body or bodies on those reservations included within the PRCDA, the Secretary may, from time to time, redesignate areas within the United States for inclusion in or exclusion from a PRCDA. 42 CFR 136.22(b). The regulations require that certain criteria be considered before any redesignation is made. The criteria are as follows:

(1) The number of Indians residing in the area proposed to be so included or excluded;

(2) Whether the tribal governing body has determined that Indians residing in the area near the reservation are socially and economically affiliated with the tribe;

(3) The geographic proximity to the reservation of the area whose inclusion or exclusion is being considered; and

(4) The level of funding which would be available for the provision of PRC.

Additionally, the regulations require that any redesignation of a PRCDA be made in accordance with the procedures of the Administrative Procedure Act (5 U.S.C. 553). 42 CFR 136.22(c). In compliance with this requirement, the

IHS is publishing this Notice and requesting public comments.

YDSP is in El Paso, Texas. YDSP operates their PRC program under an Indian Self-Determination and Education Assistance Act agreement with the IHS. The YDSP has requested that the IHS expand its PRCDA to include Dona Ana County, New Mexico. Under 42 CFR 136.23, those otherwise eligible Indians who do not reside on a reservation, but reside within a PRCDA, must be either members of the Tribe or other IHS beneficiaries who maintain close economic and social ties with the Tribe. In this case, applying the aforementioned PRCDA redesignation criteria required by operative regulations codified at 42 CFR part 136, subpart C, the following findings are made:

1. By expanding the PRCDA to include Dona Ana County, New Mexico, the IHS and YDSP estimate that the Tribe's PRC eligible population would increase by an estimated 500 Tribal members.

2. As part of their expansion request, YDSP submitted a resolution from the Tribe's governing body. The resolution explains that the expansion is intended to serve their Tribal members living in Dona Ana County, New Mexico, and it describes those Tribal members as being socially and economically tied to the Tribe's reservation. The resolution also states that YDSP intends to include other eligible American Indians and Alaska Natives who maintain close economic and social ties with the Tribe, consistent with 42 CFR 136.23(a)(2)(ii).

3. The requested expansion would form a contiguous area with the existing PRCDA. Tribal members of YDSP reside in the county proposed for inclusion in the expanded PRCDA. Through their expansion request, the Tribe described how close Dona Ana County, New Mexico is to their reservation and health clinic, approximately 45 miles. The Tribe explained that it is close enough for their Tribal members residing in Dona Ana County to utilize the YDSP Health Clinic as their primary site of care. For these reasons, the IHS has determined the additional county proposed for inclusion herein to be geographically proximate, meaning "on or near," to the Tribe's reservation.

4. Through YDSP's request to expand its PRCDA, the Tribe has indicated that the PRC program can continue providing the same level of care to the PRC eligible population if the PRCDA is expanded as proposed, without requiring additional funding from the IHS or reduction of the current medical priority level.

Accordingly, the IHS proposes to expand the PRCD of YDSP to include the county of Dona Ana in the state of New Mexico.

This Notice does not contain reporting or recordkeeping requirements subject to prior approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Clayton W. Fulton,

Chief of Staff, Delegated Authority of the IHS Director. Indian Health Service.

[FR Doc. 2026–13288 Filed 6–30–26; 8:45 am]

BILLING CODE 4166–14–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; Member Conflict: Cancer Prevention and Therapeutics.

Date: July 24, 2026.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Robert F. Gahl, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 808 F, Bethesda, MD 20892, 301–480–9675, robert.gahl@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biomedical Imaging Approaches in Health Research.

Date: July 24, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Vera A. Cherkasova, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–443–8351, vera.cherkasova@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Eye Diseases and Visual Processes.

Date: July 24, 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: Lai Yee Leung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011D, Bethesda, MD 20892, 301–827–8106, leungl2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Gametogenesis and Development of Reproductive Systems.

Date: July 24, 2026.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Leslie Mccue Turner, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–480–4962, leslie.turner@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Promotion for Mental Health and Substance Misuse.

Date: July 24, 2026.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kristen Prentice, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3112, MSC 7808, Bethesda, MD 20892, 301–496–0726, prenticekj@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Academic Industrial Partnerships for Translation of Medical Technologies.

Date: July 27, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, luow@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special

Topics in Genetics and Genomics of Human Diseases.

Date: July 27, 2026.

Time: 10:00 a.m. to 4:00 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: Manas Chattopadhyay, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–443–7368, manas.chattopadhyay@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–077: Collaborative Program Grant for Multidisciplinary Teams.

Date: July 27–28, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Bruce Sundstrom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–4481, jay.sundstrom@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–23–124: Genomic Community Resources.

Date: July 27, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Joonil Seog, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9791, joonil.seog@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: June 29, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–13337 Filed 6–30–26; 8:45 am]

BILLING CODE 4167–05–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; Special: Pulmonary Research.

Date: July 27, 2026.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Carl White, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-4835, carl.white@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Career Development Award Review.

Date: July 28, 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: Bitu Nakhai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-3258, nakhaib@nia.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: The Neurosensory System.

Date: July 28, 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: Chi-Tso Chiu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-9085, chiuc@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Contracts: Biological/Fertility Agent Testing Contract Review Meeting.

Date: July 28, 2026.

Time: 9:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-9434, leroy.worth@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Discovery and Optimization of Immunotherapeutics and Biological Therapeutics.

Date: July 28, 2026.

Time: 9:30 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: Robert C. Unfer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-1474, robert.unfer@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-24-260: Tribal Institutional Review Board Establishment and Enhancement.

Date: July 28, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Joonil Seog, SCD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402-9791, joonil.seog@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Surgery, and Cardiology.

Date: July 28, 2026.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Raul Covian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-7966, raul.covian@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Pathobiology, Hemostasis, and Thrombosis.

Date: July 28, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Vladimir Bogdanov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 801G, Bethesda, MD 20892, (301) 594-6602, bogdanovv2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel;

Fellowships: Interdisciplinary fields of Bioengineering, Imaging and Vascular Sciences.

Date: July 29, 2026.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-5084, zhihong.shan@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Neuroimmune Cross-Talk (NICT).

Date: July 29-30, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Mariam Zaka, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1009J, Bethesda, MD 20892, (301) 594-2661, zakam2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; R25 Research Education and Training in Nephrology, Urology, Nutrition, and Metabolism.

Date: July 29, 2026.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Stephanie Nicole Hicks, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480-5710, hickssn@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Biomedical Sciences.

Date: July 29-30, 2026.

Time: 9:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Sonia Ivette Ortiz-Miranda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-3859, sonia.ortiz-miranda@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuropsychiatric Disorders, Substance Use, and Biobehavioral Regulation.

Date: July 29, 2026.

Time: 10:00 a.m. to 2:00 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: Sudhirkumar U. Yanpallewar, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 594-7593, yanpalls@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 29, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-13311 Filed 6-30-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

The Federal Demonstration Partnership; Phase VIII Notice

AGENCY: National Institutes of Health, National Science Foundation, Department of War, Department of Agriculture and National Institute of Food and Agriculture.

ACTION: Notice.

SUMMARY: This notice announces a solicitation for large and small public and private colleges and universities (including predominantly undergraduate institutions, minority serving institutions, and emerging research institutions), non-profit research and education organizations (e.g., science museums and research institutes), and research hospitals and medical centers that are recipients of federal research or research-related funding to participate in Phase VIII of the Federal Demonstration Partnership (FDP). FDP is a unique forum of federal agencies and recipients committed to testing innovative approaches and streamlining processes and systems for federally supported research. It is anticipated that the National Academy of Sciences, Engineering and Medicine will continue to function as the secretariat for the FDP; as it has since 1988. The full solicitation is found at the Federal Demonstration Partnership website <https://thefdp.org/>.

DATES: Applications must be received by C.O.B. on September 15, 2026. Evaluation and selection of organizations will be completed on or

about October 31, 2026. Phase VIII execution of agreements will be completed on or about December 15, 2026. The first Phase VIII organizational meeting will take place in January 2027. Phase VIII concludes December 31, 2032.

ADDRESSES: Visit the FDP website <https://thefdp.org> or contact info@thefdp.org.

SUPPLEMENTARY INFORMATION: This notice is in accordance with NIH Contract 75N94025P00655, for NIH's Partial Support of the Activities of the Federal Demonstration Partnership (FDP) to National Academy of Sciences. Other agencies should be consulted to provide their legal authority to engage with FDP.

The Director for Office of Policy for Extramural Research Administration, Michelle G. Bulls, having reviewed and approved this document, authorizes Alycia Booth, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: June 29, 2026.

Alycia Booth,

Federal Register Liaison, National Institutes of Health.

[FR Doc. 2026-13244 Filed 6-30-26; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2025-0395]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625-0112

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625-0112, Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before August 31, 2026.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG-2025-0395] to the Coast Guard at <https://www.regulations.gov>. See the "Public participation and request for comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <https://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG-C5I-P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE SE, STOP 7710, WASHINGTON, DC 20593-7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone (571) 607-4058, or email hqs-dg-m-cg-61-pii@uscg.mil.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C., chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection without change. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the

ICR and the docket number of this request, USCG–2025–0395, and must be received by August 31, 2026.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice as being available in the docket, and all public comments, are in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

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

Information Collection Request

Title: Enhanced Maritime Domain Awareness via Electronic Transmission of Vessel Transit Data.

OMB Control Number: 1625–0112.
Summary: The Coast Guard collects, stores, and analyzes data transmitted by Long Range Identification and Tracking (LRIT) and Automatic Identification System (AIS) to enhance maritime domain awareness (MDA). Awareness and threat knowledge are critical for securing the maritime domain and the key to preventing adverse events. Data is also used for marine safety and environmental protection purposes.

Need: To ensure port safety and security and to ensure the uninterrupted flow of commerce.

Forms: None.
Respondents: Owners and operators of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 52,728 hours

to 52,968 hours a year, due to an increase in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: June 26, 2026.
Bradley E. White,
Chief, Office of Privacy Management, U.S. Coast Guard.
[FR Doc. 2026–13246 Filed 6–30–26; 8:45 am]
BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds of Customs Duties

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will increase from the previous quarter. For the calendar quarter beginning July 1, 2026, the interest rates for underpayments will be 7 percent for both corporations and non-corporations. The interest rate for overpayments will be 7 percent for non-corporations and 6 percent for corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates announced in this notice are applicable as of July 1, 2026.

FOR FURTHER INFORMATION CONTACT: Bruce Ingalls, Revenue Division, Collection Refunds & Analysis Branch, 8899 E 56th Street, Mail Stop 203J, Indianapolis, IN 46249; telephone (317) 298–1107.

SUPPLEMENTARY INFORMATION:

Background
Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2026–10, the IRS determined the rates of interest for the calendar quarter beginning July 1, 2026, and ending on September 30, 2026. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%) for both corporations and non-corporations. For overpayments made by non-corporations, the rate is the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%). For corporate overpayments, the rate is the Federal short-term rate (4%) plus two percentage points (2%) for a total of six percent (6%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will increase from the previous quarter. These interest rates are subject to change for the calendar quarter beginning October 1, 2026, and ending on December 31, 2026.

For the convenience of the importing public and U.S. Customs and Border Protection personnel, the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	.....
040199	033100	8	8	6
040100	033101	9	9	7
040101	063001	8	8	8
070101	123101	7	7	7
010102	123102	6	6	6
010103	093003	5	5	5
100103	033104	4	4	4
040104	063004	5	5	3
070104	093004	4	4	4
100104	033105	5	5	3
040105	093005	6	6	4
100105	063006	7	7	5
070106	123107	8	8	6
010108	033108	7	7	7
040108	063008	6	6	6
070108	093008	5	5	5
100108	123108	6	6	4
010109	033109	5	5	5
040109	123110	4	4	5
010111	033111	3	3	4
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	123118	5	5	3
010119	063019	6	6	4
070119	063020	5	5	5
070120	033122	3	3	4
040122	063022	4	4	2
070122	093022	5	5	3
100122	123122	6	6	4
010123	093023	7	7	5
100123	123124	8	8	6
010125	033126	7	7	7
040126	063026	6	6	6
070126	093026	7	7	5
				6

Crimley S. Hoover,

Acting Chief Financial Officer, U.S. Customs
and Border Protection.

[FR Doc. 2026–13298 Filed 6–30–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****[OMB Control Number 1651–0022]****Agency Information Collection Activities; Revision; Entry Summary****AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.**ACTION:** 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 31, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0022 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following

four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry Summary.

OMB Number: 1651–0022.

Form Number: 7501.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Individuals and Businesses.

Abstract: CBP Form 7501, *Entry Summary*, is used to identify merchandise entering the commerce of the United States, and to document the amount of duty and/or tax paid. CBP Form 7501 is submitted by the importer, or the importer's agent, for each import transaction. The data on this form is used by CBP as a record of the import transaction; to collect the proper duty, taxes, certifications, and enforcement information; and to provide data to the U.S. Census Bureau for statistical purposes. CBP Form 7501 must be filed within 10 working days from the time of entry of merchandise into the United States. Collection of the data on this form is authorized by 19 U.S.C. 1484 and provided for by 19 CFR 141.61 and 19 CFR 142.11. CBP Form 7501 and accompanying instructions can be found at: https://www.cbp.gov/newsroom/publications/forms?title_1=7501.

New Proposed Change

CBP is announcing a voluntary test for a new electronic informal entry process for mail in ACE through the development of new informal entry type 13—Informal Mail Entry. The new informal entry type 13 is applicable for shipments valued at \$2,500 or less and are sent to the United States via mail. The Entry Type 13 Test provides an

alternative to the new interim process for informal mail entries, as set forth in 19 CFR 145.12(b) by allowing filers to transmit informal entry for qualified mail shipments electronically. This test also creates an informal entry pathway for low-value mail shipments subject to Partner Government Agency (PGA) data requirements or duties other than those set forth in Chapters 1–97 of the Harmonized Tariff Schedule of the United States (HTSUS), which are ineligible for the interim process for informal mail entries, as set forth in 19 CFR part 145.

The test is open to owners and purchasers of merchandise being mailed to the United States and licensed customs brokers properly appointed by the owner, purchaser, or consignee of the merchandise being mailed to the United States, who will act as the importer of record (IOR) for the entry. The test is also open to carriers transporting mail to the United States, to transmit the postal tracking number as part of their manifest filing. CBP encourages all eligible parties to participate in this test to assess the functionality of this new entry type and to seize the opportunity to adapt to an automated informal mail entry process.

An entry type 13 requires the IOR to electronically transmit the following data elements to CBP:

- (1) Filer code;
- (2) IOR number;
- (3) Description of merchandise;
- (4) Country of origin;
- (5) All applicable 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification(s);
- (6) Quantity and weight, if using specific duty rates;
- (7) Duty rate;
- (8) Value;
- (9) Total duty owed;
- (10) Carrier name;
- (11) Tracking number generated by the foreign post operator; and
- (12) Arrival port.

Type of Information Collection: 7501—Formal Entry (Electronic submission).

Estimated Number of Respondents: 2,336.

Estimated Number of Annual Responses per Respondent: 9,903.

Estimated Number of Total Annual Responses: 23,133,408.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 1,920,073.

Type of Information Collection: 7501 Formal Entry (Paper Submission).

Estimated Number of Respondents: 28.

Estimated Number of Annual Responses per Respondent: 9,903.
Estimated Number of Total Annual Responses: 277,284.
Estimated Time per Response: 20 minutes.
Estimated Total Annual Burden Hours: 92,336.
Type of Information Collection: 7501 Formal Entry w/Softwood Lumber Act of 2008 (Paper Only).
Estimated Number of Respondents: 210.
Estimated Number of Annual Responses per Respondent: 1,905.
Estimated Number of Total Annual Responses: 400,050.
Estimated Time per Response: 40 minutes.
Estimated Total Annual Burden Hours: 266,433.
Type of Information Collection: 7501 Informal Entry (Electronic Submission).
Estimated Number of Respondents: 1,883.
Estimated Number of Annual Responses per Respondent: 2,582.
Estimated Number of Total Annual Responses: 4,861,906.
Estimated Time per Response: 5 minutes.
Estimated Total Annual Burden Hours: 403,538.
Type of Information Collection: 7501 Informal Entry (Paper Submission).
Estimated Number of Respondents: 19.
Estimated Number of Annual Responses per Respondent: 2,582.
Estimated Number of Total Annual Responses: 49,058.
Estimated Time per Response: 15 minutes.
Estimated Total Annual Burden Hours: 12,265.
Type of Information Collection: 7501A Document/Payment Transmittal (Paper Only).
Estimated Number of Respondents: 20.
Estimated Number of Annual Responses per Respondent: 60.
Estimated Number of Total Annual Responses: 1,200.
Estimated Time per Response: 15 minutes.
Estimated Total Annual Burden Hours: 300.
Type of Information Collection: Exclusion Approval Information Letter.
Estimated Number of Respondents: 5,000.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Number of Total Annual Responses: 5,000.
Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 250.
Type of Information Collection: Entry—Test 13.
Estimated Number of Respondents: 10.
Estimated Number of Annual Responses per Respondent: 200,000.
Estimated Number of Total Annual Responses: 2,000,000.
Estimated Time per Response: 3 minutes or 0.05 hours.
Estimated Total Annual Burden Hours: 100,000.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.
 [FR Doc. 2026-13273 Filed 6-30-26; 8:45 am]
BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection
[OMB Control Number 1651-0001]

Agency Information Collection Activities; Revision; Extension; Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing

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

ACTION: 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 31, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0001 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:
Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border

Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing.

OMB Number: 1651-0001.

Form Number: 1302, 1302A, 7533, 7509.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Individuals and Businesses.

Abstract: Import Vessel Manifest:

CBP Form 1302: The master or commander of a vessel arriving in the United States from abroad with cargo on board must file CBP Form 1302, *Inward Cargo Declaration*, or submit the

information on this form using a CBP-approved electronic equivalent. CBP Form 1302 is part of the manifest requirements for vessels entering the United States and was agreed upon by treaty at the United Nations Inter-government Maritime Consultative Organization (IMCO). This form and/or electronic equivalent, is provided for by 19 CFR 4.5, 4.7, 4.7a, 4.8, 4.33, 4.34, 4.38, 4.84, 4.85, 4.86, 4.91, 4.93 and 4.99 and is accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=1302>.

Although the form has been mostly automated through the Automated Commercial Environment (ACE), there are still circumstances where a paper CBP form 1302 is required due to not being captured in ACE; Such as the data elements for equipment of the vessel which is intended for discharge or empty containers being transported coastwise. CBP is working to automate the remaining use cases of the CBP form 1302 through the Vessel Entrance and Clearance System (VECS). Some data elements may be collected via the Electronic Notice of Arrival/Departure (eNOAD), however, the eNOAD system does not have all of the data elements on CBP Form 1302. This form is not required to be submitted in hard copy for cargo brought to the United States with the intent to import and/or carry onboard in trade but is required for ship's equipment which is intended for discharge.

CBP Form 7533: The master or person in charge of a conveyance files CBP Form 7533, *INWARD CARGO MANIFEST FOR VESSEL UNDER FIVE TONS, FERRY, TRAIN, CAR, VEHICLE, ETC.*, which is required for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico, otherwise than by sea, with baggage or merchandise. Respondents may also submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7533, and/or electronic equivalent, is provided for by 19 CFR 123.4, 123.7, 123.61, 123.91, and 123.92, and is accessible at: https://www.cbp.gov/newsroom/publications/forms?title_1=7533.

Vessel Stow Plan: For all vessels transporting containerized goods to the US the incoming carrier is required to electronically submit a vessel stow plan no later than 48 hours after the vessel departs from the last foreign port that includes information about the vessel and cargo. For voyages less than 48 hours in duration, CBP must receive the vessel stow plan prior to arrival at the first port in the United States. The vessel stow plan is provided for by 19 CFR 4.7c.

Container Status Messages (CSMs): For all containers destined to arrive within the limits of a U.S. port from a foreign port by vessel, the incoming carrier must submit messages regarding the status of events if the carrier creates or collects a container status message (CSM) in its equipment tracking system reporting that event. CSMs must be transmitted to CBP via a CBP-approved electronic data interchange system. These messages transmit information regarding events such as the status of a container (full or empty); booking a container destined to arrive in the United States; loading or unloading a container from a vessel; and a container arriving or departing the United States. CSMs are provided for by 19 CFR 4.7d.

Importer Security Filing (ISF): For most cargo arriving in the United States by vessel, the importer, or its authorized agent, must submit the data elements listed in 19 CFR 149.3 via a CBP-approved electronic interchange system within prescribed time frames outlined in 19 CFR 149.2. Transmission of these data elements provide CBP with advanced information about the shipment.

Export Manifest and Electronic Export Manifest (pilots):

CBP Form 1302A: The master or commander of a vessel departing from the United States must file CBP Form 1302A, *Cargo Declaration Outward With Commercial Forms*, or CBP-approved electronic equivalent, with copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest. This form and/or electronic equivalent, is provided for by 19 CFR 4.62, 4.63, 4.75, 4.82, and 4.87–4.89, and is accessible at: https://www.cbp.gov/newsroom/publications/forms?title_1=1302A.

Electronic Ocean Export Manifest: CBP began a pilot in 2015 to electronically collect the air export manifest information. The carrier or its agent or anyone with direct knowledge of the export manifest data to provide specific pre-departure export manifest data to CBP must provide electronic export manifest (EEM) data to CBP prior to the conveyance departing the final U.S. port of export. Any trade member can provide the 7+1 data elements identified by CBP as the initial filling at least 24 hours prior to the conveyance departing the final U.S. port of export. The remaining EEM data elements must be provided at least two hours prior to a conveyance departing a U.S. port of export. This advance information is transmitted to CBP via the ACE's Export Information System. This information is transmitted to CBP in advance via the ACE's Export Information System.

Electronic Air Export Manifest: CBP began a pilot in 2015 to electronically collect the air export manifest information. The carrier or its agent or anyone with direct knowledge of the export manifest data to provide specific pre-departure export manifest data to CBP must provide electronic export manifest (EEM) data to CBP prior to the conveyance departing the final U.S. port of export. Any trade member can provide the 7+1 data elements identified by CBP as the initial filling at least 24 hours prior to the conveyance departing the final U.S. port of export. The remaining EEM data elements must be provided at least two hours prior to a conveyance departing a U.S. port of export. This advance information is transmitted to CBP via the ACE's Export Information System. This information is transmitted to CBP in advance via the ACE's Export Information System.

Electronic Rail Export Manifest: CBP began a pilot in 2015 to electronically collect the air export manifest information. The carrier or its agent or anyone with direct knowledge of the export manifest data to provide specific pre-departure export manifest data to CBP must provide electronic export manifest (EEM) data to CBP prior to the conveyance departing the final U.S. port of export. Any trade member can provide the 7+1 data elements identified by CBP as the initial filling at least 24 hours prior to the conveyance departing the final U.S. port of export. The remaining EEM data elements must be provided at least two hours prior to a conveyance departing a U.S. port of export. This advance information is transmitted to CBP via the ACE's Export Information System. This information is transmitted to CBP in advance via the ACE's Export Information System.

Import and Export (Vessel) manifest:
Manifest Confidentiality: An importer or consignee (inward) or a shipper (outward) may request confidential treatment of its name and address contained in manifests by following the procedure set forth in 19 CFR 103.31. The Vessel NPRM is updating the allowed data elements. <https://www.ecfr.gov/current/title-19/chapter-I/part-103>.

Air Manifest:
CBP Form 7509: The aircraft commander or agent must file Form 7509, *Air Cargo Manifest*, with CBP at the departure airport, or respondents may submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7509 contains information about the cargo onboard the aircraft. This form, and/or electronic equivalent, is provided for by 19 CFR 122.35, 122.48, 122.48a, 122.52, 122.54,

122.73, 122.113, and 122.118 and is accessible at: https://www.cbp.gov/newsroom/publications/forms?title_1=7509.

Air Cargo Advance Screening (ACAS): Respondents submit a subset of the required 19 CFR 122.48a data elements (ACAS Data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. ACAS Data is transmitted via a CBP-approved electronic interchange system within prescribed time frames. Currently, the ACAS data consists of:

- (1) Air waybill number
- (2) Total quantity based on the smallest external packing unit
- (3) Total weight of cargo
- (4) Cargo description
- (5) Shipper name and address
- (6) Consignee name and address
- (7) Master air waybill (MAWB) number (conditional)
- (8) Second notify party (optional)
- (9) Optional data elements listed in 19 CFR 122.48a may be provided on the ACAS timeframe:
 - a. Trip/flight number
 - b. Carrier/ICAO (International Civil Aviation Organization) code
 - c. Airport of arrival
 - d. Airport of origin
 - e. Scheduled date of arrival
 - f. Consolidation identifier
 - g. Split shipment indicator
 - h. Permit to proceed information
 - i. Identifier of other party which is to submit additional air waybill information
 - j. In-bond information
 - k. Local transfer facility
 - l. Flight departure message
 - m. In-bond information
 - n. The total quantity of the cargo covered by the house air waybill based on the smallest external packing unit
 - o. The total weight of the cargo covered by the house air waybill
 - p. Description
 - q. Permit-to-proceed information
 - r. Boarded quantity
 - s. Boarded weight
- (10) Any additional information regarding ACAS data elements (optional)

Previously Approved Changes to ACAS:

Through the Enhanced ACAS interim final rule (IFR), CBP has amended its regulations to include additional data elements. The ACAS program enhances the security of flights carrying cargo into the United States by requiring the transmission of certain air cargo data and performing targeted risk assessments based on the transmitted

data prior to an aircraft's departure for the United States. These risk assessments identify and prevent high-risk air cargo from being loaded onto an aircraft that could pose a risk to an aircraft during flight. In addition to the original ACAS data elements, Enhanced ACAS adds several mandatory and conditional data elements.

These additional data elements consist of:

- (1) Consignee email address (mandatory)
- (2) Consignee phone number (mandatory)
- (3) Shipment packing location and/or scheduled shipment pickup location (mandatory)
- (4) Ship to party (mandatory)
- (5) Verified Known Consignor (conditional, mandatory in specific circumstances)
- (6) Shipper email address (conditional, mandatory in specific circumstances)
- (7) Shipper phone number (conditional, mandatory in specific circumstances)
- (8) Customer account name (conditional, mandatory in specific circumstances)
- (9) Customer account issuer (conditional, mandatory in specific circumstances)
- (10) Customer account number (conditional, mandatory in specific circumstances)
- (11) Customer account shipping frequency/volume (conditional, mandatory in specific circumstances)
- (12) Customer account establishment date (conditional, mandatory in specific circumstances)
- (13) Customer account billing type (conditional, mandatory in specific circumstances)
- (14) Unmasked internet protocol (IP) address or media access control (MAC) address of the device used during account creation (conditional, mandatory in specific circumstances)
- (15) Unmasked internet protocol (IP) address or media access control (MAC) address of the device used to initiate the shipping transaction and the unmasked IP address or MAC address of the device used to file the ACAS filing each time an ACAS filing is submitted (conditional, mandatory in specific circumstances)
- (16) Shipping cost (conditional, mandatory in specific circumstances)
- (17) Biographic data (conditional, mandatory in specific circumstances)

- (18) Link to product listing and unmasked internet protocol (IP) address or media access control (MAC) address of the device used by the consignee to purchase the product (conditional, but mandatory in specific circumstances)

In tandem with the Enhanced ACAS interim final rule, CBP is also adding to the existing list of optional data elements that the public may provide at their discretion. CBP does not require trade members to provide this data.

The list of optional data elements consists of:

- (1) Origin of Shipment
- (2) Declared Value
- (3) Harmonized Commodity Code (HTS—6 or HTS—10)
- (4) Transaction Type (*e.g.*, B2B—business to business; B2C—business to consumer, etc.)
- (5) Special Handling Type
- (6) Customer Account Email Address
- (7) Customer Account Phone Number
- (8) Shipper Manufacturer Identification (MID) or Authorized Economic Operator (AEO) Number
- (9) Consignee Importer of Record number (or similar number)
- (10) Regulated Agent Name, Address and Code
- (11) ACAS Filing Type (*e.g.*, Standard, Express, eCommerce, Postal)

New Proposed Change:

CBP is announcing a voluntary test for a new electronic informal entry process for mail in ACE through the development of new informal entry type 13—Informal Mail Entry for shipments valued at \$2,500 or less that are sent to the United States via mail. This test includes changes to two other CBP information collections: Entry/Immediate Delivery Application and ACE Cargo Release; and Entry Summary.

Carriers transporting mail to the United States may elect to participate in the Entry Type 13 Test. Under current regulations, CBP is only provided with the weight of any mail arriving into the United States by these carriers, which fails to sufficiently address the risks in this environment and inhibits CBP from verifying that a specific mail article has been entered in accordance with all applicable requirements. Carriers voluntarily participating in this test will report the tracking number generated by a foreign postal operator for each arriving mail shipment on a manifest as part of their manifest filing. Regardless of whether the entry filer opts to participate in the Entry Type 13 Test, CBP encourages carriers transporting mail to the United States to voluntarily

participate in this test. If both the carrier and the filer choose to participate in this test, CBP will be able to match the tracking number reported by the carrier to the tracking number reported on the entry filing, which would allow CBP to determine the precise time of arrival for each shipment and confirm that an entry has been timely filed for an imported mail article.

Type of Information Collection: Air Cargo Manifest (CBP Form 7509).

Estimated Number of Respondents: 215.

Estimated Number of Annual Responses per Respondent: 6,821.

Estimated Number of Total Annual Responses: 1,466,400.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 366,600.

Type of Information Collection: Air Cargo Advanced Screening (ACAS) Data.

Estimated Number of Respondents: 281.

Estimated Number of Annual Responses per Respondent: 4,383,097.

Estimated Number of Total Annual Responses: 1,231,650,254.

Estimated Time per Response: 0 minutes.

Estimated Total Annual Burden Hours: 0.

Type of Information Collection: Enhanced Cargo Advanced Screening (ACAS) Data—Verified Known Consignors.

Estimated Number of Respondents: 281.

Estimated Number of Annual Responses per Respondent: 4,383,097.

Estimated Number of Total Annual Responses: 1,231,650,254.

Estimated Time per Response: 0 minutes.

Estimated Total Annual Burden Hours: 0.

Type of Information Collection: Enhanced ACAS Data—Non-Verified Known Consignors.

Estimated Number of Respondents: 281.

Estimated Number of Annual Responses per Respondent: 666,823.

Estimated Number of Total Annual Responses: 187,377,263.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 3,122,954.

Type of Information Collection: Inward Cargo Manifest for Truck, Rail, Vehicles, Vessels, etc. (CBP Form 7533).

Estimated Number of Respondents: 33,000.

Estimated Number of Annual Responses per Respondent: 292.

Estimated Number of Total Annual Responses: 9,629,400.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 962,940.

Type of Information Collection: Inward Cargo Declaration (CBP Form 1302).

Estimated Number of Respondents: 10,000.

Estimated Number of Annual Responses per Respondent: 300.

Estimated Number of Total Annual Responses: 3,000,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,500,000.

Type of Information Collection: Export Cargo Declaration (CBP Form 1302A).

Estimated Number of Respondents: 500.

Estimated Number of Annual Responses per Respondent: 400.

Estimated Number of Total Annual Responses: 200,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 10,000.

Type of Information Collection: Importer Security Filing.

Estimated Number of Respondents: 240,000.

Estimated Number of Annual Responses per Respondent: 34.

Estimated Number of Total Annual Responses: 8,100,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 8,100,000.

Type of Information Collection: Vessel Stow Plan.

Estimated Number of Respondents: 163.

Estimated Number of Annual Responses per Respondent: 109.

Estimated Number of Total Annual Responses: 17,767.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 31,803.

Type of Information Collection: Container Status Messages.

Estimated Number of Respondents: 60.

Estimated Number of Annual Responses per Respondent: 4,285,000.

Estimated Number of Total Annual Responses: 257,100,000.

Estimated Time per Response: 0.0056 minutes.

Estimated Total Annual Burden Hours: 23,996.

Type of Information Collection: Request for Manifest Confidentiality.

Estimated Number of Respondents: 5,040.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 5,040.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 1,260.

Type of Information Collection: Electronic Air Export Manifest.

Estimated Number of Respondents: 260.

Estimated Number of Annual Responses per Respondent: 5,640.

Estimated Number of Total Annual Responses: 1,466,400.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 121,711.

Type of Information Collection: Electronic Ocean Export Manifest.

Estimated Number of Respondents: 500.

Estimated Number of Annual Responses per Respondent: 400.

Estimated Number of Total Annual Responses: 200,000.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 100,000.

Type of Information Collection: Electronic Rail Export Manifest.

Estimated Number of Respondents: 7.

Estimated Number of Annual Responses per Respondent: 598,830.

Estimated Number of Total Annual Responses: 4,191,810.

Estimated Time per Response: 0.52 minutes.

Estimated Total Annual Burden Hours: 36,329.

Type of Information Collection: ET-13 Test.

Estimated Number of Respondents: 84.

Estimated Number of Annual Responses per Respondent: 23,810.

Estimated Number of Total Annual Responses: 2,000,000.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 33,334.

Seth D. Renkema,
Branch Chief, Economic Impact Analysis
Branch, U.S. Customs and Border Protection.
[FR Doc. 2026-13270 Filed 6-30-26; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****[OMB Control Number 1651–0024]****Agency Information Collection Activities; Revision; Entry/Immediate Delivery Application and ACE Cargo Release****AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.**ACTION:** 60-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 31, 2026) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0024 in the subject line and the agency name. Please submit written comments and/or suggestions in English. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

FOR FURTHER INFORMATION CONTACT:

Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov*. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written

comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) 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) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to 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. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry/Immediate Delivery Application and ACE Cargo Release.

OMB Number: 1651–0024.

Form Number: 3461 + 3461 ALT.

Current Actions: Revision.

Type of Review: Revision.

Affected Public: Businesses.

Abstract: All items imported into the United States are subject to examination before entering the commerce of the United States. There are two procedures available to affect the release of imported merchandise, including “entry” pursuant to 19 U.S.C. 1484, and “immediate delivery” pursuant to 19 U.S.C. 1448(b). Under both procedures, CBP Forms 3461, Entry/Immediate Delivery, and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR 142.3, 142.16, 141.22, and 141.24. The forms and instructions for Form 3461 are

accessible at: <https://www.cbp.gov/newsroom/publications/forms?title=3461&=Apply>.

ACE Cargo Release is a program for ACE entry summary filers in which importers or brokers may file ACE Cargo Release data in lieu of filing the CBP Form 3461. This data consists of 12 required elements: importer of record; buyer name and address; buyer employer identification number (consignee number), seller name and address; manufacturer/supplier name and address; Harmonized Tariff Schedule 10-digit number; country of origin; bill of lading; house air waybill number; bill of lading issuer code; entry number; entry type; and estimated shipment value. There are also four optional data elements: the container stuffing location, consolidator name and address, ship to party name and address. There are three Global Business Identifier (GBI) identifiers available to filers: 20-digit Legal Entity Identifier (LEI), 9-digit Data Universal Numbering System (DUNS), and 13-digit Global Location Number (GLN). The GBI Identifiers can be inputted for any of the following parties: manufacturer/producer, seller shipper, exporter, distributor or packager. The GBI identifiers are new optional data elements that are being collected to better identify the legal entity that is interacting with CBP as well as explore opportunities to enhance supply chain traceability and visibility in response to the growing complexity of global trade. The data collected under the ACE Cargo Release program is intended to reduce transaction costs, expedite cargo release, and enhance cargo security. ACE Cargo Release filing minimizes the redundancy of data submitted by the filer to CBP through receiving carrier data from the carrier. This design allows the participants to file earlier in the transportation flow. Guidance on using ACE Cargo Release may be found at <http://www.cbp.gov/trade/ace/features>.

Recently Approved Changes

1. *Global Business Identifier (GBI):* Collectively, the updates proposed below aim to enhance upstream supply chain traceability and visibility while addressing the increasing complexity of global trade supply chains. All participation and data submitted is voluntary. Find more details about GBI in the 1651–0141 GBI information collection.

■ The GBI Test is expanding the available supply chain entity party types from the original six optional parties (Manufacturer, Shipper, Seller, Exporter, Distributor, Packager), to include two new parties:

“Intermediary” and “Source, along with optional free text fields that will allow filers to input additional descriptions and information about the specific party type. These party types would be made available in the GBI Enrollment database as well as the Automated Commercial Environment Cargo Release.

- A modification within the Global Business Identifiers (GBI) Enrollment database will allow the trade to submit one or more of the unique GBI's (the Legal Entity Identifier (LEI), Global Location Number (GLN), and Data Universal Numbering System (DUNS)) for a supply chain entity, as opposed to all three as previously approved and announced. Furthermore, a related programming update will enable trade participants the ability to modify or change a previous enrollment, including updating or adding additional GBI numbers.

- CBP intends to expand the choices of identifiers available to filers over the duration of the Test, including those that at no cost to the government provide access to the underlying entity and product specific supply chain data associated with the identifier. This would enhance traceability for CBP which may translate to facilitation benefits and reduced industry costs. CBP has initiated programming requests in ACE to accommodate the intake of additional GBI identifier qualifiers. These changes are under development and there is no defined timeline for their completion. Specifically, CBP will begin by adding to the GBI Test the new Altana ID (ALTA) maintained by Altana Technologies, USG Inc. (Altana). The addition of the ALTA alongside current and future GBI identifiers will widen participants' choices and allow CBP to continue to evaluate the breadth and veracity of entity and supply chain information embedded within different types of identifier solutions already being leveraged by trade industry traceability stewards. It will also contribute to CBP's ongoing exploration of how traced supply chain information may be ingested and operationalized for risk management and facilitation purposes. CBP will add any new identifiers into the collection and submit to OMB for approval as they are determined through a change request (Form 83–C).

2. Russian Sanctions Executive Order 14114:

- New Data Elements are being added to comply with the Russian sanctions outlined in Executive Order 14114 published on December 22, 2023. The data elements and burden are recorded in the supporting statement of the 1651–

ONEW Russian Sanctions information collection package.

3. Update to Form 3461/3461ALT Instructions:

The instructions on the Form 3461/3461 ALT have been updated to include the new Russian sanctions data elements and text field boxes, as well as being updated to improve user experience and clarity of the form. Find a copy of the new form, with the changes outlined included with this package submission as supplementary documents.

New Proposed Changes

CBP is announcing a voluntary test for a new electronic informal entry process for mail in ACE through the development of new informal entry type 13—Informal Mail Entry. The new informal entry type 13 is applicable for shipments valued at \$2,500 or less that are sent to the United States via mail. The Entry Type 13 Test provides an alternative to the new interim process for informal mail entries, as set forth in 19 CFR 145.12(b) by allowing filers to transmit informal entry for qualified mail shipments electronically. This test also creates an informal entry pathway for low-value mail shipments subject to Partner Government Agency (PGA) data requirements or duties other than those set forth in Chapters 1–97 of the Harmonized Tariff Schedule of the United States (HTSUS), which are ineligible for the interim process for informal mail entries, as set forth in 19 CFR part 145.

The test is open to owners and purchasers of merchandise being mailed to the United States and licensed customs brokers properly appointed by the owner, purchaser, or consignee of the merchandise being mailed to the United States, who will act as the importer of record (IOR) for the entry. The test is also open to carriers transporting mail to the United States, to transmit the postal tracking number as part of their manifest filing. CBP encourages all eligible parties to participate in this test to assess the functionality of this new entry type and to seize the opportunity to adapt to an automated informal mail entry process.

An entry type 13 requires the IOR to electronically transmit the following data elements to CBP:

- (1) Filer code;
- (2) IOR number;
- (3) Description of merchandise;
- (4) Country of origin;
- (5) All applicable 10-digit Harmonized Tariff Schedule of the United States (HTSUS) classification(s);
- (6) Quantity and weight, if using specific duty rates;

- (7) Duty rate;
- (8) Value;
- (9) Total duty owed;
- (10) Carrier name;
- (11) Tracking number generated by the foreign post operator; and
- (12) Arrival port.

Type of Information Collection: ACE Cargo Release/ABI.

Estimated Number of Respondents: 9,810.

Estimated Number of Annual Responses per Respondent: 3,041.

Estimated Number of Total Annual Responses: 29,832,210.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,972,035.

Type of Information Collection: Form 3461 Paper/Electronic.

Estimated Number of Respondents: 12,995.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 12,995.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 3,249.

Type of Information Collection: ET—13 Test.

Estimated Number of Respondents: 10.

Estimated Number of Annual Responses per Respondent: 200,000.

Estimated Number of Total Annual Responses: 2,000,000.

Estimated Time per Response: 5 minutes or 0.083 hours.

Estimated Total Annual Burden Hours: 166,667.

Seth D Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2026–13276 Filed 6–30–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2025–0580]

Establishment of the Alliance of National Councils for Homeland Operational Resilience—Critical Infrastructure (ANCHOR-CI)

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of the establishment of the Alliance of National Councils for Homeland Operational Resilience—Critical Infrastructure.

SUMMARY: The Department of Homeland Security, through the Cybersecurity and

Infrastructure Security Agency (CISA), is establishing the Alliance of National Councils for Homeland Operational Resilience—Critical Infrastructure (ANCHOR-CI). ANCHOR-CI is an advisory body made of critical infrastructure sector, cross-sector, regional, and industry councils that provide group advice and recommendations to the Secretary of Homeland Security, through the Cybersecurity and Infrastructure Security Agency (CISA) Director to ensure a coordinated national effort to foster a secure and resilient critical infrastructure and cyberspace, exchange best practices pertaining to technical assistance, and cooperatively maintain mechanisms for collaboration with Sector Risk Management Agencies (Sections 2202 and 2218 of the Homeland Security Act).

FOR FURTHER INFORMATION CONTACT: Michael Miron, Committee Management Officer, dhsfaca@hq.dhs.gov (202) 343-1673.

SUPPLEMENTARY INFORMATION: The Secretary is establishing the advisory body pursuant to section 871(a) of the *Homeland Security Act of 2002*. In recognition of the sensitive nature of the subject matter involved regarding the assessment and mitigation of security and operational risks through whole-of-government coordination, and strong partnership with the private sector that is required to ensure the security and resilience of critical infrastructure, the Secretary hereby exempts ANCHOR-CI from The Federal Advisory Committee Act (FACA), 5 U.S.C. Ch. 10, in accordance with Section 871 of the *Homeland Security Act of 2002*, Public Law 107-296, codified at 6 U.S.C. 451(a).

ANCHOR-CI is an advisory body comprised of sector, cross-sector, regional, and industry councils (“ANCHOR-CI Councils”) that provide group advice and recommendations to the Secretary of Homeland Security through the CISA Director. ANCHOR-CI’s advice and recommendations are to be specific, proactive, to the greatest degree possible, actionable, timely, strategic, and targeted to the Department’s role in coordinating the national effort to secure critical infrastructure. ANCHOR-CI is located in CISA and CISA shall provide funding and the necessary administrative support to implement and manage ANCHOR-CI.

The duties of ANCHOR-CI are solely advisory in nature and shall extend only to the submission of advice, recommendations, and reports to the Department, through the CISA Director.

Membership: To conduct any and all activities under the ANCHOR-CI framework, the CISA Director must approve the membership for all ANCHOR-CI Councils to include any member entities, individual participants representing member entities, and other subject matter experts, all of whom serve in ANCHOR-CI at the pleasure of the CISA Director. The CISA Director may appoint additional member entities, individual participants representing member entities, and other subject matter experts, as appropriate to best meet the needs of the federal government. ANCHOR-CI is composed of entities representing: (1) critical infrastructure owners and operators, including their representative trade associations or equivalent organizations; (2) governmental entities at the federal, state, local, tribal, and territorial levels; (3) organizations with direct responsibility for cybersecurity and critical infrastructure security and resilience activities and (4) other private sector entities as may be deemed appropriate by the CISA Director.

To fully leverage broad-ranging experience and education, ANCHOR-CI must include diverse representation to encompass the full spectrum of relevant expertise, including professional and technical expertise. ANCHOR-CI Councils must reflect a cross-section from across the owner/operator community, with regard to entity size, geographic location and any other factors that will produce a cross-section of perspectives, ensuring a more thorough understanding of the current and emerging threat and vulnerability landscapes with a particular focus upon entities of national significance or consequence.

ANCHOR-CI will provide forums through which cybersecurity, law enforcement, intelligence, national security, and other government representatives at the federal, state, local, tribal, and territorial levels may engage representatives of private sector entities and critical infrastructure owners and operators in reviewing the current threat environment, discussing potential vulnerabilities, and forming recommendations on securing a more resilient critical infrastructure and cyberspace. This Notice is not a solicitation for membership.

ANCHOR-CI may consist of four types of Councils:

1. **Critical Infrastructure Sector Councils:** ANCHOR-CI includes critical infrastructure sectors designated by the President (informed by recommendations from the Secretary) pursuant to Section 9002 of the William M. (Mac) Thornberry National Defense

Authorization Act for Fiscal Year 2021, Public Law 116-283, codified at 6 U.S.C. 652a. Each sector may establish Sector Coordinating Councils (SCCs) and Government Coordinating Councils (GCCs). Each respective SRMA will review proposed ANCHOR-CI Sector Council membership and recommend for approval to the CISA Director to ensure a representation of technical expertise and perspectives across the various disciplines of the sector. Sub-councils, properly recognized within a sector by the respective SRMA, will be considered part of that sector for ANCHOR-CI activities, and will work with the ANCHOR-CI Designated Federal Officer to ensure ANCHOR-CI compliance.

2. **Cross-Sector Councils:** ANCHOR-CI may include cross-sector councils to address current and emerging threats, interdependencies, or other issues impacting multiple critical infrastructure sectors or industries.

3. **Critical Infrastructure Industry Councils:** Critical infrastructure industries can span multiple critical infrastructure sectors and may not fit cleanly within existing critical infrastructure sectors. These industries manage or control critical infrastructure systems and assets, as defined in 42 U.S.C. 5195c(e), and may have specialized risks requiring a forum to address shared challenges. Industries may recommend to the CISA Director the establishment of an Industry Coordinating Council to address gaps in the sector structure. The CISA Director will approve recommended participants and/or may appoint participants to serve on an Industry Coordinating Council.

4. **Regional Coordinating Councils:** Pursuant to Executive Order 14239, ANCHOR-CI will advance a partnership structure that recognizes that security and resilience is most effectively owned and managed at the State and local levels and is supported by an accessible and efficient Federal Government. At the discretion of the CISA Director, Regional Coordinating Councils may be established to ensure a more comprehensive and localized picture of the nation’s critical infrastructure threat landscape. The CISA Director will approve recommended participants and/or may appoint participants to a Regional Coordinating Council. Regional Coordinating Councils will ensure access and representation by critical infrastructure entities in rural areas, as defined in 49 U.S.C. 5302(17).

ANCHOR-CI member entities may serve for the duration of an ANCHOR-CI Term (two years). An entity’s ANCHOR-CI membership is active for

the duration of the ANCHOR-CI Charter, and while the entity remains in compliance with this charter, the ANCHOR-CI Bylaws, and any procedures or guidelines issued by the ANCHOR-CI Designated Federal Officer. In the event the ANCHOR-CI Charter terminates, all individual and entity appointments to ANCHOR-CI shall terminate. All memberships and appointments are extended along with an extension of the ANCHOR-CI Charter for another two years, unless otherwise specified by the CISA Director. Any member entities selected to lead an ANCHOR-CI Council may serve in that council leadership role for no more than two consecutive terms.

ANCHOR-CI Participants, individuals representing non-federal members of ANCHOR-CI, serve as representatives of their sectors or their organizations, not as special government employees as defined in 18 U.S.C. 202(a). ANCHOR-CI Participants serve without any compensation for their work and may be required to execute legally binding documents, such as gratuitous services agreements and non-disclosure agreements.

Subject matter experts (SMEs) may be approved to participate in ANCHOR-CI by the Secretary, in coordination with the CISA Director, to assist Councils or sub-councils on an ad hoc basis. These SMEs are not considered as ANCHOR-CI Participants. They will not engage or participate in any deliberations or recommendations by ANCHOR-CI Councils or sub-councils. SMEs must complete a gratuitous services agreement and a non-disclosure agreement prior to participation in any ANCHOR activities.

All ANCHOR-CI participants will serve without compensation.

Working Groups and Sub-councils: At the request of the CISA Director, the Designated Federal Officer may establish working groups or sub-councils for any purpose consistent with the Charter.

Duration: ANCHOR-CI shall terminate two years after the date of establishment, unless the Secretary makes a written determination to extend ANCHOR-CI pursuant to their authority in 6 U.S.C. 451(b), for an additional period up to two years. The Secretary may make any number of subsequent extensions.

Michael J. Miron,
Committee Management Officer, Department of Homeland Security.

[FR Doc. 2026-13268 Filed 6-30-26; 8:45 am]

BILLING CODE 9112-FN-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0156]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for a Certificate of Non-Existence

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until July 31, 2026.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2021-0021. All submissions received must include the OMB Control Number 1615-0156 in the body of the letter, the agency name and Docket ID USCIS-2021-0021.

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 <http://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on April 20, 2026, at 91 FR

21013, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2021-0021 in the search box. Comments must be submitted in English, or an English translation must be provided. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://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 <http://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 Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for a Certificate of Non-Existence.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G-1566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. USCIS will use the information collected on Form G-1566 to determine whether any immigration records about the subject of record listed on the form exist. If no records about the subject of record exist, USCIS will provide a Certificate of Non-Existence (CNE). If USCIS finds records related to the subject of record, a CNE will not be issued, but the requestor will be notified that records were found.

(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 I-910 is 470 and the estimated hour burden per response is 2 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 940 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 \$24,205.

Dated: June 29, 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. 2026-13258 Filed 6-30-26; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-MB-2026-2674; FXFR13350700001-267-FF07CAFB00; OMB Control Number 1018-0146]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Depredation and Control Orders

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service

(Service), are proposing to renew an information collection without change.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference “1018-0088” in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the information collection request (ICR) at <https://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA; 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320, all information collections require approval under the PRA. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

On April 1, 2026, we published in the **Federal Register** (91 FR 16212) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on June 1, 2026. We also published the **Federal Register** notice on [Regulations.gov](https://www.regulations.gov) (Docket No. FWS-HQ-MB-2026-0827). We received one comment in response to that notice:

Comment 1: Electronic comment received June 1, 2026, via [Regulations.gov](https://www.regulations.gov) (FWS-HQ-MB-2026-0827-0003) from Victoria Lopez. The commenter requested the Service protect migratory birds.

Agency Response to Comment 1: The commenter did not address the

information collection requirements; therefore, no response is required.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again inviting 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 comments addressing the following:

- (1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;
- (2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 *et seq.*) implements four treaties concerning migratory birds signed by the United States with Canada, Mexico, Japan, and Russia. These treaties require that we conserve most U.S. species of birds, and prohibit activities involving migratory birds, except as authorized by regulation. Under the MBTA, it is unlawful to take, possess, import, export, transport, sell, purchase, barter—or offer for sale, purchase, or barter—migratory birds or their parts, nests, or eggs, except as authorized by regulation. This information collection

is associated with our regulations that implement the MBTA. We collect information concerning depredation actions to determine the number of birds of each species taken each year and whether the control actions are likely to affect the populations of those species.

We are not revising any information collections with this submission. However, on January 7, 2022, we issued a final rule (87 FR 876) to renumber, rename, and rearrange certain subparts and sections in our regulations at 50 CFR parts 21 and 22. We updated the citations for the information collections contained in 50 CFR part 21, subpart D, in this submission, to include those in FWS Form 3–2436, Annual Report.

Form 3–2436, “Depredation and Control Orders—Annual Reporting”

Regulations at 50 CFR part 21 establish depredation and control orders and impose reporting and recordkeeping requirements. All persons or entities acting under these orders must provide an annual report by the date listed in the corresponding regulation. The capture and disposition of all nontarget migratory birds, including endangered, threatened, or candidate species, must be reported on Form 3–2436. In addition to the name, address, phone number, and email address of each person or entity operating under the order, we collect the following information for each target and nontarget species taken:

- Species taken,
- Number of birds taken,
- Method of take,
- Months and years in which the birds were taken,
- State(s) and county(ies) in which the birds were taken,
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources), and
- Disposition of nontarget species (released, sent to rehabilitation facilities, etc.).

We use the information to:

- Identify the person or entity acting under depredation orders;
- Assess the impact to nontarget migratory birds or other species;
- Ensure that agencies and individuals operate in accordance with the terms, conditions, and purpose of the orders;
- Inform us as to whether there are areas in which control activities are concentrated and might be conducted more efficiently; and
- Help gauge the effectiveness of the following orders in mitigating order-specific related damages:

- § 21.150—Depredation order for blackbirds, cowbirds, crows, grackles, and magpies;
- § 21.153—Depredation order for horned larks, house finches, and white-crowned sparrows in California;
- § 21.156—Depredation order for depredating California scrub jays and Steller’s jays in Washington and Oregon;
- § 21.159—Control order for resident Canada geese at airports and military airfields;
- § 21.162—Depredation order for resident Canada geese nests and eggs;
- § 21.165—Depredation order for resident Canada geese at agricultural facilities;
- § 21.168—Public health control order for resident Canada geese;
- § 21.171—Control order for purple swamphens;
- § 21.174—Control order for Muscovy ducks in the United States;
- § 21.177—Control order for invasive migratory birds in Hawaii;
- § 21.180—Conservation order for light geese; and
- § 21.183—Population control of resident Canada geese.

Recordkeeping Requirements (50 CFR 13.46)

Persons and entities operating under these orders must keep accurate records to complete Form 3–2436. The records of any taking must be legibly written or reproducible in English and maintained for five years after the persons or entities have ceased the activity authorized by this order. Persons or entities who reside or are located in the United States as well as persons or entities conducting commercial activities in the United States who reside or are located outside the United States must maintain records at a location in the United States where the records are available for inspection.

Endangered, Threatened, and Candidate Species Take Report (50 CFR Part 21)

If activities conducted under a depredation or control order take a bird of a nontarget species that is federally listed as endangered or threatened, or that is a candidate for listing, under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*), the bird must be delivered to a rehabilitator, and activity must be reported by phone or email to the nearest Service Field Office or Special Agent. Capture and disposition of all nontarget migratory birds must also be reported on the annual report.

Required Notifications (50 CFR Part 21)

- § 21.150—Report take of nontarget federally protected migratory birds to the nearest Service Field Office or Special Agent.
- § 21.159—Airports and military airfields or their agents must obtain authorization from landowners for all management activities conducted outside the airport or military airfield’s boundaries.
- § 21.159—Airports and military airfields or their agents operating under this order must immediately report the take of any species protected under the ESA to the Service.
- § 21.159—To protect certain species from being adversely affected by management actions, airports and military airfields or their agents must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- § 21.159—Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263) (U.S. Geological Survey OMB Control Number 1028–0082).
- § 21.162—Homeowners’ associations and local governments or their agents must obtain landowner consent prior to destroying nests and eggs on private property within the homeowners’ association or local government’s jurisdiction and comply with all State and local laws and regulations.
- § 21.162—Registrants operating under this order must immediately report the take of any species protected under the ESA to the Service.
- § 21.162—To protect certain species from being adversely affected by management actions, registrants must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.
- § 21.165—Authorized individuals operating under this section must immediately report the take of any species protected under the ESA to the Service.
- § 21.165—Information on birds carrying metal leg bands must be submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1–800–327–BAND (or 2263) (U.S. Geological Survey OMB Control Number 1028–0082).
- § 21.168—Information on birds carrying metal leg bands must be

submitted to the Bird Banding Laboratory by means of a toll-free telephone number at 1-800-327-BAND (or 2263) (U.S. Geological Survey OMB Control Number 1028-0082).

- § 21.168—States and Tribes operating under this order must immediately report the take of any species protected under the ESA to the Service.

- § 21.168—To protect certain species from being adversely affected by management actions, States and Tribes must contact the Service if control activities are proposed in or around occupied habitats to discuss the proposed activity and ensure that implementation will not adversely affect protected species or their habitat.

- § 21.171—Authorized individuals operating under this order must immediately report the take of any other species protected under the ESA, the MBTA, or the Bald and Golden Eagle Protection Act to the nearest Ecological Services office.

- § 21.174—Authorized individuals operating under this order must immediately report the take of any species protected under the ESA, or any other bird species protected under the MBTA, to the Service Ecological Services office for the State or location in which the take occurred.

- § 21.177—Authorized personnel must obtain authorization from landowners prior to conducting management activities authorized by this order.

- § 21.177—Authorized individuals operating under this order must immediately report the take of any nontarget species protected under the ESA or MBTA within 72 hours of take to the Pacific Region Migratory Bird Permit office in Portland, Oregon.

- § 21.183—Authorized individuals operating under this section must immediately report the take of any species protected under the ESA to the Service.

Access to Depredation and Control Efforts (50 CFR 21.150, 21.156, 21.168, 21.180, 21.183)

Persons acting under the authority of these orders must permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access to the premises on which such operations have been or are being conducted. Persons must also promptly furnish whatever information an officer requires concerning the operation.

Canada Geese Nest and Egg Depredation Order (50 CFR 21.162)

In addition to the requirements listed above, landowners operating under this order must:

- Register with the Service using our web-based registration system (<https://epermits.fws.gov/eRCGR>) (§ 21.162(d)(1)). Registration includes name of landowner, names of designated agents, location of management activities, and contact information. The registration is valid for 1 year; the registrant must renew the registration each year he or she wishes to take nests and eggs. To renew the registration, the registrant must review the information and certify that it is correct. If any information entered during initial registration has changed, the registrant needs to enter only the revised information. We use this information for enforcement purposes and to contact registrants when there are questions regarding their report information. We uploaded screenshots of the registration website and a copy of the user guide as supplementary documents available at <https://www.reginfo.gov/public/do/PRAMain>.

- Complete an annual report summarizing the date (month), numbers, and locations of nests and eggs taken by October 31 (§ 21.162(d)(6)). We use this information to monitor the effectiveness of the program and the cumulative effect of the take of nests and eggs on various subpopulations of resident Canada goose populations in different areas of the country. We distribute annual reports of the numbers of nests and eggs taken (by State and county) to the States, Flyway Councils, and Service biologists for their use in determining allowable take by other methods, including hunting seasons. We now also include this information on the registration website.

Agricultural Depredation Order (50 CFR 21.165)

In addition to the requirements listed above:

- Recordkeeping Requirement (Private Sector Only)—Authorized agricultural producers must:
 - Keep and maintain a log that indicates the date and number of birds killed and the date and number of nests and eggs taken under this authorization;
 - Maintain the log for a period of three years (and records for three previous years of takings at all times thereafter); and
 - Make the log and any related records available to Federal, State, or Tribal

wildlife enforcement officers (§ 21.165(d)(8)).

- Reporting Requirement (States and Tribes Only)—States and Tribes must submit by December 31 an annual report summarizing activities, including the numbers of birds, nests, and eggs taken and county where taken (§ 21.165(d)(10)). We use this information to monitor the resident Canada goose populations in different areas of the country.

Conservation Order for Light Geese (50 CFR 21.180)

These regulations require States and Tribes to keep annual records of activities carried out under the authority of the conservation order and submit an annual report summarizing activities conducted under the conservation order on or before September 15 of each year. Specifically, information must be collected on:

- The number of persons participating in the conservation order;
- The number of days people participated in the conservation order;
- The number of light geese shot and retrieved under the conservation order; and
- The number of light geese shot but not retrieved.

Population Control of Resident Canada Geese (50 CFR 21.183)

In addition to the requirements listed above, States and Tribes:

- May request approval for the population control program. Requests must include a discussion of the State's or Tribe's efforts to address its injurious situations or a discussion of the reasons why the methods authorized by these regulations are not feasible for dealing with, or applicable to, the injurious situations that require further action. Requests must provide detailed information of the injuries that continue, why the authorized methods have not worked, and why methods not utilized could not resolve the injuries (§ 21.183(d)). This information is necessary for us to assess whether or not the program should be authorized.

- Must keep annual records of activities carried out under the authority of the program. Specifically, information must be collection on:

- The number of individuals participating in the program;
- The number of days each individual participated in the program;
- The total number of resident Canada geese shot and retrieved during the program; and
- The number of resident Canada geese shot but not retrieved (§ 21.183(d)(7)).

We use this information, in conjunction with take under other methods and hunting seasons, to determine cumulative impacts on the various goose populations.

- Must submit by June 1 an annual report summarizing activities conducted under the program and an assessment of the continuation of injuries (§ 21.183(d)(7)(iv)). We use this information to determine if we should continue to authorize program activities.
- Must provide by August 1 an annual estimate of the breeding population and distribution of resident Canada geese in their State (§ 21.183(g)). We use this information to monitor the

impacts of this program, as well as other authorized activities, on the population and to determine if we should continue to authorize program activities.

The public may request copies of Form 3–2346 contained in this information collection by sending a request to the Service Information Collection Clearance Officer in ADDRESSES, above.

Title of Collection: Depredation and Control Orders Under 50 CFR part 21, subpart D.

OMB Control Number: 1018–0146.

Form Number: Form 3–2436.

Type of Review: Renewal without change of a currently approved collection.

Respondents/Affected Public: State and Federal wildlife damage management personnel, farmers, and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for take reports and annually for annual reports.

Total Estimated Annual Nonhour Burden Cost: \$78,000 (each participating State/Tribe will incur for overhead costs (materials, printing, postage, etc.) associated with mailing surveys to conservation order participants).

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Avg. time per response (hours)	Total annual burden hours *
Annual Report—Depredation Order (Form 3–2436)						
Individuals	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	3	24
	Recordkeeping				1	8
Government	Reporting	11	1	11	3	33
	Recordkeeping				1	11
ePermits Annual Report—Depredation Order (Form 3–2436)						
Individuals	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Private Sector	Reporting	8	1	8	2.5	20
	Recordkeeping				1	8
Government	Reporting	11	1	11	2.5	28
	Recordkeeping				1	11
Report Take—Endangered, Threatened, and Candidate Species (§ 21.150, § 21.159–21.177, and § 21.183)						
Individuals	Reporting	1	1	1	.75	1
	Recordkeeping				.25	0
Private Sector	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Government	Reporting	3	1	3	.75	2
	Recordkeeping				.25	1
Conservation Order for Control of Light Geese (§ 21.180)						
Government	Reporting	39	1	39	106	4,134
	Recordkeeping				8	312
Conservation Order Participants—Provide Information to States (§ 21.180)						
Individuals	Reporting	21,538	1	21,538	.13333	2,872
Annual Report—Airport Control Order § 21.159						
Private Sector	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Government	Reporting	25	1	25	1	25
	Recordkeeping				.5	13
Initial Registration—Nest & Egg Depredation Order (§ 21.162)						
Individuals	Reporting	126	1	126	.5	63
Private Sector	Reporting	674	1	674	.5	337
Government	Reporting	200	1	200	.5	100
Renew Registration—Nest & Egg Depredation Order (§ 21.162)						
Individuals	Reporting	374	1	374	0.25	94
Private Sector	Reporting	2,026	1	2,026	0.25	507

Respondent	Activity	Annual number of respondents	Number of submissions each	Total annual responses	Avg. time per response (hours)	Total annual burden hours *
Government	Reporting	600	1	600	0.25	150
Annual Report—Nest & Egg Depredation Order (§ 21.162)						
Individuals	Reporting	500	1	500	.17	85
	Recordkeeping				.08	40
Private Sector	Reporting	2,700	1	2,700	.17	459
	Recordkeeping				.08	216
Government	Reporting	800	1	800	.17	136
	Recordkeeping				.08	64
Recordkeeping—Agricultural Depredation Order (§ 21.165)						
Private Sector	Recordkeeping	600	1	600	0.5	300
Annual Report—Agricultural Depredation Order (§ 21.165)						
Government	Reporting	20	1	20	7	140
	Recordkeeping				1	20
Annual Report—Public Health Order (§ 21.168)						
Government	Reporting	20	1	20	.75	15
	Recordkeeping				.25	5
Annual Report and Recordkeeping—Population Control Approval Request (§ 21.183)						
Government	Reporting	3	1	3	12	36
	Recordkeeping				12	36
Population Control Approval Request—Population and Distribution Estimates (§ 21.183)						
Government	Reporting	3	1	3	160	480
Totals .....	.....	30,334	.....	30,334	.....	10,887

* Rounded to match ROCIS.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jillian Eanett,

Acting Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2026–13284 Filed 6–30–26; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–VRP–OPH–NPS0042582; PPWOVPADH0, PPMRHS1Y.Y00000 (222); OMB Control Number 1024–0286]

Agency Information Collection Activities; Office of Public Health Disease Reporting and Surveillance Forms

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 August 31, 2026.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to the NPS Information Collection Clearance Officer (ADIR–ICCO), 13461 Sunrise Valley Drive, (MS–263) Reston, VA 20191 (mail); or phadrea_ponds@ios.doi.gov (email). Please reference Office of Management and Budget (OMB) Control Number 1024–0286 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request (ICR), contact Dr. Amelia Johnson, Epidemiologist-Injury and Infectious Disease, Office of Health and Safety National Park Service, Washington, DC 20240 by email at amelia_johnson@nps.gov or by telephone at 202–236–6475; or Jennifer Proctor, Branch Chief, Prevention and Response Office of Health and Safety National Park Service, Washington, DC 20240 by email at jennifer_proctor@nps.gov, or by telephone at 202–513–7237. Please reference OMB Control Number 1024–

0286 in the subject line of your comments. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA.

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 comments 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: Subtitle I, Chapter 1007, Subchapter I of Title 54 of the United States Code (54 U.S.C. 100701 *et seq.*) and the Public Health Service Act (42 U.S.C. Chapter 6A) authorize the NPS Office of Public Health (OPH) to collect public health information using Forms 10–685 (Concession Employee Illness Report) and 10–686 (Tour Vehicle Passenger Illness Report). These forms gather basic details about symptoms, how long the person has been ill, and where the illness occurred. This helps public health staff respond quickly and appropriately to health and safety incidents in national parks.

The Disease Reporting and Surveillance System (DRSS) also provides information on symptoms, duration, and location of illness. This helps public health workers act promptly and effectively. The system gives parks, OPH staff, concession managers, and clinic operators an early warning of possible outbreaks so they can take timely public health action.

Title of Collection: Office of Public Health Disease Reporting and Surveillance Forms.

OMB Control Number: 1024–0286.
Form Number: NPS Forms 10–685 and 10–686.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals/households and private sector.

Total Estimated Number of Annual Respondents: 390.

Total Estimated Number of Annual Responses: 390.

Estimated Completion Time per Response: Concession Employee Illness: 10 minutes; Tour Vehicle Passenger Illness: 15 minutes.

Total Estimated Number of Annual Burden Hours: 73.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Non Hour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

*Information Collection Clearance Officer,
National Park Service.*

[FR Doc. 2026–13255 Filed 6–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NRNHL–DTS#–43002;
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 30, 2026, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by July 16, 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 30, 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.

CALIFORNIA

San Francisco County

Raymond Hotel Apartments, 20 Franklin Street, San Francisco, SG100013199

FLORIDA

Putnam County

St. Mary's Episcopal Church, (Florida's Carpenter Gothic Churches MPS), 809 St Johns Avenue, Palatka, MP100013184

St. Johns County

Model Land Company Historic District (Boundary Increase), Roughly bounded by King, Cordova, and Orange Streets, U.S. 1, and the San Sebastian River, St. Augustine, BC100013186

GEORGIA

Fulton County

South-View Cemetery, 1990 Jonesboro Road SE, Atlanta, SG100013193

MARYLAND

Kent County

Chestertown Historic District (Boundary Increase II), High Street, Water Street, Cannon Street, Calvary Street, Mill Street, Kent Street, Spring Avenue, Washington Avenue, Prospect Street, N College

Avenue, Court Street, Philosophers
Terrace, Chestertown, BC100013208

Prince George's County

Cedar Haven Historic District, (African-American Historic Resources of Prince George's County, Maryland), 22907–23110 Crispus Attucks Blvd.; 23118 Bethune Ave; 18402 Trueman Point Rd; 22904–23100 Paul Dunbar Ave; 18101–18410 Richard Allen St; 22801–23200 Benjamin Banneker Blvd.; 22901–23007 Frederick Douglas Ave; 22801–22815 Booker Washington Ave; 23305–23013 C, Aquasco, MP100013190

NORTH DAKOTA

Billings County

Short Ranch Historic District, Wannagan Creek Road, Medora, SG100013187

Towner County

Pleasant Home Farm, 7187 70th Street NE, Cando vicinity, SG100013203

WISCONSIN

Milwaukee County

Calvary Baptist Church, 2959 North Teutonia Avenue, Milwaukee, SG100013194

An owner objection received for the following resource(s):

MARYLAND

Washington County

Herald-Mail Building, 100 Summit Avenue, Hagerstown, SG100013181

A request for removal has been made for the following resource(s):

NEVADA

Washoe County

Virginia Street Bridge, Spans Truckee River, Reno, OT80002471

Additional documentation has been received for the following resource(s):

FLORIDA

Leon County

Union Bank, Apalachee Pkwy. and Calhoun St., Tallahassee, AD71000242

St. Johns County

Model Land Company Historic District (Additional Documentation), Roughly bounded by Ponce de Leon Blvd., King, Cordova, and Orange Sts., St. Augustine, AD83001439

MARYLAND

Kent County

Chestertown Historic District (Additional Documentation), Roughly bounded by Maple Ave., Chester River, Cannon and Cross Sts., Chestertown, AD70000263
Chestertown Historic District (Boundary Increase) (Additional Documentation), Roughly bounded by Chester River, Lynchberg, and Cannon Sts., College Ave., Philosophers and Riverside Terrs., Chestertown, AD84001808

Authority: 36 CFR 60.13.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2026–13249 Filed 6–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS–WASO–NRNHL–DTS#–43078;
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 June 13, 2026, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by July 16, 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 June 13, 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.

ARKANSAS

Crawford County

Van Buren Historic District (Boundary Decrease), Main Street, roughly from the RR track to the RR Depot on the north side of Main and from Third St to 826 Main St. on the south side, Van Buren, BC100013229

CALIFORNIA

Los Angeles County

Los Angeles County General Hospital—Acute Unit, 1200 N State Street, Los Angeles, SG100013242

GEORGIA

Chatham County

F.W. Woolworth Co. Store—Savannah, 129 East Broughton Street, Savannah, SG100013243

HAWAII

Hawaii County

Hakalau Plantation Co. Warehouses, 29–2306 Old Mamalahoa Highway, Hakalau, SG100013232

MASSACHUSETTS

Essex County

The Osmund and the Liberty Building Historic District, 103 and 87–93 Liberty Street, Lynn, SG100013246

Worcester County

Fitchburg Paper Company Historic District, 601, 642, 644, 696, 704, and 714 River Street; 0 Westminster Street, Fitchburg, SG100013245

MISSOURI

Cape Girardeau County

Arena Building, 410 Kiwanis Drive, Cape Girardeau, SG100013231

NEBRASKA

Douglas County

House of Mystery, 3316 Center Street, Omaha, SG100013244

NEW YORK

Albany County

Albany Industrial and Warehouse Historic District, Generally, Eric Blvd. N Pearl St., and Tivoli St., Albany, SG100013226

OKLAHOMA

Ottawa County

Waylan's Ku-Ku Burger, 915 North Main Street, Miami, SG100013240

PENNSYLVANIA**Erie County**

City of Erie Municipal Building, 626 State Street, Erie, SG100013233

UTAH**Davis County**

Clinton LDS Ward Meetinghouse, 1387 W 1800 North, Clinton, SG100013227

VERMONT**Caledonia County**

Hudson House, 380 Portland Street, St. Johnsbury, SG100013238

VIRGINIA**Loudoun County**

Laurel Hill Farm, 16191 Hamilton Station Road, Waterford, SG100013234

Lynchburg INDEPENDENT CITY

Randolph-Macon Woman's College Historic District, 2500 Rivermont Avenue, 155 & 139 Norfolk Avenue, 5 Quinlan Street, Lynchburg, SG100013221

Newport News INDEPENDENT CITY

Restaurant, 2108 Jefferson Avenue, (The Negro Traveler's Green Book in Virginia MPS), 2108 Jefferson Avenue, Newport News, MP100013236

Roanoke INDEPENDENT CITY

Keeper's Cottage, Fishburn Park, 2424 Brambleton Avenue SW, Roanoke, SG100013230

WISCONSIN**Green Lake County**

Upper Lone Tree Farm Historic District, W2511 State Highway 23, W2600-block Abbey Drive, N5600-block Lawson Drive, Town of Brooklyn, SG100013224

WYOMING**Albany County**

Abraham Lincoln Monument, Sherman Summit Rest Area, 143 Forest Road 705, Laramie vicinity, SG100013241

Teton County

Mercill House, 280 South Willow, Jackson, SG100013222

Washakie County

Worland Commercial Downtown Historic District, Big Horn Avenue: portions of Blocks 3–6, Original Town: portions of Blocks 2–3, First Addition: Court Place Addition, Worland, SG100013237

Additional documentation has been received for the following resource(s):

MICHIGAN**Isabella County**

Mount Pleasant Indian Industrial Boarding School (Additional Documentation), Bounded by Crawford, Pickard, Bamber, River Rds., Mount Pleasant, AD100001795, Comment period: 0 days

NEW YORK**Ulster County**

Senate House & Museum Annex (Additional Documentation), 296 Fair Street, Kingston, AD71000564

Authority: 36 CFR 60.13.

Sherry A. Frear,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

[FR Doc. 2026–13247 Filed 6–30–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–0017]

Agency Information Collection Activities; Proposed Collection eComments Requested; Revision and Extension of a Previously Approved Collection; Title—Certification and Release of Records (Form EOIR–59)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Executive Office for Immigration Review (EOIR) at the Department of Justice (DOJ) will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 31, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Justine Fuga, Associate General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041; telephone: (703) 305–0265; EOIR.PRA.Comments@usdoj.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: This information collection is optional and voluntary. It is primarily used by EOIR to standardize and streamline requests for records related to cases or proceedings before EOIR pursuant to the Privacy Act and Freedom of Information Act (FOIA). An individual who is in or has been in proceedings before EOIR and seeks to authorize the disclosure of their information, including information retained in case files or a Record of Proceeding (documents, and if applicable, audio recordings), to an attorney, accredited representative, qualified organization, or other third party may use this form to authorize the disclosure. EOIR is making one substantive change to Part C to include a field to collect the name of the parent or guardian. The printed name of the parent or guardian in Part C will assist EOIR personnel processing the form to verify the parent or guardian's identity, as the name of the parent or guardian is not always legible in the signature field in Part D. EOIR also is making several non-substantive edits to the form instructions to improve clarity and readability, update links to EOIR web pages referenced in the instructions, and update the Privacy Act Statement. EOIR also removed references to “noncitizen” in form fields and headings.

Overview of This Information Collection

1. *Type of Information Collection:* Revision and extension of a previously approved collection.

2. *The Title of the Form/Collection:* Certification and Release of Records.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The agency form number is EOIR–59, and the sponsoring component is EOIR.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* The Affected

Public is individuals and households. The obligation to respond is optional and voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: It is estimated that an average of 87,080 respondents will complete the form annually with an average of 10 minutes per response (0.17 hours per response).

6. *An estimate of the total annual burden (in hours) associated with the collection:* EOIR estimates an average of 14,804 hours total annual burden for form respondents.

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response	Total annual burden (hours)
EOIR-59	87,080	1	87,080	10 minutes (0.17 hours)	14,804

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The total estimated annual public cost ranges from \$0 to \$1,264,298.88. The minimum cost burden is \$0. There are no capital or start-up costs or filing fees, and printing and postage costs may be avoided by submitting the form electronically. The

maximum cost burden is \$1,264,298.88. This amount is reached by totaling the maximum printing, postage, and labor costs that may be incurred. Of the total number of responses received annually, 8,537 responses on average are submitted by mail and incur printing and postage costs. Printing costs are estimated at \$0.10 per page. Postage

costs are estimated at \$0.78 per response. If a respondent retains a practitioner to assist with completing the form, labor costs are estimated at \$84.84 per hour, or \$14.42 per response, which represents the average wage for an attorney as reported by the Bureau of Labor Statistics.

Cost	Calculation	Total
Printing	\$0.10 per page × 2 pages × 8,537 mailed paper submissions annually	\$1,707.40
Postage	\$0.78 stamp × 8,537 mailed paper submissions annually	6,658.86
Labor	(\$84.84 per hour × 0.17 hours) × 87,080 average annual number of responses	1,255,932.62
Total	\$1,707.40 + \$6,658.86 + \$1,255,932.62	1,264,298.88

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: June 29, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice

[FR Doc. 2026-13290 Filed 6-30-26; 8:45 am]

BILLING CODE 4410-30-P

DEPARTMENT OF JUSTICE

[OMB Number 1110-0070]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Credit Card Payment Form (1-786)

AGENCY: Criminal Justice Information Services (CJIS) Division, Federal Bureau of Investigation (FBI), Department of Justice (DOJ).

ACTION: 60-Day notice.

SUMMARY: The CJIS Division, FBI, DOJ will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 31, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Brian A. Cain, 1000 Custer Hollow Road, Clarksburg, WV 26306, 304-625-CJIS, bacain@fbi.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so, how the quality, utility, and clarity of the

information to be collected can be enhanced; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: Individuals interested in obtaining a copy of their identification record contained in the FBI's Next Generation Identification System. The U.S. Department of Justice Order 556-773 directs the FBI to publish rules for the dissemination of arrest and conviction records to the subjects of such records upon request. This order resulted in a determination that 28 United States Code 534 does not prohibit the subjects of arrest and convictions records from having access to those records.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Credit Card Payment Form.

3. *The agency form number, if any, and the applicable component of the*

Department sponsoring the collection: Form 1–786; CJIS Division, FBI, DOJ.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals. The obligation to respond is required to obtain/retain a benefit.

5. *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond: The total number of respondents for 1–768 Credit Card Form is 36,385 per year. The time per response is 2 minutes to complete the 1–768 Credit Card Form.

6. *An estimate of the total annual burden (in hours) associated with the*

collection: The total annual burden hours for this collection is 1,213 hours.

1. An estimate of the total annual cost burden associated with the collection, if applicable: \$27.72 avg hourly wage × 1,213 hours = \$33,624.36 cost burden.

7.

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (min)	Total annual burden (hours)
1–786 Credit Card Form	36,385	1	36,385	2	1,213
Unduplicated Totals	36,385	1	36,385	2	1,213

8.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: June 29, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–13256 Filed 6–30–26; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Loans to Plan Participants and Beneficiaries Who Are Parties in Interest With Respect to the Plan Regulation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 31, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open

for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: Section 406(a)(1)(B) of ERISA prohibits the lending of money or other extensions of credit between a plan and a party in interest. A statutory exemption is provided in ERISA section 408(b)(1), which exempts plan loans made to participants and beneficiaries from the prohibited transaction provisions of sections 406(a), (b)(1), and (b)(2) of ERISA if the loans: (A) are made available to all participants and beneficiaries on a reasonably equivalent basis; (B) are not made available to highly compensated employees, officers, or shareholders in an amount greater than the amount made available to other employees; (C) are made in accordance with specific provisions regarding such loans set forth in the plan; (D) bear a reasonable rate of interest; and (E) are adequately secured.

For purposes of this information collection, section 408(b)(1)(C) of ERISA requires plan loans to be made in accordance with specific provisions set forth in the plan document. The Department’s regulation at 29 CFR 2550.408b–1(d) prescribes eight specific provisions that must be included in the plan documents, including: (1) an explicit authorization for the plan fiduciary responsible for investing plan assets to establish such a loan program; (2) the identity of the person or position authorized to administer the program; (3) a procedure for applying for loans; (4) the basis on which loans will be approved or denied; (5) limitations (if any) on the types and amounts of loans offered; (6) the procedure for determining a reasonable rate of interest; (7) types of collateral that may secure a participant loan; and (8) the

events constituting default and the steps that will be taken to preserve plan assets in the event of such default. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 18, 2026 (91 FR 7528).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Loans to Plan Participants and Beneficiaries Who Are

Parties in Interest with Respect to the Plan Regulation.

OMB Control Number: 1210–0076.

Affected Public: Private sector.

Total Estimated Number of

Respondents: 2,702.

Total Estimated Number of

Responses: 2,702.

Total Estimated Annual Time Burden: 8,106 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–13230 Filed 6–30–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Allegheny Metallurgical, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 31, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0628 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA–2026–0628.

2. *Fax:* 202–693–9441.

3. *Email:* petitioncomments@dol.gov.

4. *Regular Mail or Hand Delivery:*

MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), Petitionsformodification@dol.gov (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–014–C.

Petitioner: Allegheny Metallurgical, LLC, 7004 Buckhannon Road, Volga, WV 26238.

Mine: Longview Mine, MSHA ID No. 46–09447, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.503 (Schedule 2G, § 18.35), Permissible electric face equipment; maintenance.

Modification Request: The petitioner requests modification of 30 CFR 75.503 (Schedule 2G, § 18.35) to permit the use of trailing cables exceeding the length specified in § 18.35.

The petitioner states that:

(a) Longview Mine is requesting a modification of the existing standard as it applies to the length of portable (trailing) cables supplying power to 995 VAC mining equipment including continuous miners, roof bolters, shuttle cars and auxiliary fans. Longview proposes a maximum cable length of 1,000 feet for section equipment during development of mains, sub-mains, three-entry development sections, bleeder, and recovery entries.

(b) Longview Mine is requesting this modification for multiple reasons. First, the mine design has required larger pillars to be left for roof control and longer distances to be traveled for the equipment than originally planned. Second, extended cable would reduce exposures by allowing the mine to eliminate the use of distribution boxes and would allow the power center to be

placed in a crosscut instead of leaving the power center in the escapeway entry of three entry sections. Third, 1,000' cable lengths would reduce the amount of “backlash” of the cables, reducing the potential for cable damage and employee exposure to damaged cables.

(c) The Short-Circuit Calculation Program, developed by MSHA's Approval and Certification Center, was used to evaluate the mine's electrical system and predict the fault current available for the 1,000 feet cables. The short circuit analysis indicated that adequate fault current was available to trip the protective circuit breakers for all listed equipment under a short circuit condition.

(d) Longview Mine is located at 620 Peel Tree Road, Volga, West Virginia. Longview will operate and extract coal from the Lower Kittanning and Upper Mercer coal seams. The average mining height will be 8.5 feet. At the Longview Portal, the Lower Kittanning coal seam is approximately 880 feet below the surface. The mine will be ventilated by a 16-foot diameter intake air shaft and fan which is located at the portal site. A 24-foot combination return and hoist divided shaft will be used for exhaust air and personnel access via a 5-ton rated hoist and cage. The return and personnel combination shaft are located at the portal site. Longview will utilize the room and pillar and longwall mining methods to extract coal and employ approximately 450 coal miners. Additional access for people and supplies will be by a 125-ton mine hoist system which will travel down a 3,500 foot, 15-degree slope. The slope floor will have rail installed for a brake car which personnel can use. The slope entry will also contain a 72-inch mine conveyor in the top portion of the slope, which will transport coal from the seam to the surface. The primary equipment to be utilized on the rail will be diesel equipment, including the use of motors to transport equipment and supplies.

(e) The alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) The maximum lengths of the 995-volt trailing cables shall be 1,000 feet.

(b) The section equipment's trailing cables shall not be smaller than No. 6 American Wire Gauge (AWG). At no time shall a trailing cable be smaller than specified in the approval documentation for the machine.

(c) All circuit breakers used to protect trailing cables exceeding the maximum length specified in 30 CFR 18.35(a)(5)(i) shall have instantaneous trip units

properly calibrated and adjusted to trip at no more than the smallest of the following values:

(1) The setting specified in 30 CFR 75.601-1;

(2) The setting specified in the approval documentation for the machine; or

(3) 70 percent of the minimum phase to phase short circuit current available at the end of the trailing cable.

(d) The calibrated trip setting of these circuit breakers shall be sealed, locked, or protected by other means so that the setting cannot be changed.

(e) These circuit breakers shall have permanent, legible labels indicating the circuit, cable size, maximum cable length and the maximum instantaneous setting. If the trailing cable sizes are intermixed at a section power center, the plugs shall be constructed or designed, for example keyed or sized, to permit only the proper type and length of cable to be plugged into the receptacle with the proper settings.

(f) Replacement instantaneous units used to protect trailing cables affected by this petition shall be calibrated and set in accordance with item (c). This setting shall be sealed, locked or protected by other means.

(g) All components that provide short-circuit protection shall have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(h) Any trailing cable that is not in safe operating condition shall be removed from service immediately and repaired or replaced.

(i) In the event the mining methods or operating procedures cause or contribute to the damage of any trailing cable, the cable shall be removed from service immediately and repaired or replaced, and additional precautions shall be taken to ensure that, in the future, the cable is protected and maintained in safe operating condition.

(j) Each splice or repair in the trailing cables shall be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair kit. The outer jacket of each splice shall be vulcanized with flame resistant material or made with material that has been accepted by MSHA as flame resistant. Splices shall comply with the requirements of 30 CFR 75.603 and 75.604.

(k) At the beginning of each production shift, persons designated by the mine operator shall visually examine trailing cables to ensure that they are in safe operating condition. The instantaneous settings of the specially calibrated circuit breakers shall also be visually examined to ensure that the

seals or locks have not been removed and that they are set in accordance with item (c).

(l) Permanent warning labels shall be installed and maintained on the cover(s) of the power center or distribution box identifying the location of each sealed short-circuit protection device. These labels shall warn miners not to change or alter these sealed short-circuit settings.

(m) This petition shall apply to the initial bottom development of the mine and working sections that mine around gas wells or working sections developing mains, submains, three entry panels, bleeder and recovery entries.

(n) This petition shall not be implemented until miners who have been designated to examine the integrity of the seals or locks, to verify the short-circuit settings, and to examine trailing cables for defects and damage, have received training.

(o) Within 60 days after the Proposed Decision and Order (PDO) granted by MSHA becomes final, the petitioner shall submit proposed revisions for its approved part 48 training plan to the District Manager. The proposed revisions shall include initial and refresher training regarding compliance with the terms and conditions of the PDO granted by MSHA.

(p) The miners at Longview Mine are not represented by a labor union and there are no miners' representatives. The petition has been posted on the mine bulletin board on May 13, 2026.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Corliss A. Josephs-Conway,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026-13224 Filed 6-30-26; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Mettiki Coal WV, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 31, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA-2026-0762 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2026-0762.

2. *Fax:* 202-693-9441.

3. *Email:* petitioncomments@dol.gov.

4. *Regular Mail or Hand Delivery:*

MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT:

Corliss A. Josephs-Conway, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2026-017-C.

Petitioner: Mettiki Coal WV, LLC, 293 Table Rock Road, Oakland, MD 21550.

Mine: Mountain View Mine, MSHA ID No. 46-09028, located in Tucker County, West Virginia.

Regulation Affected: 30 CFR 75-1002(a), Installation of electric equipment and conductors; permissibility.

Modification Request: The petitioner requests modification of the application of 30 CFR 75.500(d) at its Mountain View Mine to permit the use of non-MSHA approved handheld radios within 150 feet of pillar workings or longwall faces.

The petitioner states that:

(a) The Mountain View Mine is located at 180 E Portal Road, Davis, WV 26260, in Tucker County, WV. The Mountain View Mine extracts coal from the Freeport coal seam, operating one continuous miner section and one longwall section. There are two portals by which miners enter the underground mine. The mine currently employs approximately 85 coal miners and operates three shifts a day with two being production and one maintenance. The average mining height is eight feet and is ventilated by one dual compartment air shaft, one return shaft, and intake provided at the slope. Mountain View mines approximately three million tons of raw coal annually. The mine liberates approximately zero cubic feet of methane in a 24-hour period.

(b) Specifically, Mettiki is requesting to utilize the Kenwood Model NX-3200 portable radio attached to a Kenwood KNB-79LC 7.4-volt intrinsically safe battery pack within 150 feet of pillar workings or longwall faces of the underground mine.

(1) The Kenwood Model NX-3200 portable radio when properly equipped with the Kenwood KNB-79LC 7.4-volt battery pack is CSA approved by the Canadian Standards Association as intrinsically safe.

(2) The Canadian Standards Association is a prominent, independent, not-for-profit membership association that develops safety, performance, and environmental standards for products and systems. Established in 1919, it serves industry, government, consumers, and the global marketplace.

(3) The KNB-79LC 7.4-volt battery pack is "C UL US" listed, which indicates that a complete, stand-alone product has been tested and certified by Underwriters Laboratories (UL) to meet both Canadian and United States safety standards.

(4) Breakdown of the "C UL US" Symbol:

(i) The "C" (left side) means the product complies with Canadian safety

standards (evaluated against CSA standards).

(ii) The "UL" (center) identifies Underwriters Laboratories as the independent, third party laboratory that performed the testing.

(iii) The "US" (right side) means the product complies with United States safety standards (evaluated against ANSI/UL standards).

(5) The Kenwood Model NX-3200 portable battery-powered radio is not MSHA-approved as permissible.

(6) Kenwood is not pursuing MSHA permissibility approval for the Model NX-3200 portable battery-powered radio.

(7) Kenwood has discontinued the manufacture and sale of MSHA-approved permissible radios. Mettiki is not aware of any other MSHA-approved permissible radios that are compatible with the conditions and equipment being used underground at the Mountain View Mine.

(8) Mettiki currently uses MSHA-approved Kenwood TK-290 permissible 2-way radios within 150 feet of pillar workings or longwall faces at its Mountain View Mine to communicate between miners as part of the mine's approved Emergency Response Plan ("ERP"). Such communication facilitates efficient and safe communication among the underground miners.

(9) The mine uses portable handheld radios for routine communications involving safety notifications, production coordination, emergency communications, maintenance coordination, section-to-section communications, and communication with the dispatcher.

(10) Handheld radios are carried by all underground personnel, which makes the radios available to the miners whether they are on foot or operating mobile equipment.

(c) The radios will be limited to equipment independently certified as intrinsically safe, used only with listed batteries, controlled through inspection, removed from service when damaged, and used only under mine conditions that otherwise comply with applicable methane, ventilation, and examination requirements. These conditions collectively eliminate ignition risk while improving the reliability of communication in active working areas, including areas within 150 feet of pillar workings or longwall faces. Providing a reliable hand held radio that expands the options of radios permitted for use within 150 feet of pillar workings or longwall faces enhances the ability of miners to conduct routine communications involving safety

notifications, production coordination, emergency communications, maintenance coordination, section-to-section communications, and communication with the dispatcher.

(d) The petitioner further submits that improved communications in all areas of the mine, including within 150 feet of pillar workings or longwall faces, promote miner safety by reducing delays in reporting hazards, communicating ventilation or equipment issues, coordinating examinations, and initiating emergency response actions. To the extent MSHA determines that additional conditions are necessary, the petitioner is willing to implement reasonable administrative controls, equipment restrictions, training requirements, and recordkeeping measures to ensure that the alternative method provides equivalent protection.

(e) Since Kenwood has discontinued the manufacture and sale of the MSHA-approved Kenwood TK-290 permissible 2-way radio, there are no other MSHA-approved units available compatible with the conditions and equipment being used underground at the Mountain View Mine.

(f) The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded to the miners by the existing mandatory standard.

The petitioner proposes the following alternative method:

(a) As an alternative method to strict compliance with the cited standard, the petitioner proposes to use non-MSHA approved portable battery-powered handheld radios as follows:

(1) The Kenwood Model NX-3200 portable radio and the Kenwood KNB-79LC 7.4-volt intrinsically safe battery pack shall be clearly identified to ensure they are easily distinguishable from the MSHA-approved Kenwood TK-290 permissible 2-way radio and the Kenwood KNB-51 C 7.2-volt intrinsically safe battery pack. The unique identifier shall ensure positive identification of the respective radios to avoid any confusion between the different models and their battery packs.

(2) Only Kenwood battery pack model KNB-79LC shall be used with the Kenwood Model NX-3200 portable radio when taken within 150 feet of pillar workings or longwall faces.

(3) The battery packs for the radios shall be inspected before each use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the radio shall be removed from service.

(4) Before any radio is taken underground, the trained user shall examine the unit for damage, missing parts, cracked housing, compromised seals, loose battery attachment, and any other condition that could affect the safe use of the radio.

(5) The examinations of the Kenwood Model NX-3200 portable radio shall include:

(i) Check the equipment for any physical damage and the integrity of the case.

(ii) Remove the battery and inspect for corrosion.

(iii) Inspect the contact points to ensure a secure connection to the battery.

(iv) Reinsert the battery and power up and shut down to ensure proper connections.

(v) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) Any damaged, malfunctioning, or altered radio shall be immediately removed from service and tagged to prevent use.

(7) The Kenwood Model NX-3200 portable radio shall not be used within 150 feet of pillar workings or longwall faces when methane concentrations are 1.0 percent or greater.

(8) The Kenwood battery pack model KNB-79LC may be charged underground in designated areas free of combustible material and in intake air outby the last open crosscut.

(9) A fire extinguisher shall be readily available when batteries are being charged underground.

(10) Batteries shall be inspected before charging for cracks, swelling, corrosion, leaks, loose terminals, or heat damage.

(11) Battery change outs shall occur in intake air outby the last open crosscut. The radio should be turned off before changing the battery.

(12) Battery covers, latches, and seals shall be fully closed and secured after change out.

(13) Batteries and chargers shall be kept clean and dry. They shall also be protected from impact, heat, and rough handling.

(14) Batteries that are hot, leaking, swollen, damaged, or otherwise defective shall not be charged or used.

(15) Loose batteries shall not be carried with metal objects that could short-circuit the terminals.

(b) The following minimum training standards shall apply:

(1) All underground miners who will be required to carry and use the Kenwood Model NX-3200 portable radio shall receive task training in accordance with 30 CFR 48.7 on the

requirements of this petition and manufacturer guidelines. Such training shall be completed before the miner takes the Kenwood Model NX-3200 portable radio within 150 feet of pillar workings or longwall faces.

(2) All underground miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive annual training on the requirements of the petition during annual refresher training in accordance with 30 CFR 48.8.

(3) All new miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive training on the requirements of the petition in accordance with 30 CFR 48.5, and all experienced miners shall receive training on the requirements of the petition in accordance with 30 CFR 48.6.

(4) Within 60 days after the Proposed Decision and Order (PDO) granted by MSHA becomes final, the proposed revisions associated with the petition shall be submitted to the MSHA District Manager to be included in the 30 CFR part 48 training plan. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO granted by MSHA.

(5) When training is conducted on the terms and conditions of the petition, an MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the Kenwood Model NX-3200 portable radio within 150 feet of pillar workings or longwall faces.

(6) Training records shall be retained at a surface location at the mine for at least one year and shall be made available for inspection by MSHA and/or the State of West Virginia inspection personnel upon request.

(c) Mettiki Coal WV, LLC, Mountain View Mine does not have a representative of miners and a copy of the petition for modification has been posted on the mine bulletin board on May 20, 2026.

In support of the petition, the petitioner provided additional information including equipment specifications for the non-MSHA approved handheld radios.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection

afforded the miners under the mandatory standard.

Corliss A. Josephs-Conway

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026-13223 Filed 6-30-26; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Stillwater Mining Company.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 31, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA-2026-0694 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2026-0694.

2. *Fax:* 202-693-9441.

3. *Email:* petitioncomments@dol.gov.

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT:

Corliss A. Josephs-Conway, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–001–M.

Petitioner: Stillwater Mining Company, 1600 East 1st Ave. South/P.O. Box 1330, Columbus, MT 59019.

Mine: Stillwater Mine, MSHA ID No. 24–01490, located in Stillwater County, Montana.

Regulation Affected: 30 CFR 57.11052(d), Refuge areas.

Modification Request: The petitioner requests modification of 30 CFR 57.11052(d) to permit the use of sealed bottled water in lieu of waterlines for supplying potable water in two refuge chambers.

The petitioner states that:

(a) The petitioner requests a modification to the 30 CFR 57.11052 (d) for two specific refuge chambers that require the refuge chamber to be connected to mine water lines.

(b) Stillwater Mining Company is not seeking modification from the requirement of compressed air lines.

(c) As part of a reduction in mining fronts that occurred in 2024, the West side of the Stillwater Mine was placed into care and maintenance.

(d) As part of this process, electrical infrastructure was removed in several areas.

(e) Areas that no longer require access have been barricaded to prevent entry, and areas that remain accessible are inspected weekly to ensure applicable standards are maintained.

(f) The two refuge chambers included in this request are located on the 5300 West and 5000 West levels. These levels remain open solely as designated travelways to inspect and maintain primary ventilation equipment located at 53W 22,800.

(g) Waterlines within this portion of the mine are supplied from mine water

reservoir located at 55W 14,100. This area is fully barricaded, and all associated electrical infrastructure has been removed as part of the care and maintenance process.

(h) Re-establishing mine water service to the subject refuge chambers would require replacement of electrical infrastructure to power mine water pumps.

(i) In addition, barricades on the 5500 level and the ramp down to the 5300 level would need to be permanently removed.

(j) These areas are inspected weekly by the ventilation department and electricians, with scheduled maintenance occurring on quarterly and annual intervals.

(k) A ladder escapeway, compliant with all applicable standards, connects the 5300 level and the 5000 level.

(l) Fewer than five individuals access this area during a typical week.

(m) The refuge chambers hold a max occupancy of (8) persons for a max duration of 96 hours.

(n) The petitioner currently employs steel constructed cylindrical refuge units; these units are not commercially available and were fabricated locally.

(o) Based on a review of the conditions described above, removing the requirement for the mine water lines supplying these refuge chambers would reduce overall risk by eliminating the need to re-energize electrical infrastructure, restore mine water pumping systems, and permanently remove barricades in areas currently maintained under care and maintenance controls, while continuing to provide an adequate and reliable emergency water supply inside the refuge chambers for few individuals accessing the area.

The petitioner proposes the following alternative method:

(a) The refuge chambers are stocked with four 5-gallon sealed water containers that are available in case of an emergency.

(b) The 5300 West and 5000 West refuge chambers are stocked with (4) x 5gal jugs of water, providing ample water for 8 persons requiring 2.25 quarts of water per day, per person.

The miners at Stillwater Mine are represented by Jerry Philhower and Kyle Sandlin, both serving as Joint Health and Safety Representatives. The petition for modification has been provided to Mr. Philhower and Mr. Sandlin on June 8, 2026.

In support of the petition, the petitioner provided additional information including a mine map showing the escapeway and refuge chambers; a mine map showing the mine water reservoir that is currently

not in use; and an image of the steel constructed cylindrical refuge units.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Corliss A. Josephs-Conway

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–13226 Filed 6–30–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Mettiki Coal WV, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 31, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0761 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA–2026–0761.
2. *Fax:* 202–693–9441.
3. *Email:* petitioncomments@dol.gov.
4. *Regular Mail or Hand Delivery:*

MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Corliss A. Josephs-Conway, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), Petitionsformodification@dol.gov (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part

44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–016–C.

Petitioner: Mettiki Coal WV, LLC, 293 Table Rock Road, Oakland, MD 21550.

Mine: Mountain View Mine, MSHA ID No. 46–09028, located in Tucker County, West Virginia.

Regulation Affected: 30 CFR 75–507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

Modification Request: The petitioner requests modification of the application of 30 CFR 75.500(d) at its Mountain View Mine to permit the use of non-MSHA approved handheld radios in return air outby the last open crosscut.

The petitioner states that:

(a) The Mountain View Mine is located at 180 E Portal Road, Davis, WV 26260, in Tucker County, WV. The Mountain View Mine extracts coal from the Freeport coal seam, operating one continuous miner section and one longwall section. There are two portals by which miners enter the underground mine. The mine currently employs approximately 85 coal miners and operates three shifts a day with two being production and one maintenance. The average mining height is eight feet and is ventilated by one dual compartment air shaft, one return shaft, and intake provided at the slope. Mountain View mines approximately three million tons of raw coal annually. The mine liberates approximately zero cubic feet of methane in a 24-hour period.

(b) Specifically, Mettiki is requesting to utilize the Kenwood Model NX–3200 portable radio attached to a Kenwood

KNB–79LC 7.4-volt intrinsically safe battery pack in return air outby the last open crosscut of the underground mine.

(1) The Kenwood Model NX–3200 portable radio when properly equipped with the Kenwood KNB–79LC 7.4-volt battery pack is CSA approved by the Canadian Standards Association as intrinsically safe.

(2) The Canadian Standards Association is a prominent, independent, not-for-profit membership association that develops safety, performance, and environmental standards for products and systems. Established in 1919, it serves industry, government, consumers, and the global marketplace.

(3) The KNB–79LC 7.4-volt battery pack is “C UL US” listed, which indicates that a complete, stand-alone product has been tested and certified by Underwriters Laboratories (UL) to meet both Canadian and United States safety standards.

(4) Breakdown of the “C UL US” Symbol:

(i) The “C” (left side) means the product complies with Canadian safety standards (evaluated against CSA standards).

(ii) The “UL” (center) identifies Underwriters Laboratories as the independent, third party laboratory that performed the testing.

(iii) The “US” (right side) means the product complies with United States safety standards (evaluated against ANSI/UL standards).

(5) The Kenwood Model NX–3200 portable battery-powered radio is not MSHA-approved as permissible.

(6) Kenwood is not pursuing MSHA permissibility approval for the Model NX–3200 portable battery-powered radio.

(7) Kenwood has discontinued the manufacture and sale of MSHA-approved permissible radios. Mettiki is not aware of any other MSHA-approved permissible radios that are compatible with the conditions and equipment being used underground at the Mountain View Mine.

(8) Mettiki currently uses MSHA-approved Kenwood TK–290 permissible 2-way radios in return air outby the last open crosscut at its Mountain View Mine to communicate between miners as part of the mine’s approved Emergency Response Plan (“ERP”). Such communication facilitates efficient and safe communication among the underground miners.

(9) The mine uses portable handheld radios for routine communications involving safety notifications, production coordination, emergency communications, maintenance

coordination, section-to-section communications, and communication with the dispatcher.

(10) Handheld radios are carried by all underground personnel, which makes the radios available to the miners whether they are on foot or operating mobile equipment.

(c) The radios will be limited to equipment independently certified as intrinsically safe, used only with listed batteries, controlled through inspection, removed from service when damaged, and used only under mine conditions that otherwise comply with applicable methane, ventilation, and examination requirements. These conditions collectively eliminate ignition risk while improving the reliability of communication in active working areas, including areas in return air outby the last open crosscut. Providing a reliable handheld radio that expands the options of radios permitted for use in return air outby the last open crosscut enhances the ability of miners to conduct routine communications involving safety notifications, production coordination, emergency communications, maintenance coordination, section-to-section communications, and communication with the dispatcher.

(d) The petitioner further submits that improved communications in all areas of the mine, including in return air outby the last open crosscut, promote miner safety by reducing delays in reporting hazards, communicating ventilation or equipment issues, coordinating examinations, and initiating emergency response actions. To the extent MSHA determines that additional conditions are necessary, the petitioner is willing to implement reasonable administrative controls, equipment restrictions, training requirements, and recordkeeping measures to ensure that the alternative method provides equivalent protection.

(e) Since Kenwood has discontinued the manufacture and sale of the MSHA-approved Kenwood TK–290 permissible 2-way radio, there are no other MSHA-approved units available compatible with the conditions and equipment being used underground at the Mountain View Mine.

(f) The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded to the miners by the existing mandatory standard.

The petitioner proposes the following alternative method:

(a) As an alternative method to strict compliance with the cited standard, the petitioner proposes to use non-MSHA

approved portable battery-powered handheld radios as follows:

(1) The Kenwood Model NX-3200 portable radio and the Kenwood KNB-79LC 7.4-volt intrinsically safe battery pack shall be clearly identified to ensure they are easily distinguishable from the MSHA-approved Kenwood TK-290 permissible 2-way radio and the Kenwood KNB-51 C 7.2-volt intrinsically safe battery pack. The unique identifier shall ensure positive identification of the respective radios to avoid any confusion between the different models and their battery packs.

(2) Only Kenwood battery pack model KNB-79LC shall be used with the Kenwood Model NX-3200 portable radio when taken into return air outby the last open crosscut.

(3) The battery packs for the radios shall be inspected before each use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the radio shall be removed from service.

(4) Before any radio is taken underground, the trained user shall examine the unit for damage, missing parts, cracked housing, compromised seals, loose battery attachment, and any other condition that could affect the safe use of the radio.

(5) The examinations of the Kenwood Model NX-3200 portable radio shall include:

(i) Check the equipment for any physical damage and the integrity of the case.

(ii) Remove the battery and inspect for corrosion.

(iii) Inspect the contact points to ensure a secure connection to the battery.

(iv) Reinsert the battery and power up and shut down to ensure proper connections.

(v) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) Any damaged, malfunctioning, or altered radio shall be immediately removed from service and tagged to prevent use.

(7) The Kenwood Model NX-3200 portable radio shall not be used in return air outby the last open crosscut when methane concentrations are 1.0 percent or greater.

(8) The Kenwood battery pack model KNB-79LC may be charged underground in designated areas free of combustible material and in intake air outby the last open crosscut.

(9) A fire extinguisher shall be readily available when batteries are being charged underground.

(10) Batteries shall be inspected before charging for cracks, swelling,

corrosion, leaks. Loose terminals, or heat damage.

(11) Battery change outs shall occur in intake air outby the last open crosscut. The radio should be turned off before changing the battery.

(12) Battery covers, latches, and seals shall be fully closed and secured after change out.

(13) Batteries and chargers shall be kept clean and dry. They shall also be protected from impact, heat, and rough handling.

(14) Batteries that are hot, leaking, swollen, damaged, or otherwise defective shall not be charged or used.

(15) Loose batteries shall not be carried with metal objects that could short-circuit the terminals.

(b) The following minimum training standards shall apply:

(1) All underground miners who will be required to carry and use the Kenwood Model NX-3200 portable radio shall receive task training in accordance with 30 CFR 48.7 on the requirements of this petition and manufacturer guidelines. Such training shall be completed before the miner takes the Kenwood Model NX-3200 portable radio in return air outby the last open crosscut.

(2) All underground miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive annual training on the requirements of the petition during annual refresher training in accordance with 30 CFR 48.8.

(3) All new miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive training on the requirements of the petition in accordance with 30 CFR 48.5, and all experienced miners shall receive training on the requirements of the petition in accordance with 30 CFR 48.6.

(4) Within 60 days after the Proposed Decision and Order (PDO) granted by MSHA becomes final, the proposed revisions associated with the petition shall be submitted to the MSHA District Manager to be included in the 30 CFR part 48 training plan. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO granted by MSHA.

(5) When training is conducted on the terms and conditions of the petition, an MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the Kenwood Model NX-3200 portable radio in return air outby the last open crosscut.

(6) Training records shall be retained at a surface location at the mine for at least one year and shall be made available for inspection by MSHA and/or the State of West Virginia inspection personnel upon request.

(c) Mettiki Coal WV, LLC, Mountain View Mine does not have a representative of miners and a copy of the petition for modification has been posted on the mine bulletin board on May 20, 2026.

In support of the petition, the petitioner provided additional information including equipment specifications for the non-MSHA approved handheld radios.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Corliss A. Josephs-Conway,
Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026-13228 Filed 6-30-26; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Mettiki Coal WV, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before July 31, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA-2026-0760 by any of the following methods:

1. *Federal eRulemaking Portal:*
<https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2026-0760.

2. *Fax:* 202-693-9441.

3. *Email:* petitioncomments@dol.gov.

4. *Regular Mail or Hand Delivery:*

MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Corliss A. Josephs-Conway, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business

hours at the address listed above. Before visiting MSHA in person, call 202-693-9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT:

Corliss A. Josephs-Conway, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2026-015-C.

Petitioner: Mettiki Coal WV, LLC, 293 Table Rock Road, Oakland, MD 21550.

Mine: Mountain View Mine, MSHA ID No. 46-09028, located in Tucker County, West Virginia.

Regulation Affected: 30 CFR 75-500(d), Permissible electric equipment.

Modification Request: The petitioner requests modification of the application of 30 CFR 75.500(d) at its Mountain View Mine to permit the use of non-MSHA approved handheld radios in or inby the last open crosscut.

The petitioner states that:

(a) The Mountain View Mine is located at 180 E Portal Road, Davis, WV 26260, in Tucker County, WV. The Mountain View Mine extracts coal from the Freeport coal seam, operating one continuous miner section and one longwall section. There are two portals by which miners enter the underground mine. The mine currently employs approximately 85 coal miners and operates three shifts a day with two being production and one maintenance.

The average mining height is eight feet and is ventilated by one dual compartment air shaft, one return shaft, and intake provided at the slope. Mountain View mines approximately three million tons of raw coal annually. The mine liberates approximately zero cubic feet of methane in a 24-hour period.

(b) Specifically, Mettiki is requesting to utilize the Kenwood Model NX-3200 portable radio attached to a Kenwood KNB-79LC 7.4-volt intrinsically safe battery pack in or inby the last open crosscut of the underground mine.

(1) The Kenwood Model NX-3200 portable radio when properly equipped with the Kenwood KNB-79LC 7.4-volt battery pack is CSA approved by the Canadian Standards Association as intrinsically safe.

(2) The Canadian Standards Association is a prominent, independent, not-for-profit membership association that develops safety, performance, and environmental standards for products and systems. Established in 1919, it serves industry, government, consumers, and the global marketplace.

(3) The KNB-79LC 7.4-volt battery pack is "C UL US" listed, which indicates that a complete, stand-alone product has been tested and certified by Underwriters Laboratories (UL) to meet both Canadian and United States safety standards.

(4) Breakdown of the "C UL US" Symbol:

(i) The "C" (left side) means the product complies with Canadian safety standards (evaluated against CSA standards).

(ii) The "UL" (center) identifies Underwriters Laboratories as the independent, third party laboratory that performed the testing.

(iii) The "US" (right side) means the product complies with United States safety standards (evaluated against ANSI/UL standards).

(5) The Kenwood Model NX-3200 portable battery-powered radio is not MSHA-approved as permissible.

(6) Kenwood is not pursuing MSHA permissibility approval for the Model NX-3200 portable battery-powered radio.

(7) Kenwood has discontinued the manufacture and sale of MSHA-approved permissible radios. Mettiki is not aware of any other MSHA-approved permissible radios that are compatible with the conditions and equipment being used underground at the Mountain View Mine.

(8) Mettiki currently uses MSHA-approved Kenwood TK-290 permissible 2-way radios in and inby the last open

crosscut at its Mountain View Mine to communicate between miners as part of the mine's approved Emergency Response Plan ("ERP"). Such communication facilitates efficient and safe communication among the underground miners.

(9) The mine uses portable handheld radios for routine communications involving safety notifications, production coordination, emergency communications, maintenance coordination, section-to-section communications, and communication with the dispatcher.

(10) Handheld radios are carried by all underground personnel, which makes the radios available to the miners whether they are on foot or operating mobile equipment.

(c) The radios will be limited to equipment independently certified as intrinsically safe, used only with listed batteries, controlled through inspection, removed from service when damaged, and used only under mine conditions that otherwise comply with applicable methane, ventilation, and examination requirements. These conditions collectively eliminate ignition risk while improving the reliability of communication in active working areas, including areas in and inby the last open crosscut. Providing a reliable handheld radio that expands the options of radios permitted for use in and inby the last open crosscut enhances the ability of miners to conduct routine communications involving safety notifications, production coordination, emergency communications, maintenance coordination, section-to-section communications, and communication with the dispatcher.

(d) The petitioner further submits that improved communications in all areas of the mine, including in and inby the last open crosscut, promote miner safety by reducing delays in reporting hazards, communicating ventilation or equipment issues, coordinating examinations, and initiating emergency response actions. To the extent MSHA determines that additional conditions are necessary, the petitioner is willing to implement reasonable administrative controls, equipment restrictions, training requirements, and recordkeeping measures to ensure that the alternative method provides equivalent protection.

(e) Since Kenwood has discontinued the manufacture and sale of the MSHA-approved Kenwood TK-290 permissible 2-way radio, there are no other MSHA-approved units available compatible with the conditions and equipment being used underground at the Mountain View Mine.

(f) The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded to the miners by the existing mandatory standard.

The petitioner proposes the following alternative method:

(a) As an alternative method to strict compliance with the cited standard, the petitioner proposes to use non-MSHA approved portable battery-powered handheld radios as follows:

(1) The Kenwood Model NX-3200 portable radio and the Kenwood KNB-79LC 7.4-volt intrinsically safe battery pack shall be clearly identified to ensure they are easily distinguishable from the MSHA-approved Kenwood TK-290 permissible 2-way radio and the Kenwood KNB-51 C 7.2-volt intrinsically safe battery pack. The unique identifier shall ensure positive identification of the respective radios to avoid any confusion between the different models and their battery packs.

(2) Only Kenwood battery pack model KNB-79LC shall be used with the Kenwood Model NX-3200 portable radio when taken into or inby the last open crosscut.

(3) The battery packs for the radios shall be inspected before each use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the radio shall be removed from service.

(4) Before any radio is taken underground, the trained user shall examine the unit for damage, missing parts, cracked housing, compromised seals, loose battery attachment, and any other condition that could affect the safe use of the radio.

(5) The examinations of the Kenwood Model NX-3200 portable radio shall include:

(i) Check the equipment for any physical damage and the integrity of the case.

(ii) Remove the battery and inspect for corrosion.

(iii) Inspect the contact points to ensure a secure connection to the battery.

(iv) Reinsert the battery and power up and shut down to ensure proper connections.

(v) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) Any damaged, malfunctioning, or altered radio shall be immediately removed from service and tagged to prevent use.

(7) The Kenwood Model NX-3200 portable radio shall not be used in or inby the last open crosscut when

methane concentrations are 1.0 percent or greater.

(8) The Kenwood battery pack model KNB-79LC may be charged underground in designated areas free of combustible material and in intake air outby the last open crosscut.

(9) A fire extinguisher shall be readily available when batteries are being charged underground.

(10) Batteries shall be inspected before charging for cracks, swelling, corrosion, leaks, Loose terminals, or heat damage.

(11) Battery change outs shall occur in intake air outby the last open crosscut. The radio should be turned off before changing the battery.

(12) Battery covers, latches, and seals shall be fully closed and secured after change out.

(13) Batteries and chargers shall be kept clean and dry. They shall also be protected from impact, heat, and rough handling.

(14) Batteries that are hot, leaking, swollen, damaged, or otherwise defective shall not be charged or used.

(15) Loose batteries shall not be carried with metal objects that could short-circuit the terminals.

(b) The following minimum training standards shall apply:

(1) All underground miners who will be required to carry and use the Kenwood Model NX-3200 portable radio shall receive task training in accordance with 30 CFR 48.7 on the requirements of this petition and manufacturer guidelines. Such training shall be completed before the miner takes the Kenwood Model NX-3200 portable radio into or inby the last open crosscut.

(2) All underground miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive annual training on the requirements of the petition during annual refresher training in accordance with 30 CFR 48.8.

(3) All new miners who will be involved with or affected by the use of the Kenwood Model NX-3200 portable radio shall receive training on the requirements of the petition in accordance with 30 CFR 48.5, and all experienced miners shall receive training on the requirements of the petition in accordance with 30 CFR 48.6.

(4) Within 60 days after the Proposed Decision and Order (PDO) granted by MSHA becomes final, the proposed revisions associated with the petition shall be submitted to the MSHA District Manager to be included in the 30 CFR part 48 training plan. These proposed revisions shall specify initial and

refresher training regarding the terms and conditions stated in the PDO granted by MSHA.

(5) When training is conducted on the terms and conditions of the petition, an MSHA Certificate of Training (Form 5000-23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the Kenwood Model NX-3200 portable radio in or inby the last open crosscut.

(6) Training records shall be retained at a surface location at the mine for at least one year and shall be made available for inspection by MSHA and/or the State of West Virginia inspection personnel upon request.

(c) Mettiki Coal WV, LLC, Mountain View Mine does not have a representative of miners and a copy of the petition for modification has been posted on the mine bulletin board on May 20, 2026.

In support of the petition, the petitioner provided additional information including equipment specifications for the non-MSHA approved handheld radios.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Corliss A. Josephs-Conway,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026-13227 Filed 6-30-26; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Susan Harwood Training Grant Program, FY 2026; Availability of Funds and Funding Opportunity Announcements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of availability of funds and funding opportunity announcements.

SUMMARY: This notice announces availability of \$12,787,000 for Susan Harwood Training Grant Program grants. Two separate funding opportunity announcements are available for Targeted Topic Training grants and Training and Educational Materials Development grants.

DATES: Grant applications for Susan Harwood Training Program grants must be received electronically by the

Grants.gov system no later than 11:59 p.m., ET, on July 31, 2026.

ADDRESSES: The complete Susan Harwood Training Grant Program funding opportunity announcements and all information needed to apply are available at the *Grants.gov* website, www.grants.gov.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the funding opportunity announcement should be emailed to Monica McKenzie at HarwoodGrants@dol.gov or directed to OSHA via telephone at 847-725-7805. Personnel will not be available to answer questions after 5:00 p.m., ET. To obtain further information on the Susan Harwood Training Grant Program, visit the OSHA website at www.osha.gov/harwoodgrants. Questions regarding *Grants.gov* should be emailed to Support@grants.gov or directed to Applicant Support toll free at 1-800-518-4726. Applicant Support is available 24 hours a day, 7 days a week except Federal holidays.

SUPPLEMENTARY INFORMATION:

Notice of Funding Opportunity
Number: SHTG-FY-26-01 (Targeted Topic Training grants).

Notice of Funding Opportunity
Number: SHTG-FY-26-02 (Training and Educational Materials Development grants).

Catalog of Federal Domestic Assistance Number: 17.502.

Authority and Signature

David L. Keeling, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is Section 21 of the Occupational Safety and Health Act of 1970, (29 U.S.C. 670), Public Law 119-75, and Secretary of Labor's Order No. 7-2025 (90 FR 27878, June 30, 2025).

Signed at Washington, DC, on June 26, 2026.

David L. Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-13251 Filed 6-30-26; 8:45 am]

BILLING CODE 4510-26-P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Finance Committee of the Legal Services Corporation (LSC) Board of Directors will meet on July 6, 2026. The meeting will begin at 2:30 p.m. Eastern Time and continue until the conclusion of the Committee's agenda.

PLACE: Public Notice of Virtual Meeting.

LSC will conduct its July 6, 2026, meeting virtually via videoconference.

Public Observation: Unless otherwise noted herein, the committee meeting will be open to public observation via LSC's YouTube channel: <https://www.youtube.com/@LegalServicesCorp/> streams.

STATUS: Open, except as noted below.

Finance Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to receive a report on an investment advisor RFP.

Any portion of the closed sessions consisting solely of briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session.

A verbatim written transcript will be made of the closed session of the Finance Committee. The transcript of any portions of the closed session falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6), (7), (9) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Meeting Schedule

1. Monday, July 6, 2026—Finance Committee Meeting

Start Time—2:30 p.m. ET

- a. Matters to be discussed include the fiscal year 2027 appropriation request and fiscal year 2028 appropriations process; the financial report for the first eight months of fiscal year 2026; and considering and acting on a resolution regarding the temporary operating authority for fiscal year 2027.

CONTACT PERSON FOR MORE INFORMATION:

Kimberly Little, Board and Executive Coordinator, at (202) 295-1500. Questions may also be sent by electronic mail to the Office of the Corporate Secretary at updates@lsc.gov.

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at <https://www.lsc.gov/about-lsc/board-meeting-materials>.

(Authority: 5 U.S.C. 552b.)

Dated: June 28, 2026.

Stefanie Davis,

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2026-13240 Filed 6-29-26; 11:15 am]

BILLING CODE 7050-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2022-34]

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:* July 6, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

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).

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).*: CP2022–34; *Filing Title*: Request of the United States Postal Service to Amend Inbound Competitive Multi-Service IRA–USPS II Agreement; *Filing Acceptance Date*: June 26, 2026; *Filing Authority*: 39 CFR 3035.105 and 39 CFR 3041.505; *Public Representative*: Maxine Bradley; *Comments Due*: July 6, 2026.

III. Summary Proceeding(s)

None. *See* Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,
Legal Assistant.

[FR Doc. 2026–13262 Filed 6–30–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. PI2020–1; Order No. 9625]

Public Inquiry

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging its filing of the explanation of its current methodology for estimating the value of the postal monopoly and the mailbox monopoly. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 31, 2026. *Reply comments are due:* September 14, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Procedural Background
- III. Scope of Further Proceedings
- IV. Administrative Actions
- V. Ordering Paragraphs

I. Introduction

In its 39 U.S.C. 3651 Annual Report to the President and Congress, the Commission estimates a value for the Postal Service's combined letter and mailbox monopolies, which are referred to together as the postal monopoly, and a separate value for the mailbox monopoly alone. The Commission sets the scope of further proceedings in this docket, provides notice of modifications and enhancements to its methodology for estimating the value of the postal monopoly and mailbox monopoly (Estimation Methodology), and requests comments within the scope of these further proceedings.

II. Procedural Background

On October 1, 2019 and February 10, 2021, the Commission requested comments and suggestions for modifications and enhancements to the Estimation Methodology to account specifically for Postal Service data changes and for any other aspects of the Estimation Methodology.¹

The Commission subsequently addressed all significant comments that it had received and issued Library Reference PRC–LR–PI2020–1–NP2 (filed under seal), which consists of the SAS programs, datasets, input workbooks, and output files used to develop the Fiscal Year (FY) 2020 and FY 2021 estimates of the value of the postal monopoly and mailbox monopoly.²

The Commission continued this docket for further proceedings. *See* Order No. 6658 at 2–3, 49–50, 51. The Commission stated that such further proceedings would address the use of Rural Route Evaluated Compensation study (RRECS) data in the Estimation Methodology. *See id.* at 2–3, 49. The Commission continued this docket for this purpose because rural carrier data are used in the Estimation Methodology, but the previous source of such data, the Rural Mail Count (RMC) was replaced by RRECS and there was uncertainty about whether and how, for the purposes of the Estimation Methodology, RRECS data could be used as a reasonable substitute for RMC data.³ The Commission also stated that such further proceedings might address any comments submitted on Library Reference PRC–LR–PI2020–1–NP2, subsequent Estimation Methodology workpapers, and any other issues expressly identified by the Commission. *See id.* at 49–50.

III. Scope of Further Proceedings

From the start of this docket, its purpose has been to modify and enhance the Estimation Methodology. When the Commission considered the

¹ Notice and Order Providing an Opportunity to Comment, October 1, 2019 (Order No. 5260); Notice of Filing Library Reference PRC–LR–PI2020–1–NP1 and Order Setting Comment Deadline, February 10, 2021 (Order No. 5832). Library Reference PRC–LR–PI2020–1–NP1 was revised on March 1, 2021. Notice of Errata, March 1, 2021.

² *See* Order Describing Updated FY 2020 and FY 2021 Estimation Methodology, Directing Certain Postal Service Data Reporting, and Providing Notice of Filing Library Reference PRC–LR–PI2020–1–NP2, August 31, 2023 (Order No. 6658).

³ *See id.* at 31 (“Because of the importance of identifying a means of updating the rural carrier data used in Estimation Methodology, the Commission will not close the instant docket with the issuance of this Order.”); *see also id.* at 2 n.5, 17–18 (summarizing information request responses regarding the effect of the transition from the RMC to RRECS on the Estimation Methodology).

Estimation Methodology in Order No. 6658, it continued the instant docket for consideration of “the use of RRECS data in the Estimation Methodology.” *Id.* at 49. The Commission also stated that further proceedings in the instant docket “also may address any comments submitted on Library Reference PRC–LR–PI2020–1–NP2, subsequent Estimation Methodology workpapers, and any other issues expressly identified by the Commission.” *Id.* at 49–50.

Because the Commission previously considered the Estimation Methodology broadly in this docket, the Commission intends for the scope of further proceedings in this docket to be limited. Consequently, the Commission does not identify any additional issues for consideration beyond the issues expressly identified in Order No. 6658. Thus, because no comments were submitted on Library Reference PRC–LR–PI2020–1–NP2, the issues for consideration in further proceedings in the instant docket are: (1) the use of RRECS data in the Estimation Methodology; and (2) subsequent Estimation Methodology workpapers, *viz.*, the workpapers issued together with this Order in non-public Library Reference PRC–LR–PI2020–1–NP3 and in public Library Reference PRC–LR–PI2020–1–1.

Further proceedings are intended to address whether and how RRECS should be used to replace the RMC in the Estimation Methodology. These further proceedings are not intended to be a general investigation of RRECS or an inquiry into the advisability (or not) of using RRECS for other purposes. The Commission appreciates the broader interest in RRECS that is apparent from the filings that it has received, for example, in April and May 2026. However, it is not appropriate for the scope of a docket that was continued for limited purposes related to the Estimation Methodology to be expanded to issues beyond the Estimation Methodology. The Commission’s goal in the instant proceeding continues to be determining whether and how to enhance the Estimation Methodology. Broader concerns about RRECS will be considered only to the extent that they have a direct bearing on that goal.

Library Reference PRC–LR–PI2020–1–NP3 and Library Reference PRC–LR–PI2020–1–1. The Commission issues Library Reference PRC–LR–PI2020–1–NP3. This library reference contains the Commission’s Analysis of the FY 2024 Value of the Postal and Mailbox Monopolies. It is filed under seal and consists of the SAS programs, datasets, input workbooks, and output files used

to develop the FY 2024 estimates of the value of the postal monopoly and mailbox monopoly, as well as an explanatory preface. Library Reference PRC–LR–PI2020–1–1 is filed publicly. It contains the SAS programs, datasets, input workbooks, and files used to develop the FY 2024 estimates of the value of the postal monopoly and mailbox monopoly that may be filed publicly, as well as an explanatory preface. The narrative description in the explanatory preface in Library Reference PRC–LR–PI2020–1–1 generally replicates the narrative description in the explanatory preface in Library Reference PRC–LR–PI2020–NP3, with non-public information redacted or otherwise omitted. Redactions in, and omissions from, Library Reference PRC–LR–PI2020–1–1 reflect information for which the Commission accords non-public treatment (including pending resolution of a request for disclosure); the full unredacted content appears in Library Reference PRC–LR–PI2020–1–NP3.

IV. Administrative Actions

The Commission provides an opportunity for interested persons to submit comments within the scope of these further proceedings. The Commission is particularly interested in comments on the following topics. However, commenters are not required to discuss any of these topics, and commenters are not limited by these topics (although their comments must remain within the established scope of the further proceedings).

1. Whether RRECS is the best available and most practical replacement for the RMC in the Estimation Methodology. If not, what alternative data source(s) should the Commission consider? Why are such alternative data source(s) better and more practical than RRECS for use in the Estimation Methodology? And, how should any such alternative data source(s) be used in the Estimation Methodology?

2. The adjustments, if any, that should be made to the Commission’s intended use of RRECS in the FY 2025 application of the Estimation Methodology to increase the accuracy of the Commission’s estimates.

3. The Commission’s adaptation of the Postal Service’s revised volume variability SAS program (for cost pools) to calculate volume variability by rural carrier route in the Commission’s SAS program “Vol Var by Route LR.sas.”

The deadline for submitting comments is August 31, 2026. The deadline for submitting reply comments is September 14, 2026.

The Commission issues the additional directives and guidance for participation. Before filing any route-specific information publicly, the submitter must confer with counsel representing the Postal Service in the instant docket regarding the Postal Service’s position about the sensitivity of the information. All filings (including comments) must be relevant, material, and responsive to the issues under consideration. All filings submitted to the Commission, including any artificial intelligence (AI) generated or AI-assisted text, must be thoroughly reviewed, verified, and corrected by a human before submission.

In Order No. 6658, Philip Abraham was appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in further proceedings in the instant docket. *See* Order No. 6658 at 51. Philip Abraham remains the appointed 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.

V. Ordering Paragraphs

It is ordered:

1. Notice of Library Reference PRC–LR–PI2020–1–NP3 is provided.

2. Notice of Library Reference PRC–LR–PI2020–1–1 is provided.

3. Comments, within the scope of the further proceedings established in the body of this Order, are due August 31, 2026.

4. Reply comments, within the scope of the further proceedings established in the body of this Order, are due September 14, 2026.

5. Before filing any route-specific information publicly in this docket, the submitter must confer with counsel representing the Postal Service in the instant docket regarding the Postal Service’s position about the sensitivity of the information.

6. Philip Abraham shall continue to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

7. This Order, or an abstract thereof, shall be published in the **Federal Register**.

By the Commission.

Mallory S. Richards,
Attorney-Advisor.

[FR Doc. 2026–13235 Filed 6–30–26; 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:* July 1, 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.
06/22/26	PM-GA 1020	MC2026–280	K2026–277
06/22/26	PM-GA 1021	MC2026–281	K2026–278
06/23/26	PM-GA 1022	MC2026–282	K2026–279
06/23/26	PM-GA 1023	MC2026–283	K2026–280
06/23/26	PM-GA 1024	MC2026–284	K2026–281
06/24/26	PM-GA 1025	MC2026–285	K2026–282
06/24/26	PM-GA 1026	MC2026–286	K2026–283

Documents are available at www.prc.gov.

Sean C. Robinson,
Attorney, Corporate and Postal Business Law.
[FR Doc. 2026–13222 Filed 6–30–26; 8:45 am]
BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105778; File No. 4–757]

Joint Industry Plan; Order Approving the Second Amendment to the National Market System Plan Regarding Consolidated Equity Market Data, as Amended by Amendment No. 1 and Modified by the Commission, To Adopt a Fee Schedule

June 26, 2026

I. Introduction

On December 11, 2025, the Operating Committee¹ of the Limited Liability Company Agreement of the CT Plan LLC (“CT Plan”) filed with the Securities and Exchange Commission (“Commission”), pursuant to section 11A of the Securities Exchange Act of 1934 (“Exchange Act”)² and Rule 608 of Regulation National Market System (“Regulation NMS”) thereunder,³ a proposal to amend the CT Plan to adopt a fee schedule (“Fee Proposal”).⁴ The

Fee Proposal, which represents the Second Amendment to the CT Plan, was published for comment in the **Federal Register** on December 31, 2025.⁵ The Commission received comment on the Fee Proposal.⁶ On March 30, 2026, the Operating Committee filed an amendment to the Fee Proposal, which amended and superseded the Fee Proposal in its entirety, and responded to comments (“Amendment No. 1”). On March 31, 2026, the Commission published notice of filing of Amendment No. 1 and instituted proceedings, under Rule 608(b)(2)(i) of Regulation NMS,⁷ to determine whether to approve or disapprove the Fee Proposal, as amended by Amendment No. 1 (“Amended Fee Proposal”), or to approve the Amended Fee Proposal, with any changes or subject to any conditions the Commission deems necessary or appropriate.⁸ The Commission received comment in response to the OIP Notice and a response from the Operating Committee.⁹

This order approves the Amended Fee Proposal, as modified by the Commission, which is described in detail below. The Commission concludes that the Amended Fee Proposal, as modified, is necessary or

appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Exchange Act consistent with Rule 608(b)(2) of Regulation NMS.¹⁰ Further, the Commission finds that the Amended Fee Proposal, as modified, is fair and reasonable and not unreasonably discriminatory consistent with sections 11A(c)(1)(C)–(D) of the Exchange Act and Rule 603(a) under Regulation NMS.¹¹ A copy of Exhibit F, which reflects the modifications made by the Commission, is Attachment A to this order.

II. Background

On November 20, 2024, the Commission approved the CT Plan as a new national market system plan (“NMS Plan”) governing the public dissemination of real-time consolidated information with respect to quotations for and transactions in NMS stocks (“SIP data”).¹² The CT Plan, among

¹⁰ See 17 CFR 242.608(b)(2).

¹¹ See 15 U.S.C. 78k–1(c)(1)(C)–(D) and 17 CFR 242.603(a); see also Joint Industry Plan; Order Approving, as Modified, a National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 101672 (Nov. 20, 2024), 89 FR 94924, 94957 (Nov. 29, 2024) (File No. 4–757) (“CT Plan Approval Order”) (stating that any fees will be assessed against the statutory and regulatory standards that apply to fees proposed by national market system plans, including section 11A(c)(1)(D) of the Exchange Act and Regulations 603(a) under Regulation NMS).

¹² See CT Plan Approval Order, *supra* note 11. The Commission ordered the then-registered self-regulatory organizations (“SROs”) to act jointly in developing and filing with the Commission a proposed new NMS Plan to govern the public

Continued

¹ See CT Plan Art. IV, sec. 4.1.

² 15 U.S.C. 78k–1(a)(3).

³ 17 CFR 242.608.

⁴ The Members are: 24X National Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAx PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market

LLC (“Nasdaq”), New York Stock Exchange LLC (“NYSE”), NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.

⁵ See Securities Exchange Act Release No. 104512 (Dec. 23, 2025), 90 FR 61463 (Dec. 31, 2025) (“Notice”).

⁶ Comments received can be found on the Commission’s website at: <https://www.sec.gov/comments/4-757/4-757.htm>.

⁷ 17 CFR 242.608(b)(2)(i).

⁸ See Securities Exchange Act Release No. 105125 (Mar. 31, 2026), 91 FR 17026 (Apr. 3, 2026) (“OIP Notice”).

⁹ See *supra* note 6.

other things, addresses the inherent conflicts of interest between the SROs' role and responsibilities in overseeing the Equity Data Plans¹³ and their interests in selling proprietary data products.¹⁴ Further, in the CT Plan Approval Order, the Commission described changes since the adoption of Regulation NMS in 2005 that led to the determination that the "current governance structure of the Equity Data Plans is 'inadequate to respond to changes in the market and the ownership of exchanges, and to the evolving needs to investors and other market participants,'" ¹⁵ including the concentration of voting power in the Equity Data Plans among a few large exchange groups, and the inefficiencies

dissemination of real-time, consolidated equity market data for NMS stocks to replace the existing equity data plans. See Order Directing the Exchanges and the Financial Industry Regulatory Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 88827 (May 6, 2020), 85 FR 28702 (May 13, 2020) (File No. 4-757) ("Governance Order"); see also Amended Order Directing the Exchanges and the Financial Industry Regulatory Authority, Inc., to File a National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 98271 (Sept. 1, 2023), 88 FR 61630 (Sept. 7, 2023) (File No. 4-757) ("Amended Governance Order") (making modifications to the voting provisions and adding certain requirements relating to the effective date, conflicts-of-interest and confidentiality provisions, and the use of subcommittees). The CT Plan Approval Order describes the background to developing and approving the CT Plan. See CT Plan Approval Order, *supra* note 11, 89 FR at 94924–94925.

¹³ The three NMS Plans that currently govern the collection, consolidation, processing, and dissemination of SIP data and oversee the exclusive securities information processors ("SIPs") for equity market data for NMS stocks are (1) the Consolidated Tape Association Plan ("CTA Plan"), (2) the Consolidated Quotation Plan ("CQ Plan"), and (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information For Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis ("UTP Plan") (collectively, the "Equity Data Plans"). See CT Plan Approval Order, *supra* note 11, 89 FR at 94924, n. 11.

¹⁴ See *supra* note 4 (listing the member exchanges); Governance Order, *supra* note 12, 85 FR at 28702 (stating that "developments in technology and changes in the equities markets have heightened an inherent conflict of interest between the Participants' collective responsibilities in overseeing the Equity Data Plans and their individual interests in maximizing the viability of proprietary data products that they sell to market participants"); see also Amended Governance Order, *supra* note 12, 88 FR at 61634–65 (applying the conflicts-of-interest provisions to all SRO personnel who attend plan meetings since they may have access to competitively sensitive and commercially valuable information and an inherent conflict of interest if involved in an exchange's proprietary market data products) and 61637 (expressing concern that participant exchanges may use information to benefit the exchange's proprietary data businesses).

¹⁵ CT Plan Approval Order, *supra* note 11, 89 FR at 94925.

and unnecessary burdens that result from maintaining three separate NMS Plans for equity market data.¹⁶ The Commission stated that "addressing the issues with the current governance structure of the Equity Data Plans . . . is a key step in responding to broader concerns about the consolidated data feeds."¹⁷ Upon implementation, the CT Plan will replace the Equity Data Plans.

Article XIV of the CT Plan governs the schedule of implementation for the CT Plan and sets deadlines for significant milestones to be completed to transition to the CT Plan. Section 14.1(c) of the CT Plan provides that no later than 12 months after the Effective Date¹⁸ the Operating Committee shall file with the Commission the proposed fees charged to Vendors¹⁹ and Subscribers for Transaction Reports and Quotation Information in Eligible Securities ("Proposed Fees").²⁰ The implementation timeline contains two other milestones. First, section 14.1(d) of the CT Plan provides that no later than 30 months after the Effective Date or no later than 90 days after the Commission has approved the Proposed Fees, whichever date is later, the CT Plan "shall conduct the Processor and Administrator functions related to the public dissemination of real-time consolidated Transaction Reports and Quotation Information for Eligible Securities."²¹ In approving this provision, the Commission stated that it recognized "that approval of fees by the Commission is a necessary step toward implementation of the Proposed CT Plan."²² Second, section 14.1(e) of the CT Plan provides that no later than 30 months after the Effective Date, the entity performing the role of Administrator of the CT Plan shall meet the requirements of section 6.2 of the CT Plan and shall have been selected

¹⁶ CT Plan Approval Order, *supra* note 11, 89 FR at 94924.

¹⁷ See Governance Order, *supra* note 12, 85 FR at 28702; see also Amended Governance Order, *supra* note 12, 88 FR at 61632 (stating that "requiring a two-thirds, rather than a simple, majority of SRO votes, in conjunction with allocating votes by exchange group, prevents a small number of SRO groups from dictating plan action" and addresses the "disproportionate influence that the exchange groups have on the governance of the Equity Data Plans.") (citations omitted).

¹⁸ The Effective Date is defined in (b) of the Recitals of the CT Plan as the date when the CT Plan is approved by the Commission pursuant to Rule 608 of Regulation NMS. Accordingly, the Effective Date is November 20, 2024. See CT Plan Approval Order, *supra* note 11, 89 FR at 94925, 94962.

¹⁹ Capitalized terms that are not defined herein are defined in the CT Plan.

²⁰ CT Plan Art. XIV, sec. 14.1(c).

²¹ CT Plan Art. XIV, sec. 14.1(d).

²² See CT Plan Approval Order, *supra* note 11, 89 FR at 94957.

pursuant to the process in section 6.4 of the CT Plan.²³

Among other things, the CT Plan charges the CT Plan's Operating Committee with "developing fair and reasonable fees for equity market data," as well as with "assessing the marketplace for equity data products and ensuring that CT Plan fees are priced in a manner that is fair and reasonable, and designed to ensure the widespread availability of CT Feeds data to investors and market participants."²⁴ In order to fulfill that obligation and comply with the implementation schedule, the Operating Committee filed the Fee Proposal pursuant to Rule 608 of Regulation NMS.²⁵

III. Discussion and Commission Findings

A. CT Plan Amended Fee Proposal

The Operating Committee developed the Amended Fee Proposal to establish the CT Plan fees that will be reflected in Exhibit E to the CT Plan. The Amended Fee Proposal reflects the first fee schedule of the CT Plan and the Operating Committee described the steps it took in developing the Amended Fee Proposal. Generally, the Operating Committee stated that it considered the fee schedules under the Equity Data Plans, engaged a consultant, and surveyed market participants on their experiences with market data fees under the Equity Data Plans.²⁶ The Operating Committee also considered feedback from the Advisory Committee, which consists of representatives from a broad cross-section of market participants including those with a primarily institutional investor customer base, broker-dealers with a primarily retail investor customer base and securities market data vendors.²⁷ The Operating Committee stated that the Amended Fee Proposal generally modifies the Equity Data Plans' fee schedules in two ways

²³ CT Plan Art. XIV, sec. 14.1(e). On Dec. 17, 2025, the CT Plan announced that it had selected an Administrator. See Press Release, CT Plan, CT Plan Selects DataCT as its Independent Administrator, available at <https://thectplanllc.com/ct-plan-selects-independent-administrator/>.

²⁴ See CT Plan Art. IV, sec. 4.1(a)(iii) and (a)(v); see also CT Plan Approval Order, *supra* note 11, 89 FR at 94967.

²⁵ See 17 CFR 242.608; Notice, *supra* note 5; OIP Notice, *supra* note 8 (amending and superseding the Fee Proposal in its entirety).

²⁶ The Operating Committee stated that many market participants were shifting away from the Equity Data Plans. See OIP Notice, *supra* note 8, 91 FR at 17028.

²⁷ See OIP Notice, *supra* note 8, 91 FR at 17028 (stating the Advisory Committee's input has been "invaluable"); see also Advisors, CT Plan, available at <https://thectplanllc.com/advisory-committee/>.

by: (1) reducing administrative burdens and (2) proposing changes to the levels of fees assessed.

As described in the Amended Fee Proposal, proposed changes to reduce administrative burdens included modifying the approach to labeling users as Professional or Non-Professional,²⁸ modifying the definitions of Direct and Indirect Access,²⁹ and aligning definitions that varied among the individual Equity Data Plans, such as the definitions for Non-Display Use,³⁰ Derived Data³¹ and Quote Packet.³²

Further, the Operating Committee stated that proposed changes to the level of the fees were to (1) incentivize the continued and potentially expanded dissemination of SIP data and (2) make inflation-related adjustments to certain components of the Equity Data Plans' fees that have remained unchanged for ten or more years.³³ Generally, as described in detail below, proposed changes to fee levels included fees for Non-Professional and Professional Uses and enterprise caps.³⁴ In addition, the Operating Committee proposed fees for Non-Display uses, Direct and Indirect Access and Real-Time Redistributors³⁵ that reflected an inflation based metric that increased such fees as compared to the fees for similar products under the Equity Data Plans.

The Operating Committee stated that it believes that the Amended Fee Proposal "advances the public-interest objectives of Section 11A and Rule 608 by (1) materially reducing administrative burden on market data recipients, and (2) proposing a fee schedule that is fair and reasonable and not unreasonably discriminatory."³⁶ The Operating Committee also stated that the Amended Fee Proposal "addresses long-standing sources of friction in the legacy plans by harmonizing definitions across the three tapes, simplifying administration, reducing audit risk, and better aligning fees with how recipients actually use consolidated market data."³⁷

B. Approval and Commission Modification

After careful consideration, the Commission is approving the Amended

Fee Proposal with a modification by the Commission to the CT Plan. While the Commission finds that the Operating Committee has provided adequate information and data to support a finding that the CT Plan's Amended Fee Proposal is consistent with Rule 608(b)(2) of Regulation NMS,³⁸ and with sections 11A(c)(1)(C)–(D) of the Exchange Act and Rule 603(a) under Regulation NMS,³⁹ the Commission finds that modifying the CT Plan to require the publication of specific data metrics on a quarterly basis and to require the filing of an amendment to the CT Plan fee schedule at the end of an Initial Implementation Period⁴⁰ will allow the Operating Committee, the Advisory Committee to the Operating Committee, market participants, the Commission, and the public to gain valuable information and experience that can be used to evaluate the impact of the Amended Fee Proposal consistent with the Operating Committee's obligations under the CT Plan.⁴¹

First, the Commission is modifying the CT Plan to include an Exhibit F, Quarterly Metrics, which will require the Operating Committee to provide and publish data metrics for the CT Plan on the CT Plan website that are the same as, or comparable to, the three categories of data metrics that the Equity Data Plans provide and publish for each individual Tape⁴² on the Equity Data Plans' websites. To the extent that the Operating Committee determines that additional or different information would be useful to publish within the data metrics, the Operating Committee may file a proposed amendment to Exhibit F pursuant to Rule 608 of Regulation NMS.

Specifically, the Equity Data Plans currently publish quarterly information and data per Tape on their websites

about "Subscriber/Household Metrics" ("Tape Metrics").⁴³ These Tape Metrics (now called "Quarterly Population Metrics" under the CT Plan) describe the number of "Capped Non-Professional Subscribers," the "Quote Usage," the number of "Professional Subscribers," the number of "Households," the number of "Real-Time Internal Only Vendors," the number or "Real-Time External Vendors," and the number of "Non-Display Vendors." The Tape Metrics allow market participants and the public to assess the use of the Tapes and continuing the collection and publication of data that is the same as, or comparable to, Tape Metrics published by the Equity Data Plans will allow such assessments to continue under the CT Plan. The CT Plan Quarterly Population Metrics will reflect and utilize the CT Plan definitions and usage categories. Further, the publication of Quarterly Population Metrics by the CT Plan will allow the Operating Committee and market participants to analyze any changes that may occur in operating the CT Plan, including the impact of the Amended Fee Proposal, on the use of SIP data under the CT Plan.

In addition, the Equity Data Plans publish a "Quarterly Revenue Disclosure" on their websites, which provides data and information about (1) trade and quote revenue distributed to Members for each individual Tape, (2) per trade and quote message revenue (in aggregate) distributed to Members for each individual Tape, and (3) revenue earned by fee type for each individual Tape.⁴⁴ The Quarterly Revenue Disclosure allows market participants and the public to assess the amount of revenues collected by fee type and the amount of revenues distributed to the Members and continuing the collection and publication of Quarterly Revenue Disclosures by the CT Plan based on data that is the same as, or comparable to, that of the Equity Data Plans' Quarterly Revenue Disclosure will allow these assessments to continue. Further,

³⁸ See 17 CFR 242.608(b)(2).

³⁹ See 15 U.S.C. 78k–1(c)(1)(C)–(D) and 17 CFR 242.603(a).

⁴⁰ The Initial Implementation Period will begin upon the Operative Date of the CT Plan and continue for two years after the Operative Date ("Initial Implementation Period"). The Commission has determined that specifying a two-year Initial Implementation Period should provide sufficient time to evaluate the impact of the change to full implementation of the CT Plan and the assessment of the Amended Fee Proposal. The Commission understands that, in the normal course, vendor contracts are executed once a year in the fall and therefore two years will provide for approximately 18 months of data collection (inclusive of one complete contract cycle reflecting any changes in market participant behavior with respect to SIP data usage in light of the Amended Fee Proposal) and 6 months of preparation of a Fee Analysis and Amendment (discussed *infra*).

⁴¹ See *infra* notes 50–52 and surrounding text discussing the Operating Committee's obligations.

⁴² See *infra* note 119 (describing the Tape structure under the Equity Data Plans and CT Plan).

⁴³ See e.g., CTA Tape A & B Subscriber/Household Metrics, Q1 2026 available at https://www.ctaplan.com/publicdocs/ctaplan/Q1_2026_CTA_Subscribers_Metrics_Report.pdf and UTP Plan Tape C Subscriber/Household Metrics, Q1 2026 available at https://www.utpplan.com/DOC/UTP_2026_Q1_Stats_with_Processor_Stats.pdf.

⁴⁴ See e.g., CTA Tapes A & B Trade & Quote Revenue Distributed to Participants and CTA/CQ Plan Revenue Earned by Fee Type available at https://www.nyse.com/publicdocs/ctaplan/Q4_2025_CTA_Quarterly_Revenue_Disclosure.pdf and UTP Plan Tape C Trade & Quote Revenue Distributed to Participants and UTP Plan Revenue Earned by Fee Type available at https://www.utpplan.com/DOC/UTP_Revenue_Disclosure_Q42025.pdf.

²⁸ See *infra* sec. III.D.

²⁹ See *infra* sec. III.H.

³⁰ See *infra* sec. III.G.

³¹ See *infra* sec. III.G.

³² See *infra* sec. III.D.

³³ See OIP Notice, *supra* note 8, 91 FR at 17033.

³⁴ See *infra* sec. III.E.

³⁵ See *infra* sec. III.F.

³⁶ See Letter from Jeff Kimsey, Chair of the CT Plan, dated June 10, 2026 ("Response Letter") at 1.

³⁷ See Response Letter at 1.

the publication of Quarterly Revenue Disclosures by the CT Plan will allow the Operating Committee and market participants to analyze any changes that may occur in operating the CT Plan, including the impact of the Amended Fee Proposal, on the revenues received and allocated to Members under the fee schedule of the CT Plan.⁴⁵

The Equity Data Plans also publish “Monthly Processor Metrics” on their websites on a quarterly basis that provide information for each individual feed and individual Tape about Processor capacity and performance (“Processor Metrics”).⁴⁶ The Processor Metrics allow market participants and the public to assess the operations of the Processors and continuing the collection and publication of Processor Metrics by the CT Plan will allow these assessments to continue. The Commission has reflected in Exhibit F the same categories of Processor Metrics that are published by the Equity Data Plans. To the extent that the Operating Committee determines that additional information about Processor capacity or performance would be useful to publish, the Operating Committee may file a proposed amendment to Exhibit F pursuant to Rule 608 of Regulation NMS.

Second, the Commission is modifying the CT Plan to require the Operating Committee, at the end of the Initial Implementation Period, to submit (1) a written analysis of the Quarterly Population Metrics and Quarterly Revenue Disclosures to the Commission about the impact of the CT Plan’s Amended Fee Proposal on the dissemination of SIP data⁴⁷ and, informed by this analysis, (2) an amendment to the CT Plan fee schedule⁴⁸ pursuant to Rule 608 of Regulation NMS (together, these two requirements are hereinafter referred to

as “Fee Analysis and Amendment”).⁴⁹ The Commission has stated that “one of its primary goals with respect to market data is to assure reasonable fees that promote wide public availability of consolidated market data.”⁵⁰ Additionally, the CT Plan directs the Operating Committee to take action to, among other things, develop and maintain fair and reasonable fees⁵¹ and propose amendments to ensure the fairness of the form and content of SIP data.⁵² Accordingly, it is appropriate that the Operating Committee assess and evaluate Quarterly Population Metrics and Quarterly Revenue Disclosures together with its experience in assessing and collecting fees under the CT Plan during the Initial Implementation Period in order to ensure that the CT Plan is accomplishing its stated purposes.⁵³ In this regard, the Operating Committee should consider any other information that it believes would inform its analysis of the CT Plan’s fee schedule.⁵⁴ Further, as part of its analysis of the CT Plan Quarterly Population Metrics and Quarterly Revenue Disclosures, the Operating Committee should compare and analyze any changes from the Equity Data Plans’ Tape Metrics and Quarterly Revenue Disclosures, taking into account any differences in fee values and definitional changes between the CT Plan and the Equity Data Plans, provided that any such differences are clearly identified and discussed, along with the impact of such differences.

The Fee Analysis and Amendment is appropriate because it will provide the Operating Committee, the Advisory Committee to the Operating Committee, Administrator, Vendors, Subscribers, the public and the Commission with the opportunity to assess the actual impact of the Amended Fee Proposal on usage and whether such fees continue to be “priced in a manner that is fair and reasonable, and designed to ensure the widespread availability of CT Feeds data to investors and market participants”⁵⁵ once the CT Plan

becomes operational and the fees are assessed for a period of time.

While the Commission is approving the Amended Fee Proposal, as modified by the Commission, as consistent with the Exchange Act, the fees assessed for SIP data under the Amended Fee Proposal will not be charged until the CT Plan becomes fully operational.⁵⁶ Accordingly, estimating the full impact of the fees on Vendors, Subscribers, Users, and Customers and the revenues collected as a result of the fees could be materially imprecise until such time as the fees are assessed and market participant behavior has adjusted in response. The Initial Implementation Period will facilitate the Operating Committee gaining practical experience with administering the Amended Fee Proposal and evaluating whether it continues to fulfill the Operating Committee’s regulatory responsibility, including ensuring widespread availability of SIP data, while also providing useful data to the Commission and the public for evaluating the effects of the changes in their entirety.⁵⁷

The Commission understands that progress has been made in implementing the CT Plan, but the CT Plan is not yet fully operational. Under the terms of the CT Plan, the CT Plan will conduct the Processor and Administrator functions related to the public dissemination of real-time consolidated Transaction Reports and Quotation Information 30 months after the Effective Date or 90 days after the Commission has approved plan fees, whichever is later.⁵⁸ Approval of the Amended Fee Proposal, as modified, will enable the Operating Committee and Administrator to continue to take the steps necessary to fully implement the CT Plan as required by the CT Plan.⁵⁹

Under the CT Plan implementation provisions, the implementation of a fee structure is an essential prerequisite to initiating the CT Plan’s operations. The benefits of the CT Plan, as opposed to continuing with the inefficiencies of three Equity Data Plans, with their associated individual administrative burdens and independent fee structures, have been noted by both commenters

⁴⁵ The Operating Committee filed an amendment to the CT Plan to amend the revenue allocation formula by establishing a quote to trade ratio for allocating revenues. See Securities Exchange Act Release No. 105680 (June 12, 2026), 91 FR 36633 (June 17, 2026).

⁴⁶ See e.g., CTA Key operating Metrics of Tape A & B U.S. Equities Securities Information Processor (CTA SIP) available at https://www.ctaplan.com/publicdocs/ctaplan/CTAPLAN_Processor_Metrics_2Q2026.pdf and UTP Q2 2026 May Tape C Quote and Trade Metrics available at https://www.utpplan.com/DOC/UTP_website_Statistics_2026-Q2-May.pdf.

⁴⁷ See CT Plan Art. IV, sec. 4.1(a)(iii) (requiring the Operating Committee to take action to, among other things, develop and maintain fair and reasonable fees).

⁴⁸ See CT Plan Art. XIII, sec. 13.5 (stating, in part, that the CT Plan may be “modified from time to time when authorized by the Operating Committee pursuant to Section 4.3, subject to the approval of the Commission”).

⁴⁹ The Fee Analysis and Amendment does not preclude the Operating Committee from filing any additional amendments to the CT Plan as it deems necessary, consistent with its obligations under the CT Plan.

⁵⁰ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37560 (June 29, 2005).

⁵¹ See CT Plan Art. IV, sec. 4.1(a)(iii).

⁵² See CT Plan Art. IV, sec. 4.1(a)(i).

⁵³ See generally CT Plan Art. IV, sec. 4.1.

⁵⁴ See e.g., CT Plan sec. 4.1(a)(v) (stating that the Operating Committee shall “assess[ing] the marketplace for equity market data products and ensure[ing] that the CT Feeds are priced in a manner that is fair and reasonable, and designed to ensure the widespread availability of CT Feeds data to investors and market participants.”).

⁵⁵ See CT Plan Art. IV, sec. 4.1(a)(v).

⁵⁶ See CT Plan Art. XIV.

⁵⁷ One commenter stated that it “cannot quantify the full impact of the Proposed Fee Schedule on our SIP data spend . . . [due to] both increases and decreases to certain SIP data fees.” See Letter from Roberto Braceras, General Counsel, Fidelity Investments, dated Jan. 21, 2026 (“Fidelity Letter”) at 5.

⁵⁸ See CT Plan Art. XIV, sec. 14.1(d).

⁵⁹ See CT Plan Art. XIV, sec. 14.1 (discussing the implementation timeline).

and the Operating Committee.⁶⁰ Additionally, both the Operating Committee and commenters stated that quantifying the full impact of the CT Plan's proposed fee schedule remains challenging until the Amended Fee Proposal becomes operational.⁶¹ Therefore, while the Commission has determined that the CT Plan's Amended Fee Proposal addresses commenters' concerns and is consistent with the applicable statutory standards, the Commission is providing an opportunity for further analysis of the Amended Fee Proposal by requiring the Operating Committee to further evaluate data and analyze the impact of the Amended Fee Proposal once operational. The Advisory Committee to the Operating Committee, which is composed of a broad cross-section of market participants, will also have the opportunity to provide input on the ways that the CT Plan fee schedule could be improved, if necessary, in light of operational realities.

In the CT Plan Approval Order, the Commission detailed the benefits of the new single NMS Plan, including a single billing structure and a single plan administrator,⁶² and commenters have concurred on these benefits.⁶³ Furthermore, the new voting structure in the CT Plan will modernize and vastly improve the unanimous consent structure in place under the three Equity Data Plans.⁶⁴ As the Commission has stated, the operation of the CT Plan, and its revised governance structure, should ensure the prompt, accurate, reliable and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions in NMS stocks.⁶⁵

⁶⁰ See Letters from Katie Kolchin, CFA, Managing Director, Head of Equity and Options Market Structure and Gerald O'Hara, Vice President & Assistant General Counsel, SIFMA, dated Feb. 20, 2026 ("SIFMA Letter 2") at 4–5, 9; Stan Sater, Senior Legal Counsel, Massive.com, Inc. dated Jan. 21, 2026 ("Massive Letter") at 3; Response Letter at 6.

⁶¹ See *infra* note 103; Response Letter at 5.

⁶² See Governance Order, *supra* note 12, 85 FR at 28710.

⁶³ See Massive Letter at 1; SIFMA Letter 2 at 3; Fidelity Letter at 2.

⁶⁴ See Governance Order, *supra* note 12, 85 FR at 28713 (noting "the disproportionate influence affiliated exchange groups currently exercise in Plan matters by voting as a block and diluting the voting power of other Participants"); Amended Governance Order, *supra* note 12, 88 at 61632 (stating that "requiring a two-thirds, rather than a simple, majority of SRO votes, in conjunction with allocating votes by exchange group, prevents a small number of SRO groups from dictating plan action without further support from other SRO members") (citation omitted).

⁶⁵ See CT Plan Art. IV, sec. 4.3(a) (generally providing one vote per SRO group or non-affiliated SRO unless certain equity market share has been exceeded).

Accordingly, the Commission finds that approving the Amended Fee Proposal, as modified by the Commission, is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.⁶⁶

C. Basis for the Amended Fee Proposal

The Commission received comment letters, which expressed concerns with the Fee Proposal⁶⁷ and urged careful scrutiny.⁶⁸ While commenters supported the Operating Committee's effort to develop a unified fee structure⁶⁹ and reduce administration burdens,⁷⁰ commenters raised concerns as to whether the Fee Proposal is fair, reasonable, and not unreasonably discriminatory.⁷¹ Commenters stated that the Fee Proposal should be assessed against a cost-based standard.⁷² One commenter stated that the Commission cannot find the Fee Proposal consistent with the Exchange Act to the extent it does not contain any data about actual costs.⁷³ According to another commenter, a "cost-based standard of review will ensure that SIP data fees are reasonably related to the expenses incurred to collect, consolidate, and disseminate SIP data" and advance the goal of "ensuring fair and reasonable access to SIP data."⁷⁴ This commenter urged disapproval, stating that "meaningful evaluation of SIP data fees

⁶⁶ See 17 CFR 242.608(b)(2).

⁶⁷ See Letter from Roberto Bracer, General Counsel, Fidelity Investments dated Apr. 24, 2026 ("Fidelity Letter 2") at 2 (stating the Amended Fee Proposal should be disapproved); Fidelity Letter at 2; Massive Letter at 2; SIFMA Letter 2 at 2.

⁶⁸ See Letter from Katie Kolchin, CFA, Managing Director, Head of Equity and Options Market Structure, SIFMA, dated Jan. 21, 2026 ("SIFMA Letter") at 1.

⁶⁹ See Massive Letter at 1; Fidelity Letter at 2.

⁷⁰ See Fidelity Letter at 2–3 (describing the current definition of Non-Professional Subscriber as "convoluted and confusing" and supporting the standard based on how the data is used); Fidelity Letter 2 at 1; Massive Letter at 1, 2 (noting there would be reduced compliance friction as a result of a user-based distinction for professional and non-professional fees and simplified definitions for Direct and Indirect access).

⁷¹ See SIFMA Letter 2 at 3; Fidelity Letter at 3–4; Massive Letter at 11.

⁷² See Fidelity Letter at 2, 4; Massive Letter at 11–12; SIFMA Letter 2 at 3. One commenter stated that it provides its Non-Professional retail customers widespread access to SIP data at no direct cost to the customer, but at a substantial cost to itself. Further, the commenter stated that "[g]iven that SIP data is derived from retail and institutional investor transactions, its dissemination should advance the public interest rather than confer economic benefit upon SROs." See Fidelity Letter at 1; *see also* Fidelity Letter 2 at 1.

⁷³ See SIFMA Letter 2 at 4.

⁷⁴ See Fidelity Letter at 4.

is impossible" because the Operating Committee fails to provide information concerning costs and revenues and therefore fails to meet its burden to demonstrate that the Amended Fee Proposal is fair, reasonable, or not unreasonably discriminatory.⁷⁵ Another commenter stated that "[u]ntil the Commission approves a new standard, the Commission's 'reasonable relation to costs' standard for determining whether consolidated market data fees are consistent with the Exchange Act remains in place."⁷⁶

Commenters stated that comparing the proposed fees for SIP data to those charged for proprietary, top-of-book feeds ("Prop Feeds") is not appropriate.⁷⁷ Commenters stated that Prop Feeds are provided by individual exchanges with varying content and therefore inherently fragmented, costly, and cater to niche data subscribers rather than the broad market.⁷⁸ One commenter disagreed with the Operating Committee's assertion that Prop Feeds are competitive with or a substitute for SIP data as the industry cannot rely on Prop Feed data to meet regulatory obligations.⁷⁹ Another commenter stated that the use of Prop Feeds as a baseline for justifying CT Plan fees "demonstrates the conflict SROs face as operators of the CT Plan" and that there is no incentive to compete on price or other factors to make SIP data more attractive, or as attractive, as Prop Feeds.⁸⁰ This commenter also stated that the proposed fees were compared to the most expensive Prop Feeds and that the pricing choice by the CT Plan demonstrates that the SROs do not want to make SIP data competitive with Prop Feeds.⁸¹ Commenters stated that the Fee Proposal does not reflect cost savings or lower fees in line with the efficiencies expected from consolidating three Equity Data Plans into a single plan with a sole Plan Administrator.⁸² Finally, one commenter stated that SIP data serves to promote transparency, informed investor participation, and confidence in the national market

⁷⁵ See Fidelity Letter 2 at 3–4 (stating the Commission must make an independent finding and determination consistent with *Susquehanna Int'l Grp. LLP v. Sec. & Exch. Comm'n*, 866 F.3d 442 (D.C. Cir. 2017)).

⁷⁶ See SIFMA Letter 2 at 4.

⁷⁷ See Fidelity Letter at 4; SIFMA Letter 2 at 6–7.

⁷⁸ See Fidelity Letter at 4; SIFMA Letter 2 at 6–7.

⁷⁹ See Fidelity Letter 2 at 2.

⁸⁰ See SIFMA Letter 2 at 7.

⁸¹ See SIFMA Letter 2 at 8.

⁸² See SIFMA Letter 2 at 4; Fidelity Letter 2 at 2.

system and therefore should be made available at or near cost.⁸³

The Operating Committee did not provide a cost-based analysis for the Amended Fee Proposal, stating it is unnecessary and unreliable.⁸⁴ The Operating Committee stated that costs would be allocated differently by each Member using various accounting conventions and assumptions and therefore a cost-based analysis risks becoming an “arbitrary allocation dispute.”⁸⁵

Rather, the Operating Committee provided other information and analysis to support a finding that the Amended Fee Proposal is fair and reasonable and not unreasonably discriminatory. In some cases, the Operating Committee stated that the Amended Fee Proposal is fair and reasonable and not unreasonably discriminatory because a proposed fee or definition would reduce administrative burdens.⁸⁶ In other cases, the Operating Committee stated that the Amended Fee Proposal is fair and reasonable and not unreasonably discriminatory because a proposed fee is lower than the comparable fee charged by the CTA/CQ Plan or UTP Plans.⁸⁷ In other cases, the Operating Committee stated that the Amended Fee Proposal is fair and reasonable and not unreasonably discriminatory because it has proposed certain fees that are higher than the comparable fees charged by the CTA/CQ or UTP Plans, but such higher fee is calculated with reference to an inflation-based standard.⁸⁸

The Operating Committee also stated that the Amended Fee Proposal is fair and reasonable because it is expected to generate revenue that is materially comparable to the revenue generated under the Equity Data Plans’ fee schedules. The Operating Committee stated that the Amended Fee Proposal “is not an attempt to exploit the transition to the CT Plan to create a materially different economic burden on the market; rather, it largely preserves the overall revenue profile of the existing schedules while modernizing definitions, harmonizing treatment across the three tapes, and reducing administrative friction.”⁸⁹ The Operating Committee stated that it modeled the Amended Fee Proposal to produce revenue within approximately 1% to 2% of revenue currently generated under the Equity Data Plans.⁹⁰

Finally, the Operating Committee provided information comparing the price of SIP data to aggregate prices of Prop Feeds and stated that a comparison between the price of a theoretical “synthetic SIP” and the price of a CT Plan consolidated product can be a useful and probative benchmark in assessing whether the Amended Fee Proposal is fair and reasonable and not unreasonably discriminatory because the proprietary products used to develop a synthetic SIP are themselves sold on a subscription basis.⁹¹

The Commission acknowledges the concerns raised by commenters as to the information and analysis provided by the Operating Committee to support a finding as to whether the Amended Fee Proposal is fair, reasonable and not unreasonably discriminatory.⁹² In the CT Plan Approval Order, the Commission stated the statutory and regulatory standards for assessing fees for data under the CT Plan, as “including Sections 11A(c)(1)(D) of the Exchange Act and Rule 603(a) under Regulation NMS.”⁹³ The Commission continued that “[t]he proposed fees must be fair and reasonable.”⁹⁴ The Commission has also stated that “one method for assessing the fairness and reasonableness of fees charged by an exclusive processor, as defined in the Exchange Act section 3(a)(22)(B), is to show a reasonable relation to the costs.”⁹⁵ In the MDI Adopting Release, the Commission stated that it was not precluded “from considering in the future the appropriateness of another guideline to assess the fairness and reasonableness of core data fees in a manner consistent with the Exchange Act.”⁹⁶

⁹¹ See Response Letter at 5–6.

⁹² See SIFMA Letter 2 at 3–5; Fidelity Letter at 3–4; Massive Letter at 11. The Commission agrees that an analysis suggesting that SIP data fees are competitive with fees for Prop Feeds does not support statutory standards. SIP data and individual proprietary data feeds are not the same and are not used for the same purposes. However, the fees charged for individual for Prop Feeds as aggregated to create a nearly synthetic SIP may provide an additional data point for consideration as to the level of the fees proposed.

⁹³ CT Plan Approval Order, *supra* note 11, 89 FR at 94957.

⁹⁴ CT Plan Approval Order, *supra* note 11, 89 FR at 94957.

⁹⁵ Securities Exchange Act Release No. 34–90610 (Dec. 9, 2020), 86 FR 18596, 18684 (Apr. 9, 2021) (“MDI Adopting Release”).

⁹⁶ MDI Adopting Release, *supra* note 95, 86 FR at 18684; see also Securities Exchange Act Release No. 34–95849 (Sept. 21, 2022), 87 FR 58592, 58599 (Sept. 27, 2022) (Order Disapproving the Fifty-Second Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis); Securities Exchange Act

The evaluation of fees charged for SIP data has been challenging for the Equity Data Plans, market participants and the Commission.⁹⁷ Commenters have suggested that the Commission must only consider a cost-based justification of the statutory and regulatory standards⁹⁸ but, as noted above, the Commission has stated that other guidelines may be considered appropriate. Further, adhering solely to a cost-based standard may hinder the implementation of the CT Plan and delay the regulatory goals and benefits that the CT Plan is intended to provide to the national market system.⁹⁹ The Commission is using other guidelines to evaluate the data and analysis provided by the Operating Committee in the Amended Fee Proposal. The Operating Committee has stated that some of its proposed fees are comparable to, and in some cases lower than, existing fees charged by the Equity Data Plans.¹⁰⁰ In other cases, the Operating Committee has increased certain fees to reflect the 15.95% increase in the Producer Price Index for Data Processing and Related Services for the period from January 2015 to May 2025 as prepared by the

Release No. 34–95851 (Sept. 21, 2022), 87 FR 58631, 58620 (Sept. 27, 2022) (Order Disapproving the Twenty-Fifth Charges Amendment to the Second Restatement of the CTA Plan and Sixteenth Charges Amendment to the Restated CQ Plan) (The Commission stated that it “does not believe that a cost-based methodology is the only acceptable method for setting the fees for consolidated data.”)

⁹⁷ See e.g., Securities Exchange Act Release No. 34–95849 (Sept. 21, 2022), 87 FR 58592, 58599 (Sept. 27, 2022) (Order Disapproving the Fifty-Second Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis); Securities Exchange Act Release No. 34–95851 (Sept. 21, 2022), 87 FR 58631, 58620 (Sept. 27, 2022) (Order Disapproving the Twenty-Fifth Charges Amendment to the Second Restatement of the CTA Plan and Sixteenth Charges Amendment to the Restated CQ Plan).

⁹⁸ See SIFMA Letter 2 at 2 (stating the CT Plan should be required to amend the filing to include information about its costs); Fidelity Letter 2 at 3 (stating the Commission cannot make an “independent determination as to whether the [Amended Fee Proposal], particularly Non-Professional display and Enterprise Cap fees, are reasonable without an understanding of the costs”); Massive Letter at 2 (requesting the Commission “disapprove or require cost justification for the 15.95% inflation adjustment to Non-Display, Access, and Redistributor fees”).

⁹⁹ See Response Letter at 3–4 (noting challenges in harmonizing the allocation methods used by CT Plan Members with respect to investments across each CT Plan Member’s market operations, technology, security, resiliency, surveillance/compliance, testing and change management, and governance systems and further stating “a strict cost-of-service exercise therefore risks becoming an arbitrary allocation dispute rather than a meaningful test of fee reasonableness”); CT Plan Approval Order, *supra* note 11, 89 FR at 94924 (discussing regulatory goals and benefits).

¹⁰⁰ See Response Letter at 3–4.

⁸³ See Fidelity Letter 2 at 3.

⁸⁴ See Response Letter at 3.

⁸⁵ See Response Letter at 3–4.

⁸⁶ See Response Letter at 1, 4.

⁸⁷ See Response Letter at 4.

⁸⁸ See Response Letter at 3, 8.

⁸⁹ See Response Letter at 4.

⁹⁰ See Response Letter at 5.

Bureau of Labor Statistics (hereinafter referred to as the “inflationary adjustment”).¹⁰¹ Approval of the Amended Fee Proposal under these other guidelines will allow the implementation of the CT Plan and the regulatory goals and benefits that the CT Plan is intended to provide to the national market system.

Overall, the Operating Committee stated that the Amended Fee Proposal was modeled to produce revenue within approximately 1% to 2% of the revenue generated under the Equity Data Plans.¹⁰² At this time, it is difficult for the Operating Committee, market participants and the Commission to fully assess the impact of the Amended Fee Proposal on the collection, consolidation and dissemination of SIP data in the national market system because the CT Plan is not fully implemented and the fees proposed in the Amended Fee Proposal will not be assessed until a later date when the CT Plan is fully implemented. Commenters also noted this difficulty in assessing the Amended Fee Proposal.¹⁰³ The Initial Implementation Period will provide an opportunity to determine if the Operating Committee’s projection is accurate and any deviation will inform the Fee Analysis and Amendment to be submitted at the end of the Initial Implementation Period.¹⁰⁴

D. Professional and Non-Professional Definitions and Fees

As proposed, the CT Plan would define “Professional Use” as (i) any use of market data by or on behalf of any entity (for example, a corporation, company, partnership, limited partnership, limited liability company or association), except trusts not for compensation; or (ii) use of market data by an individual to provide service to a third party for compensation.” The CT Plan would define Non-Professional Use as “any usage that is not Professional.” The CT Plan also would provide that

any Real-Time Redistributor that relies in good faith on representations by subscribers regarding a subscriber’s Professional or Non-Professional Use of SIP data would be exempt from audit liability based on such representations. The Operating Committee described this “safe harbor” and the new definitions for Professional and Non-Professional Use as reducing administrative burden and audit risk.

Commenters favored the proposed use-based distinction for Professional and Non-Professional Uses over the current practice of looking to the registered status of the user on a platform such as BrokerCheck.¹⁰⁵ One commenter stated that it “strongly supports the Proposed Fee Schedule’s shift from status-based to use-based definitions for distinguishing Professional and Non-Professional subscribers,” identifying it as an administrative burden that has long plagued market data redistributors.¹⁰⁶ Another commenter stated that the Commission “should approve the Proposal’s approach to classify SIP data subscribers based on how they use SIP data, rather than their employment status.”¹⁰⁷

Commenters generally supported the proposed safe harbor.¹⁰⁸ One commenter stated that the “safe harbor will further the CT Plan’s stated goal of reducing subscribers’ administrative burdens and audit risks.”¹⁰⁹ However, another commenter stated that the safe harbor should be more explicit, objective and enforceable, such as specifying that a Real-Time Redistributor would be deemed to have acted in good faith (and therefore not subject to audit liability based on subscriber misclassification) where it maintains documented onboarding procedures that obtain clear Professional and Non-Professional Use attestations and include commercially reasonable screening designed to detect obvious inconsistencies.¹¹⁰

One commenter suggested that the CT Plan should consider a “platform-based approach” to Non-Professional and Professional Use designations such that

“if a substantial number of individuals use an application or platform providing SIP data access for personal, non-investment professional use, such as a retail brokerage platform, any individual using the platform would default to Non-Professional subscriber status.”¹¹¹ Another commenter suggested that the Professional Use definition should turn on “economic substance rather than legal form” and further, there should be a “targeted exception for single-member LLCs and other disregarded entities where the beneficial owner is a natural person using CT Plan data solely for personal purposes.”¹¹²

The Operating Committee stated that the Amended Fee Proposal seeks to reduce audit risk and administrative burden, and that a targeted exception for single-member LLCs or other disregarded entities would undo these benefits by requiring an administrator to perform more in-depth audits to confirm that such an entity was using the data solely for personal use.¹¹³ Regarding a “platform-based approach,” the Operating Committee stated such an approach would raise concerns regarding gaming (whereby an individual engaged in Professional Use moves to a platform to take advantage of the default assumption regarding that platform) and contribute to an unfair competitive landscape.¹¹⁴ The responses of the Operating Committee are reasonable.

One commenter said that it was “unclear how many customers currently classified as Professional subscribers will shift to Non-Professional subscriber status under the new usage definitions.”¹¹⁵ According to this commenter, if only a small percentage transition, the commenter’s “real-time quote costs” will rise given the removal of Professional subscribers from the enterprise cap.¹¹⁶

With respect to the concern of commenters regarding the uncertainty of how many customers would be reclassified as a result of the new Professional Use and Non-Professional Use definitions, the Commission agrees that it is hard to assess the impact of the proposed definitions at this time. Accordingly, as discussed in detail above, the Commission is modifying the CT Plan to require publication of Quarterly Population Metrics and Quarterly Revenue Disclosures that will allow market participants to gain

¹⁰¹ See Response Letter at 8–9. The Operating Committee did not implement an inflationary adjustment across all fees and this discretion is not at odds with the applicable statutory standards. See e.g., Securities Exchange Act Release No. 100994 (Sept. 10, 2026), 89 FR 75612 (Sept. 16, 2026) (SR–NYSEARCA–2024–79) (excluding certain fees from an inflationary adjustment).

¹⁰² See Response Letter at 5.

¹⁰³ See Fidelity Letter at 5 (stating “[a]t this time, we cannot quantify the full impact of the Proposed Fee Schedule on our SIP data spend”); see also SIFMA Letter 2 at 2. One commenter also stated that “[g]iven the SEC’s ongoing review of Rule 611, and potentially other parts of Regulation NMS and other rules,” the CT Plan should be subject to further review and amendment.” See SIFMA Letter 2 at 1.

¹⁰⁴ See *infra* sec. III.B (discussing the Fee Analysis and Amendment).

¹⁰⁵ See Fidelity Letter at 2–3; Fidelity Letter 2 at 1; Massive Letter at 1–2; SIFMA Letter 2 at 2–3.

¹⁰⁶ See Massive Letter at 2.

¹⁰⁷ See Fidelity Letter at 3.

¹⁰⁸ See Fidelity Letter at 3; Massive Letter at 1–2, 7; SIFMA Letter 2 at 2–3.

¹⁰⁹ See SIFMA Letter 2 at 3.

¹¹⁰ See Massive Letter at 8. The commenter also recommended that the Operating Committee make explicit that the safe harbor applies equally to all forms of redistribution, including API-based and non-display delivery so long as the redistributor controls the entitlements and can obtain and track necessary subscriber representations. See Massive Letter at 8.

¹¹¹ See Fidelity Letter at 3.

¹¹² See Massive Letter at 7.

¹¹³ See Response Letter at 2 n.1.

¹¹⁴ See Response Letter at 7.

¹¹⁵ See Fidelity Letter at 5.

¹¹⁶ See Fidelity Letter at 4.

experience with the new definitions and assess their impact.¹¹⁷

One commenter expressed support for tangible efficiencies from consolidating the Equity Data Plans' fee schedules into a single CT Plan fee schedule and cited as an example the reduction in fees for Non-Professional Use as compared to the Equity Data Plans.¹¹⁸ The Amended Fee Proposal proposed fees for Non-Professional Use that would be tiered from \$0.90 to \$0.25 depending on the number of individuals engaged in Non-Professional Use. The proposed Non-Professional Use fee tiers would be the same across the three Tapes.¹¹⁹ The proposed fees for Non-Professional Use are lower than the fees under the Equity Data Plans, which assess a flat charge of \$1.00 per non-professional subscriber.¹²⁰ This commenter generally supported the sliding scale as one of several changes reducing compliance friction and promoting broad data availability.¹²¹

Under the Amended Fee Proposal, Professional Use would be charged a flat fee per Tape. Under the Equity Data Plans, Tape A uses a tiered fee structure with fees ranging from \$19–\$45 depending on the number of devices used. Under the Amended Fee Proposal, Professional Use would be charged \$26 for Tape A, \$23 for Tape B and \$24 for Tape C per device. The Operating Committee stated that the proposed fee of \$26 for Tape A was calculated by reviewing the distribution of fee tiers across subscribers under the CTA/CQ Plans and the Operating Committee selected the fee that would result in “fee neutrality.”¹²² The Operating Committee stated that most subscribers would see a decrease in Tape A Professional Fees. According to the Operating Committee, the proposed fees

for Tape B and Tape C do not reflect changes from the Equity Data Plans.

One commenter questioned why there are three separate Professional Use fees for each of the individual Tapes.¹²³ The Operating Committee stated that having the three separate Professional Use fees, one for each of the individual Tapes, provides firms with the flexibility to determine market data needs and avoid unnecessary costs by only purchasing a subset.¹²⁴ The individual Tapes signify listing status for the NMS stocks reported to each Tape and the Operating Committee has determined to retain this approach for flexibility to those who purchase SIP data, which is reasonable.

In addition, the Amended Fee Proposal proposed a Per Quote fee of \$0.0075 per quote packet, across all three Tapes, which is the same as the fee applicable under Equity Data Plans. Further, a “quote packet” would be defined as “any data element or all data elements in respect of a single issue” and “[l]ast, open, high, low, volume, net change, bid, offer, size, and best bid and offer with size are examples of data elements,” consistent with the definition used by the CTA/CQ Plans. The Amended Fee Proposal also included a Per Quote Cap of \$26 for Tape A, \$23 for Tape B, and \$24 for Tape C for Professional Use and tiered for Non-Professional Use so that market participants may take advantage of a predictable maximum for their quote charges and prevent quote-driven charges from exceeding the cap solely due to volume.¹²⁵

E. Enterprise Caps

The Amended Fee Proposal proposed to include enterprise caps¹²⁶ for Non-Professional Use. Specifically, the proposed enterprise cap for Tape A would be \$648,000, for Tape B, it would be \$490,000, and for Tape C, it would be \$648,000. The proposed enterprise caps for Tapes A and B are lower than the enterprise caps under the Equity Data Plans, which are \$686,400 for Tape A and \$520,000 for Tape B. The proposed enterprise cap for Tape C is the same as currently provided under the Equity Data Plans.

In addition, the Amended Fee Proposal would exclude Professional Use fees from each enterprise cap. Under the Equity Data Plans, both Professional and Non-Professional Use fees are capped by a single enterprise

fee for each of Tapes A and B; whereas only Non-Professional Use fees are capped under Tape C's enterprise cap.

While commenters appreciated the CT Plan retaining enterprise caps,¹²⁷ commenters stated that the Commission should assess whether the proposed fee and enterprise cap levels advance the goal of ensuring fair and reasonable access to SIP data.¹²⁸ One commenter that supported the retention of an enterprise cap in the proposed fee schedule stated that enterprise caps offer “predictable costs for consolidated quote and trade data, regardless of usage volume.”¹²⁹

One commenter stated that the rationale for removing Professional subscribers from the enterprise caps did not withstand scrutiny.¹³⁰ This commenter stated that only firms with large numbers of Non-Professional Users would realize any benefit from the enterprise caps.¹³¹ Further, this commenter stated that the CT Plan should consider lowering the enterprise caps so that a broader number of subscribers would be able to provide SIP data to more investors.¹³² In addition, the commenter stated that the Operating Committee's assertion that providing an enterprise cap for Professional Use fees would not incentivize SIP data dissemination demonstrates the “significant conflicts of interest” the SROs have with their dual role as the sole source of SIP data and providers of Prop Fees.¹³³ One commenter urged the Commission to consider whether the proposed fees and enterprise cap levels can be lowered to a rate that is still profitable to the CT Plan but improves the ability for firms to make SIP data more broadly available.¹³⁴ This commenter further stated that the Operating Committee should explain why it believes Prop Fees are not a “relevant comparison” with respect to setting enterprise caps but that such comparison is a “helpful benchmark” for other proposed fees.¹³⁵

The Operating Committee stated that Non-Professional Use varies dramatically across firms and that it sought to avoid a windfall for the largest

¹¹⁷ See *supra* sec. III.B.

¹¹⁸ See Massive Letter at 4.

¹¹⁹ The Equity Data Plans disseminate SIP data over three separate networks: (1) Tape A for securities listed on NYSE; (2) Tape B for securities listed on exchanges other than NYSE and Nasdaq; and (3) Tape C for securities listed on Nasdaq. These Tapes are referred to as the “consolidated tapes.” The CTA Plan governs the collection, consolidation, processing, and dissemination of last sale information for Tape A and Tape B securities. The CQ Plan governs the collection, consolidation, processing, and dissemination of quotation information for Tape A and Tape B securities. Finally, the UTP Plan governs the collection, consolidation, processing, and dissemination of last sale and quotation information for Tape C securities. The Amended Fee Proposal retains the fee structure of the Equity Data Plans by assessing fees for each individual Tape.

¹²⁰ Under the Equity Data Plans, Non-Professional Use is charged \$1.00 per individual engaged in Non-Professional Use.

¹²¹ See Massive Letter at 2, 4.

¹²² See OIP Notice, *supra* note 8, 91 FR at 17033.

¹²³ See SIFMA Letter 2 at 4.

¹²⁴ See Response Letter at 3 n.3.

¹²⁵ See OIP Notice, *supra* note 8, 91 FR at 17032.

¹²⁶ An enterprise cap is a maximum amount for any month that a broker-dealer may be charged with respect to the aggregate amount of Non-Professional Use incurred.

¹²⁷ See Fidelity Letter at 4; SIFMA Letter 2 at 2.

¹²⁸ See Fidelity Letter at 4; SIFMA Letter 2 at 2, 9.

¹²⁹ See Fidelity Letter at 4.

¹³⁰ See SIFMA Letter 2 at 9.

¹³¹ See SIFMA Letter 2 at 9.

¹³² See SIFMA Letter 2 at 10.

¹³³ See SIFMA Letter 2 at 10.

¹³⁴ See Fidelity Letter at 5. The commenter also suggested establishing enterprise caps at a level more competitive and in-line with proprietary market data product enterprise cap levels, as well as offering it at no cost when used to meet regulatory requirements. See Fidelity Letter at 5.

¹³⁵ See SIFMA Letter 2 at 10.

retail distributors while setting an enterprise cap low enough to be reached by a broader set of firms.¹³⁶ The Operating Committee stated this goal was accomplished by pairing the enterprise cap with a tiered Non-Professional Use sliding scale, and that accordingly, the enterprise cap should not be evaluated in isolation.¹³⁷ Taken together, the enterprise cap provides predictability for the largest firms that support broad retail dissemination while the Non-Professional Use sliding scale provides enterprise cap-like economic benefits to a broader range of firms.¹³⁸

The enterprise caps across the Equity Data Plans were inconsistent with their coverage of Professional and Non-Professional Uses. The Operating Committee has proposed aligning the enterprise caps so that they are consistent across the three Tapes. In addition, the Operating Committee stated that it has reduced the level of the enterprise caps for Tapes A and B to account for the removal of Professional Uses. The Operating Committee has reasonably sought to align the three Equity Data Plans' fee schedules into one CT Plan fee schedule. As discussed throughout, at this time, it is difficult to assess the impact of the proposed changes of these future fees. Accordingly, with respect to the concern of commenters as to whether the removal of Professional Use fees from the enterprise cap advances the goal of ensuring fair and reasonable access to SIP data, the Commission is modifying the CT Plan to require that the Operating Committee publish Quarterly Population Metrics and Quarterly Revenue Disclosures¹³⁹ that will provide data regarding changes in the number of Non-Professional Use and Professional Use fees assessed per individual Tape, as well as on the use of the enterprise caps.¹⁴⁰ Further, the Commission is modifying the CT Plan to require the Operating Committee to file the Fee Analysis and Amendment informed by an analysis of these Quarterly Population Metrics and

Quarterly Revenue Disclosures, and which will address any evidence that there has been a negative impact on access to SIP data.¹⁴¹

F. Redistributor Fees

The Operating Committee proposed a Real-Time Redistributor fee of \$1,155 for each individual Tape. The Equity Data Plans charge \$1,000 each for Tapes A, B and C. Accordingly, the proposed fee reflects an increase that is based on an inflationary adjustment of approximately 15.95%. The Amended Fee Proposal would not assess a fee for a Delayed Redistributor.¹⁴²

One commenter generally supported not imposing fees for Delayed Redistributors and End-of-Day Redistributors,¹⁴³ and further suggested such usage should be excluded from monthly reporting obligations and audit scope.¹⁴⁴ At the same time, the commenter questioned the use of an inflationary adjustment for certain Redistributor fees when "[e]very major technology sector has experienced cost deflation over the past decade."¹⁴⁵ Commenters requested actual cost data demonstrating that the proposed fee increases (including the inflationary adjustment) are reasonably related to costs or be disapproved.¹⁴⁶

The Operating Committee stated that the principal benefit from moving from the three legacy Equity Data Plans to one CT Plan would be to eliminate redundancies and inconsistencies across those Plans' rules, definitions and billing practices and thereby improve ease of use for Redistributors.¹⁴⁷ However, the Operating Committee stated that the production of consolidated market data would not become materially less complex, and such production would continue to depend on far more than the compensation paid to processors.¹⁴⁸ Further, the Operating Committee stated that the inflationary adjustment is not based on a "generalized impression regarding 'technology' markets, much less on consumer-facing hardware prices or anecdotal trends in unrelated sectors," but rather the "Producer Price Index for Data Processing and Related Services, an industry-specific, producer-

side metric published by the Bureau of Labor Statistics."¹⁴⁹ The Operating Committee stated that if the relevant data-processing sector had experienced sustained deflation over the past decade, then the industry-specific metric would not have shown a positive cumulative increase.¹⁵⁰

With respect to the concern of commenters regarding the inflationary adjustment chosen by the Operating Committee, these commenters broadly suggested that "technology costs" were deflationary without addressing whether the specific metric used by the Operating Committee, which shows a level of inflation, was wrong.¹⁵¹

G. Non-Display and Derived Data Usage

The Amended Fee Proposal includes fees for Non-Display uses. Generally, the Non-Display Fees would include the non-display use of data in an electronic trading system (Category 1), non-display use for a data recipient's own use (other than an electronic trading system) (Category 2), and non-display use on behalf of customers (other than an electronic trading system) (Category 3). The proposed fees for all three categories of non-display use for Tape A, Tape B and Tape C would be \$2,315, \$1,155 and \$2,025, respectively, for last sale information. Identical fees would apply for bid-ask data. Under the Amended Fee Proposal, the creation of Derived Data¹⁵² would be considered Non-Display Use and become fee liable.

The proposed fees for Non-Display uses for Tapes A, B, and C are higher than the Non-Display fees charged under the Equity Data Plans. The Operating Committee used an inflationary adjustment of 15.95%. In addition, the Operating Committee proposed to bifurcate Non-Display fees for Tape C between quotation and last sale information to align how those fees are charged with the fees for Tapes A and B.

One commenter requested clarification regarding the definition of Non-Display Use, stating the definition should "more clearly distinguish instances where a broker engages in

¹³⁶ See Response Letter at 7.

¹³⁷ See Response Letter at 7.

¹³⁸ See Response Letter at 7.

¹³⁹ See *supra* sec. III.B.

¹⁴⁰ See *supra* notes 26–27 and surrounding text (discussing the Operating Committee's process to develop the Fee Proposal); see also Advisors, CT Plan, available at <https://thectplanllc.com/advisory-committee/>. As discussed above in section III.B, the Advisory Committee to the Operating Committee, which includes representatives from broker-dealers with a predominantly retail investor customer base and those with a predominantly institutional investor customer base, will continue to have the opportunity to provide input on the ways that the CT Plan fee schedule could be improved, if necessary, in light of operational realities.

¹⁴¹ See *supra* sec. III.B.

¹⁴² See *infra* sec. III.I.

¹⁴³ See Massive Letter at 5.

¹⁴⁴ See Massive Letter at 5–6.

¹⁴⁵ See Massive Letter at 11.

¹⁴⁶ See Massive Letter at 12; SIFMA Letter 2 at 6 (stating that without "any cost information in the filing . . . it is not possible for the CT Plan to establish that inflation has negatively affected its revenues for disseminating consolidated market data").

¹⁴⁷ See Response Letter at 6.

¹⁴⁸ See Response Letter at 7.

¹⁴⁹ See Response Letter at 8.

¹⁵⁰ See Response Letter at 9.

¹⁵¹ With respect to the concern that an inflationary adjustment cannot be evaluated without cost information, see *supra* sec. III.B (discussing that guidelines other than cost may be considered).

¹⁵² Under the Amended Fee Proposal, Derived Data is defined as "pricing data or other information that is created in whole or in part from the CT Plan Information" and further cannot "be reverse engineered to recreate the Information" or "used to create other data that is recognized to be a reasonable facsimile for the Information." See OIP Notice, *supra* note 8, at Exhibit A, note 140.

both proprietary trading and facilitation of client orders in an agency capacity.”¹⁵³ Further, the commenter suggested that three separate categories of Non-Display Use are no longer necessary given the fees across three categories are the same.¹⁵⁴ The Operating Committee did not provide a response regarding the three categories of Non-Display Use. The three categories of Non-Display Use provide Members with flexibility under the Equity Data Plans and the Operating Committee has determined to retain this approach for flexibility for the CT Plan, which is reasonable.

Another commenter questioned applying a 15.95% inflation adjustment to Non-Display Use when “[e]very major technology sector has experienced cost deflation over the past decade.”¹⁵⁵ This commenter requested actual cost data demonstrating that the proposed fee increases are reasonably related to costs or be disapproved.¹⁵⁶

The Operating Committee stated that display-related fees largely remain unchanged or reduced and Non-Display fees reflect inflation-based adjustments.¹⁵⁷ As discussed above, with respect to the fees subject to an inflation adjustment, the Operating Committee stated the increase is not based on an impression regarding technology markets generally but rather on the Producer Price Index for Data Processing and Related Services, an industry-specific, producer-side metric published by the Bureau of Labor Statistics.¹⁵⁸

One commenter stated that proposing to charge a Non-Display fee for Derived Data Usage is inconsistent with the current Equity Data Plans which “recognize that when an end user transforms data for the purpose of displaying it, that use should be treated as display use rather than Non-Display Use.”¹⁵⁹ This commenter recommended the proposed fee schedule expressly provide that Non-Display fees do not apply where an end user creates Derived Data and uses it solely for display purposes.¹⁶⁰ According to this

commenter, customers would be subject to new fees of \$10,990 per month.¹⁶¹ Further, this commenter questioned charging Non-Display fees where the recipient makes use of an API but ultimately displays the data on a screen.¹⁶²

The Operating Committee stated that the treatment of Derived Data creation as Non-Display use is consistent with other Non-Display use cases (e.g., automated processing, analytics, alerting, routing support, and risk calculations) that involve “accessing, processing, or consuming” consolidated data for analytical or functional purposes through calculation, aggregation, normalization, weighting, modeling or similar machine-processing steps.¹⁶³ The Operating Committee stated it is fair and reasonable that fee liability should turn on the “use made of the CT Plan data” rather than the form of the downstream output and further that this new use-based approach corrects a “conceptual flaw” in the Equity Data Plans that looked to the presentation format (i.e., whether eventually displayed).¹⁶⁴ The Operating Committee stated that expressly treating the creation of Derived Data as Non-Display Use may increase fees for some users but that the effect should be limited given the activity will be part of a Non-Display Fee rather than a new fee category or new class of user charges.¹⁶⁵

With respect to the concerns raised by commenters that charging a Non-Display fee for Derived Data Usage is inconsistent with the Equity Data Plans, the Operating Committee proposed fees based on the use of SIP data to create Derived Data and a deviation from the Equity Data Plans does not preclude a finding that the Amended Fee Proposal is fair, reasonable and not unreasonably discriminatory.

H. Direct and Indirect Access

Under the Amended Fee Proposal, Direct Access would be defined as “any connection within any data center in which a Processor is located” and Indirect Access would be any connection that is not Direct Access. The Amended Fee Proposal proposes fees for Direct Access, which would vary by Tape. Specifically, the proposed fees for Direct Access to last sale information for Tape A would be

\$1,445, Tape B would be \$865, and Tape C would be \$1,155. The proposed fees for Direct Access to Bid-Ask information would be \$2,025 for Tape A, \$1,445 for Tape B and \$1,735 for Tape C. Proposed fees for Indirect Access to last sale information would be \$865 for Tape A, \$460 for Tape B and \$230 for Tape C. Proposed fees for Indirect Access to Bid-Ask information would be \$1,445 for Tape A, \$695 for Tape B and \$345 for Tape C. According to the Operating Committee, the proposed fees for Tapes A, B and C are generally 15.95% higher than the analogous fees charged pursuant to the Equity Data Plans, reflecting an inflationary adjustment.¹⁶⁶

The Amended Fee Proposal amends the definitions of Direct Access and Indirect Access to simplify and align the definitions under the CT Plan. The Operating Committee stated that the definitions and fees are latency-focused, which are fair and reasonable and not unreasonably discriminatory under the Exchange Act.¹⁶⁷

Commenters generally supported simplifying the Direct Access and Indirect Access definitions.¹⁶⁸ However, one commenter asked for “confirmation that extranet connections will be appropriately reclassified from Direct to Indirect Access under the new framework.”¹⁶⁹ Another commenter asked for clarification regarding the term “data center,” stating it is not clear whether it would include other data centers that may be interconnected or if it would be confined to the single physical structure where the Processor is located.¹⁷⁰

The Operating Committee stated that whether there is an extranet between the Processor and the data recipient is not relevant to the categorization of the connection; the focus of the definition is based on where the market data recipient would receive the data.¹⁷¹ If the market data recipient receives the data within any data center in which a Processor is located, then such access would be considered Direct Access.¹⁷² Conversely, if a market data recipient receives the market data through an extranet but the receipt of such data occurs outside a facility where a Processor is located, such market data recipient would be subject to Indirect Access fees.¹⁷³ The Operating Committee stated that the location-

¹⁵³ See SIFMA Letter 2 at 3.

¹⁵⁴ See SIFMA Letter 2 at 3, n. 4.

¹⁵⁵ See Massive Letter at 11.

¹⁵⁶ See Massive Letter at 12.

¹⁵⁷ See Response Letter at 1, 3.

¹⁵⁸ See *supra* sec. III.F (discussing the inflationary adjustment for redistributor fees). With respect to the concern that an inflationary adjustment cannot be evaluated without cost information, see *supra* sec. III.B (discussing that guidelines other than cost may be considered).

¹⁵⁹ See Massive Letter at 9.

¹⁶⁰ See Massive Letter at 10. This commenter also stated that a “vendor paying applicable Non-Display fees for derived data creation should be permitted to redistribute that derived data to

customers through any access channel without additional reporting obligations, approval requirements, or customer-level fees.” See Massive Letter at 11.

¹⁶¹ See Massive Letter at 9.

¹⁶² See Massive Letter at 6.

¹⁶³ See OIP Notice, *supra* note 8, 91 FR at 17030.

¹⁶⁴ See OIP Notice, *supra* note 8, 91 FR at 17030.

¹⁶⁵ See Response Letter at 5.

¹⁶⁶ See OIP Notice, *supra* note 8, 91 FR at 17038.

¹⁶⁷ See Response Letter at 2–3.

¹⁶⁸ See Massive Letter at 2; SIFMA Letter 2 at 3.

¹⁶⁹ See Massive Letter at 4.

¹⁷⁰ See SIFMA Letter 2 at 3.

¹⁷¹ See Response Letter at 2.

¹⁷² See Response Letter at 2.

¹⁷³ See Response Letter at 2.

based distinction between Direct and Indirect Access is fair and reasonable because it ties the fee to an objective, economically meaningful feature of the service (*i.e.* latency advantages that flow from the location where the recipient receives the data) rather than differences in network architecture.¹⁷⁴ Finally, the Operating Committee stated that the location-based distinction between Direct and Indirect Access is not unreasonably discriminatory because it applies the same standard to all market data recipients, regardless of whether the recipient uses an extranet connection, vendor, or other intermediary.¹⁷⁵

I. Other Fees

The Operating Committee identified certain fees that are currently charged pursuant to the Equity Data Plans in a non-uniform manner across the Tapes, such as a Multiple Feed Charge, Late/Clearly Erroneous Reporting Charge, and a Non-Compliance Fee. The Amended Fee Proposal would uniformly apply such fees across the CT Feeds. As a result, Tape C will assess a Multiple Feed Charge and a Late/Clearly Erroneous Reporting Charge that are not assessed for Tape C under the Equity Data Plans. The Operating Committee has described incremental operational and administrative processes (*e.g.*, additional onboarding, monitoring, billing administration, troubleshooting, etc.) arising from a user maintaining multiple feeds and further stated that it seeks to encourage recipients to correctly report usage.¹⁷⁶ Maintaining uniformity and reducing complexities in the fees assessed across Tapes will reduce administrative burden.

Additionally, the Amended Fee Proposal would eliminate certain fees currently charged by the Equity Data Plans for Tape C. These fees would include a Delayed Redistributor fee, End-of-Day Redistributor fee, Delayed Data Access fee and voice response port charges. Under the Amended Fee Proposal, non-billable services would include Consolidated Volume Only, which would allow consolidated volume to be displayed with no additional fees, Delayed Subscriber, End of Day Subscriber and exemptions for Academic Use, System Migration, Disaster Recovery, Administrative/Operational Use, and Service Facilitators.

The Amended Fee Proposal would charge a Broadcast Fee that would apply across a broader range of uses and,

unlike the definition found in the Equity Data Plans, include “cable, satellite, internet, or traditional means” of dissemination. Under the Equity Data Plans, each Tape has a different rate for such usage. Pursuant to the Amended Fee Proposal, the Broadcast Fee would be tiered depending on the number of households and would be the same across all CT Feeds.

One commenter generally supported the non-fee liable treatment of Delayed Subscriber, End of Day Subscriber, Delayed Redistributor and End-of-Day Redistributor.¹⁷⁷ However, the commenter suggested that to the extent data is not fee liable, Redistributors should not be required to “navigate the data feed recipient approval process or submit usage reports.”¹⁷⁸ Regarding usage reports for non-fee liable use categories, the Operating Committee did not provide a response.

J. Other Comments

Commenters stated that Market Data Infrastructure (“MDI”) rules¹⁷⁹ should be considered.¹⁸⁰ One commenter stated that without the MDI proposed fees, a competitive environment for SIP data cannot begin.¹⁸¹ Another commenter stated that the Commission should consider whether the competing consolidator/self-aggregator model would still introduce competition in the market for SIP data.¹⁸² The commenter stated that if the CT Plan attempts to establish fees that maintain current SRO revenues, competing consolidators will be unable to compete in the market.¹⁸³ Commenters stated that the Commission should “either set a date certain by which the Operating Committee must propose a fee amendment for the sale of data to competing consolidators and self-aggregators or chart a different path forward.”¹⁸⁴ The Amended Fee Proposal is not intended to propose fees under the MDI rules. One commenter stated that the Commission should consider rescinding or modifying the “Vendor Display Rule”¹⁸⁵ to give broker-dealers more flexibility in the market information they display to their customers.¹⁸⁶ The Vendor Display Rule is not related to the Amended Fee Proposal and consideration of changes

to the Vendor Display Rule would require Commission action outside of its consideration of the Amended Fee Proposal.

IV. Conclusion

For the reasons discussed above, the Commission finds that the Amended Fee Proposal, as modified by the Commission, is consistent with the requirements of section 11A of the Exchange Act,¹⁸⁷ and Rules 603 and 608 thereunder.¹⁸⁸ Specifically, the Commission finds that the Amended Fee Proposal, as modified, is fair, reasonable, and not unreasonably discriminatory,¹⁸⁹ and is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act.¹⁹⁰

It is therefore ordered, that pursuant to section 11A of the Exchange Act,¹⁹¹ and the rules and regulations thereunder, the Amended Fee Proposal (File No. 4–757) as modified by the Commission, is approved.

By the Commission.

Sherry R. Haywood,
Assistant Secretary.

Attachment A

Exhibit F

Quarterly Metrics

The Operating Committee shall calculate and publish on the CT Plan website: (1) Quarterly Population Metrics; (2) Monthly Processor Metrics; and (3) Quarterly Revenue Disclosures. All capitalized terms shall be interpreted consistent with the definitions established for purposes of the CT Plan.

1. *Quarterly Population Metrics:* The Quarterly Population Metrics shall provide information about Subscriber/Household Metrics by individual Tape and shall include, at a minimum, information that is comparable to the information provided by the CTA Plan, CQ Plan and UTP Plan in their Subscriber/Household Metric reports updated to reflect CT Plan definitions and usage categories.

2. *Monthly Processor Metrics:* The Monthly Processor Metrics shall provide information for each individual feed and individual Tape, by month, and published on a quarterly basis. The Monthly Processor Metrics shall include, at a minimum, the following information:

- a. System Availability
- b. Peak Messages Per Second

¹⁸⁷ 15 U.S.C. 78k–1.

¹⁸⁸ 17 CFR 242.603 and 608.

¹⁸⁹ See sec. 11A(c)(1)(C)–(D) of the Exchange Act, 15 U.S.C 78k–1(c)(1)(C)–(D); see also Rule 603(a) of Regulation NMS, 17 CFR 242.603.

¹⁹⁰ 17 CFR 242.608(b)(2).

¹⁹¹ 15 U.S.C. 78k–1.

¹⁷⁷ See Massive Letter at 2, 5.

¹⁷⁸ See Massive Letter at 5.

¹⁷⁹ See MDI Adopting Release, *supra* note 95.

¹⁸⁰ See Fidelity Letter at 6; SIFMA Letter 2 at 11.

¹⁸¹ See Fidelity Letter at 6.

¹⁸² See SIFMA Letter 2 at 11; see also Fidelity Letter at 6.

¹⁸³ See SIFMA Letter 2 at 11.

¹⁸⁴ See SIFMA Letter 2 at 11; see also Fidelity Letter at 6.

¹⁸⁵ See 17 CFR 242.603(c).

¹⁸⁶ See SIFMA Letter 2 at 8, n. 16.

¹⁷⁴ See Response Letter at 2–3.

¹⁷⁵ See Response Letter at 3.

¹⁷⁶ See OIP Notice, *supra* note 8, 91 at 17039–40.

- c. Capacity Messages Per Second
- d. Capacity vs Peak Ratio
- e. Peak Messages Per 100 Milliseconds
- f. Capacity Messages Per 100 Milliseconds
- g. Capacity vs Peak Ratio
- h. Peak Messages per 10 Milliseconds
- i. Peak Messages Per 1 Millisecond
- j. Peak Transactions Per Day
- k. Capacity Transactions Per Day
- l. Average Latency
- m. Median Latency
- n. 10th Percentile Latency
- o. 90th Percentile Latency
- p. 99th Percentile Latency

3. *Quarterly Revenue Disclosures:* The Quarterly Revenue Disclosures shall provide information by individual Tape on a quarterly basis. The Quarterly revenue Disclosures must be published on the CT Plan website 60 days after the end of the quarter. The Quarterly Revenue Disclosures shall include the following information:

- a. Trade and quote revenue distributed to each Member for Tapes A, B, and C;
- b. Per trade and quote message revenue (in aggregate) distributed to Members for Tapes A, B, and C; and
- c. Revenue earned by fee type for Tapes A, B, and C.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105780; File No. S7–24–89]

Joint Industry Plan; Order Approving the Fifty-Fifth Amendment to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis, as Modified by Amendment No. 1 Thereto

June 26, 2026.

I. Introduction

On January 12, 2026,¹ the Participants² in the Joint Self-

¹ See Letter from Jeff Kimsey, Chair, UTP Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Jan. 12, 2026). The Participants also filed amendments to the Second Restatement of the Consolidated Tape Association Plan and the Restated Consolidated Quotation Plan (“CTA/CQ Plans”). See also Letter from Jeff Kimsey, Chair, CTA/CQ Plans Operating Committee, to Vanessa Countryman, Secretary, Commission (Jan. 12, 2026).

² The Participants are: Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., NYSE Texas, Inc.,

Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”) filed with the Securities and Exchange Commission (“Commission”), pursuant to section 11A of the Securities Exchange Act of 1934 (“Act”),³ and Rule 608(a) of Regulation National Market System (“NMS”) thereunder,⁴ a proposal to amend the UTP Plan to extend the Processor’s⁵ hours of operation (“Proposal”). The Proposal represents the Fifty-Fifth Amendment to the UTP Plan.

The Proposal was published for comment in the **Federal Register** on January 27, 2026.⁶ The Commission received no comment letters on the Proposal. On April 7, 2026, the Participants filed Amendment No. 1 to the Proposal, which: (1) specified the date of implementation; (2) clarified operational hours consistent with current practice when the markets close early; (3) clarified the times of a trade date for the Processor; and (4) described the allocation of the development and operating costs associated with the Additional Period (as defined herein).⁷ On April 17, 2026, the Commission published Amendment No. 1 for notice and comment and instituted proceedings to determine whether to approve or disapprove the Proposal, as amended by Amendment No. 1 (“Amended Proposal”), or to approve the Amended Proposal with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment.⁸ The Commission received no comments on the Amended Proposal. This order approves the Amended Proposal.

and 24X National Exchange LLC. Effective as of March 12, 2026, the UTP Plan was amended to reflect the new name of Nasdaq BX, Inc. as Nasdaq Texas, Inc. and Texas Stock Exchange LLC was added as a participant to the UTP Plan. See Securities Exchange Act Release No. 105091 (Mar. 27, 2026), 91 FR 16255 (Apr. 1, 2026).

³ 15 U.S.C. 78k–1.

⁴ 17 CFR 242.608(a).

⁵ Section III of the UTP Plan defines Processor as the entity selected by the Participants to perform the processing functions set forth in the UTP Plan.

⁶ See Securities Exchange Act Release No. 104670 (Jan. 22, 2026), 91 FR 3609.

⁷ See Letter from Jeff Kimsey, Chair, UTP Plan Operating Committee, to Vanessa Countryman, Secretary, Commission dated April 7, 2026 (“Amendment No. 1”).

⁸ See Securities Exchange Act Release No. 105268, 91 FR 21541 (April 22, 2026).

II. Description of the Amended Proposal

The Participants propose to amend the UTP Plan to extend the Processor’s hours of operations to receive and disseminate Quotation Information, Transaction Reports, and related information in Eligible Securities from 9:00 p.m. Eastern Time (“ET”) Sunday to 8:00 p.m. ET Friday; provided however, that the Processor will pause operations at 8:00 p.m. ET on Monday through Thursday for one hour to accommodate technical refreshes for the Processor, Participants, and other market participants. Other than extending the hours of operations, the Processor will operate as it currently does.⁹

A. Processor’s Hours of Operation

1. Background

UTP Plan section XI.A provides that: (1) Quotation Information may be entered by Participants as to all Eligible Securities in which they make a market between 9:30 a.m. and 4:00 p.m. ET on all days the Processor is in operation and (2) Transaction Reports shall be entered by Participants between 9:30 a.m. and 4:01:30 p.m. ET as to all Eligible Securities in which they execute transactions between 9:30 a.m. and 4:00 p.m. ET on all days the Processor is in operation. In addition, UTP Plan section XI.D provides that the Processor shall collect, process, and disseminate Quotation Information in Eligible Securities at other times between 4:00 a.m. and 9:30 a.m. ET, and after 4:00 p.m. ET, when any Participant or FINRA Participant is open for trading, until 8:00 p.m. ET; provided however, that the national best bid and offer quotation will not be disseminated before 4:00 a.m. or after 8:00 p.m. ET. Accordingly, the current hours of operation of the Processor are 4:00 a.m. to 8:00 p.m. ET Monday through Friday, excluding holidays.¹⁰

Some exchange Participants have adopted rules that will extend their hours of operation to provide for trading during hours that are outside of the hours of operation for the Processor (“Exchange Extended Hours”).¹¹ These

⁹ See Amended Proposal, *supra* note 8 at 21542. Unless otherwise noted, all capitalized terms used herein have the same meaning as is given such terms in the UTP Plan.

¹⁰ See also SIPs Submit Plan Amendment to Extend Operating Hours to Accommodate Overnight Trading available at https://www.prnewswire.com/news-releases/sips-submit-plan-amendment-to-extend-operating-hours-to-accommodate-overnight-trading-302647034.html?tc=eml_cleartime.

¹¹ See, e.g., Securities Exchange Act Release Nos. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024)

exchange Participants have not started trading during the Exchange Extended Hours because their rules state that the exchanges will not commence operations until the Equity Data Plans¹² have (1) established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Exchange Extended Hours that is equivalent to the mechanism established for times outside of Exchange Extended Hours; and (2) provided the exchanges with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information during the Exchange Extended Hours.¹³

2. Extending the Processor's Hours

The Participants propose to extend the Processor's hours of operation to receive and disseminate Quotation Information and Transaction Reports in Eligible Securities from 9:00 p.m. to 4:00 a.m. ET on Sunday through Thursday (the "Additional Period").¹⁴ As proposed, the Processor's hours of operation will begin at 9:00 p.m. ET Sunday and continue through 8:00 p.m. ET Friday; provided, however, that the Processor would pause operations at 8:00 p.m. ET on Monday through Thursday for one hour to accommodate technical refreshes for the Processor, Participants, and other market participants.¹⁵ In the event of a holiday where U.S. markets are closed, the Processor would not operate from 8:00 p.m. ET the day before the holiday through 9:00 p.m. ET the day of the holiday.¹⁶ With respect to a holiday

where U.S. markets close early on the day before the holiday, the Processor would not operate from 5:00 p.m. ET on the day before the holiday through 9:00 p.m. ET on the day of the holiday.¹⁷ The Participants stated that the Processor would endeavor to reduce the length of the pause where technically feasible, and in the event the length of the pause is reduced, the Participants would amend the UTP Plan and notify the industry at least 90 days prior to the implementation of a reduction.

Consistent with the current hours of operation, the Participants proposed the following provisions regarding the Processor's operation during hours outside of Regular Trading Hours:¹⁸

- For transactions reported outside the hours of 9:30 a.m. ET and 4:00 p.m. ET, such transactions will be designated as ".T" trades to denote their execution outside of Regular Trading Hours.¹⁹
- Late trades will be reported in accordance with the rules of the Participant in whose market the transaction occurred and can be reported at any time the Processor is able to receive Transaction Reports.²⁰
- Transactions reported outside the hours of 9:30 a.m. ET and 4:00 p.m. ET will be included in the calculation of total trade volume for purposes of determining net distributable operating revenue, but will not be included in the calculation of the daily high, low, or last sale.²¹
- Quote Credits may be earned only in connection with quotations transmitted by a Participant to the Processor during Regular Trading Hours.²²

B. Trade Date

The Participants propose to define a trade date for purposes of the UTP Plan.²³ Specifically, under the UTP Plan, the Processor will consider a trade date to be between 8:00 p.m. ET on the day before Regular Trading Hours begin and 8:00 p.m. ET on the same day as when Regular Trading Hours begin.²⁴

For example, Wednesday's trading day would be between 8:00 p.m. ET on Tuesday and 8:00 p.m. ET on Wednesday. The Participants stated that having the start of a trading day prior to the opening of markets would reduce complexity and burden—as the alternative would have required a new trading day to start in the middle of a trading session (*i.e.*, at midnight)—and would align with current practice for venues already trading during the proposed extended hours.

C. Extended Hours Development and Operating Costs

As proposed, Participants that utilize the Additional Period are required to pay for the development and operating costs and expenses which are incurred by the Processor to accommodate the Additional Period.²⁵ Participants that utilize the Additional Period at a later time, will be required to pay a proportionate share of the aggregate development costs previously paid by other Participants, and will contribute to the operating costs from the point at which it begins operating during the Additional Period.²⁶ In addition, while the UTP Plan contains provisions relating to the allocation of development costs for technical enhancements made at the request of a Participant and solely for its use, the UTP Plan does not address allocation of operating costs in such situations.²⁷ Accordingly, the Amended Proposal amends the cost allocation provisions to address the allocation of operating costs in a manner similar to the Additional Period.²⁸

D. Implementation of the Amended Proposal

In the Amended Proposal, the Operating Committee stated that it "expects that the implementation of the amendment will occur on December 6, 2026."²⁹ The Operating Committee also stated that prior to the implementation, the Processor will announce testing dates.³⁰

The Amended Proposal also stated that, if approved, the amendments to the UTP Plan, "including the proposed changes to the language of the UTP Plan, will not become operative until the Operating Committee determines

might be dependent on when a trading day begins. See Amended Proposal, *supra* note 8 at n.22.

²⁵ See proposed UTP Plan section XI.E.

²⁶ See proposed UTP Plan section XI.E and Amended Proposal, *supra* note 8 at 21543.

²⁷ See UTP Plan section XIII.A.

²⁸ See proposed UTP Plan section XIII.A and Amended Proposal, *supra* note 8 at 21543.

²⁹ The Proposal stated that the implementation would occur in December 2026. See Proposal, *supra* note 6 at 3610.

³⁰ See Amended Proposal, *supra* note 8 at 21544.

(Approval of the 24X Form 1 application ("24X Approval Order")) and 104086 (Sept. 26, 2025), 90 FR 46978 (Sept. 30, 2025) (amending 24X Rule 1.5(c) defining the 24X Market Session to generally include times from 9:00 p.m. through 4:00 a.m. Sunday through Thursday); Securities Exchange Act Release No. 105532 (May 21, 2026), 91 FR 31509 (May 27, 2026) (amending NYSE Arca Rule 7.34–E(T) to extend NYSE Arca's trading hours to 23 hours a day, five days a week); Securities Exchange Act Release No. 105199 (Apr. 10, 2026), 91 FR 20222 (Apr. 15, 2026) (adopting rules to extend Nasdaq's trading hours to 23 hours a day, five days a week); and Securities Exchange Act Release No. 105587 (May 29, 2026), 91 FR 33238 (June 3, 2026) (adopting rules to extend Choe EDGX's trading hours to 23 hours a day, five days a week).

¹² See, e.g., 24X Rule 1.5(o); NYSE Arca Rule 1.1; and Nasdaq Equity 1, Sec. 1(a)(16). The "Equity Data Plans" are collectively the UTP Plan, the CTA/CQ Plans, and the CT Plan LLC.

¹³ See 24X Rule 1.5(c); NYSE Arca Rule 7.34–E (Preamble); and Nasdaq Equity 1, Sec. 1(a)(19).

¹⁴ See proposed UTP Plan section XI.

¹⁵ See proposed UTP Plan section XI.A.

According to the Participants, requiring a pause at 8:00 p.m. ET each Monday through Thursday would lessen the cost, complexity, and burden of designing a system that did not have a pause.

¹⁶ See proposed UTP Plan section XI.A.

¹⁷ See proposed UTP Plan section XI.A and Amended Proposal, *supra* note 8 at 21542.

¹⁸ See Amended Proposal, *supra* note 8 at 21543. The Participants propose amending the UTP Plan to include a definition of Regular Trading Hours. See proposed section XI.B and Exhibit 1, which state that Regular Trading Hours will have the meaning specified in Rule 600 of Regulation NMS. See Amended Proposal, *supra* note 8 at n.19.

¹⁹ See proposed UTP Plan section XI.C.

²⁰ See proposed UTP Plan section XI.D.

²¹ See proposed UTP Plan section XI.C.

²² See proposed UTP Plan section Exhibit 1.

²³ See proposed UTP Plan section XI.B.

²⁴ The Participants stated that setting the start of the trading day is only applicable to the operation of the Processor. The Operating Committee further stated that it does not have the authority to set the start of the trading day for rules and regulations that

that market conditions will support the extended hours of operation.”³¹ The Amended Proposal further stated that the “specific market conditions to be considered by the Operating Committee include, but are not limited to, the following:

- Depository Trust & Clearing Corporation (“DTCC”) offers clearing during the extended hours of operation.
- The Processor has implemented changes to symbol directory messages as specified in a previously approved change request, which requires the Processors to disseminate specified reference information for Eligible Securities in symbol directory messages.
- Listing markets are able to support the changes to the symbol directory messages, including corporate actions information.

- The Processor will be able to disseminate all quotes and trades, including off-exchange trades, during the extended trading hours.”³²

In the Amended Proposal, the Participants stated that the Processors and listing markets anticipate meeting “the final three requirements before the planned December 6, 2026, launch of the extended hours.”³³ In addition, in the Amended Proposal, the Participants stated that “based on publicly available information, DTCC will support the extended hours by the second quarter of 2026.”³⁴

The Participants also requested a determination by the Commission as to whether the “dissemination of real-time Trade Reporting Facility (“TRF”) information outside of Regular Trading Hours is a prerequisite for implementation.”³⁵

III. Discussion and Commission Findings

After careful review, the Commission is approving the Amended Proposal. Section 11A of the Act authorizes the Commission, by rule or order, to authorize or require the self-regulatory organizations (“SROs”) to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a facility of the national market system.³⁶ Rule 603(b)(3) of Regulation NMS, among other things, requires the SROs to act jointly pursuant to effective national market system plans to “disseminate consolidated

information, including a national best bid and national best offer and odd-lot information, on quotations for and transactions in NMS stocks.”³⁷ In addition, Rule 608 of Regulation NMS authorizes two or more SROs, acting jointly, to file with the Commission a proposed amendment to an effective national market system plan and Rule 608 provides that the Commission shall approve an amendment to an effective national market system plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.³⁸

The Commission has approved the rules of certain national securities exchanges that intend to operate during Exchange Extended Hours.³⁹ As discussed above, as part of the exchange rules to permit Exchange Extended Hours, exchange rules require the Equity Data Plans to have: (1) established a mechanism to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Exchange Extended Hours that is equivalent to the mechanism established for times outside of Exchange Extended Hours,⁴⁰ and (2) provided the exchanges with notification that they are prepared to collect, consolidate, process, and disseminate quotation and transaction information to accommodate the Exchange Extended Hours.⁴¹ In the Amended Proposal, the Participants stated that “[o]ther than extending the hours of operations, the Processor will operate as it currently does.”⁴² The Commission stated in the context of approving Exchange Extended Hours, that requiring the operation of the Equity Data Plans during Exchange Extended Hours “is designed to ensure that consolidated quotation and transaction data are provided in a manner that is consistent with existing extended hours sessions on exchanges.”⁴³ The Amended Proposal will provide for the operation of the Processor pursuant to the UTP Plan

during the times that coincide with the Exchange Extended Hours.⁴⁴

The Amended Proposal will expand the hours of operation for the Processor to collect, consolidate, process, and disseminate Quotation Information, Transaction Reports, and related information in Eligible Securities consistent with the hours of trading that will be available on certain national securities exchanges and is available in the over-the-counter market, which will provide transparency of information with respect to quotations for and transactions in NMS stocks during the Additional Period. Under the Amended Proposal, other than extending the hours of operation, the Processor will operate as it currently operates.⁴⁵ Accordingly, the Amended Proposal furthers the goals of section 11A of the Act by assuring “the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities”⁴⁶ because it amends the UTP Plan to require the Processor to collect, consolidate, process, and disseminate quotation and transaction information during the Additional Period. The Amended Proposal will enhance transparency and promote the goals of the national market system during the Additional Period.⁴⁷

In addition to amending the hours of the Processor’s operations under the UTP Plan, the Amended Proposal defines a trade date for purposes of the UTP Plan. This definition will help to provide clarity as to a specified trade date in light of the Processor’s expanded hours of operation. Further, the Amended Proposal provides for a one-hour trading pause from 8:00 p.m. to 9:00 p.m. ET Monday through Thursday, which will provide the Processor, the Participants, and other market participants with the time to perform systems updates and refreshes prior to the start of a new trade day. These amendments are appropriate and will help to support the expanded hours of operation of the Processor.

Moreover, the Amended Proposal amends the UTP Plan to require the Participants that operate during the Additional Period to pay for the costs

³¹ Pursuant to the exchanges’ rules, the exchanges are required to file proposed rule changes confirming that the exchange can comply with its obligations under the Act and that the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Exchange Extended Hours. See 24X Rule 1.5(c); NYSE Arca Rule 7.34–E (Preamble); Nasdaq Equity 1., Sec 1(a)(19); and Cboe EDGX Rule 1.5(ii).

³² See Amended Proposal, *supra* note 8 at 21542.

³³ 15 U.S.C. 78k–1(a)(1)(C)(iii).

³⁴ See, e.g., 15 U.S.C. 78k–1(a)(1)(C)(iii).

³¹ See Amended Proposal, *supra* note 8 at 21543.

³² See Amended Proposal, *supra* note 8 at 21543. See also Proposal, *supra* note 6 at 3610.

³³ See Amended Proposal, *supra* note 8 at 21543.

³⁴ See Amended Proposal, *supra* note 8 at 21543.

³⁵ See Amended Proposal, *supra* note 8 at 21543–21544. See also Proposal, *supra* note 6 at 3610.

³⁶ See 15 U.S.C. 78k–1(a)(3)(B).

³⁷ 17 CFR 242.603(b)(3).

³⁸ See 17 CFR 242.608(a)(1) and 17 CFR 242.608(b)(2).

³⁹ See *supra* note 11.

⁴⁰ See *supra* note 13.

⁴¹ See *supra* note 13.

⁴² See Amended Proposal, *supra* note 8 at 21542.

⁴³ See 24X Approval Order, *supra* note 11 at 97105.

and expenses to develop and expand the Processor's system to account for the Additional Period. Similarly, the Amended Proposal amends the UTP Plan to require Participants that decide to operate during the Additional Period at a later date, after the initial launch of the Additional Period, to pay a proportionate share of the aggregate development costs and contribute to the operating costs going forward. These amendments are appropriate and consistent with the UTP Plan's previous language.

Finally, the Operating Committee stated that it "expects that implementation of the amendment will occur on December 6, 2026."⁴⁸ Pursuant to Rule 608(c) of Regulation NMS, the Participants must comply with the terms of any effective NMS plan of which it is a sponsor or participant and must enforce compliance with the terms of such a plan by its members and persons associated with its members.⁴⁹ The Participants have proposed amendments to the UTP Plan to accommodate the move to overnight trading and have specified the date upon which the Operating Committee expects the changes to the operation of the Processor under the UTP Plan to occur. Accordingly, under the Amended Proposal, the effective UTP Plan that the Participants must comply and enforce compliance with will be the UTP Plan as amended by the Amended Proposal starting December 6, 2026.⁵⁰

For the reasons discussed above, the Commission finds that the Amended Proposal is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, section 11A of the Act, and Rule 608 of Regulation NMS, in that the Amended Proposal is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to improve impediments to, and perfect the mechanisms of, a national market system.

⁴⁸ See Amended Proposal, *supra* note 8 at 21544. Regarding the Participants' query about whether dissemination of real-time TRF information outside of Regular Trading Hours is a prerequisite for implementation, FINRA has announced its plans to amend its TRF reporting rules to extend the operating hours of the TRFs starting on December 6, 2026, which would align with the Amended Proposal. See FINRA, Extension of TRF Operating Hours (May 22, 2026), available at <https://www.finra.org/filing-reporting/technical-notice/extension-of-trf-operating-hours>.

⁴⁹ 17 CFR 242.608(c).

⁵⁰ To the extent that the UTP Plan is unable to implement the Amended Proposal by December 6, 2026, the Participants must submit an amendment to the UTP Plan pursuant to Rule 608 of Regulation NMS.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act,⁵¹ and Rule 608(b)(2) thereunder,⁵² that the Amended Proposal to the UTP Plan (File No. S7-24-89) is approved.

By the Commission.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-13212 Filed 6-30-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105785; File No. SR-MRX-2026-11]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified and Superseded by Amendment No. 1, To Adopt Extended Trading Hours for Eligible Equity and Index Options

June 26, 2026.

I. Introduction

On March 19, 2026, Nasdaq MRX, LLC ("MRX" or the "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 allow for extended trading sessions of certain index options and eligible equity options. The proposed rule change was published for comment in the **Federal Register** on March 31, 2026.³ On May 12, 2026, 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 June 12, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and superseded the original proposed rule change in its

⁵¹ 15 U.S.C. 78k-1.

⁵² 17 CFR 242.608(b)(2).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 105097 (Mar. 26, 2026), 91 FR 16066.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 105452, 91 FR 27995 (May 15, 2026). The Commission designated June 29, 2026, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change. See *id.*

entirety.⁶ The Commission is publishing this notice and order to solicit comment on Amendment No. 1 in Sections II and III below, which sections are being published verbatim as filed by the Exchange, and to approve the proposed rule change, as modified and superseded by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to adopt extended trading hours to allow for the trading of certain eligible index options and equity options, and make related conforming changes. The Exchange initially submitted this rule filing on March 19, 2026 (the "Initial Filing").⁷ This Amendment No. 1 supersedes the Initial Filing and replaces it in its entirety. This Amendment No. 1 provides additional support for the proposal and also adds to the proposal by: (1) detailing the selection and removal process for equity options for extended trading hours, including the semiannual review process for equity option eligibility and designation for extended trading hours, (2) limiting stop orders and stock-tied complex orders during extended trading hours, (3) modifying the opening process trigger, (4) specifying how orders may be designated for participation during which trading hours, (5) describing the application of market maker appointments, opening process quoting obligations, continuous quoting obligations, and participation entitlements during extended trading hours, and (6) including references to equity options in the proposed extended trading hours disclosures.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/mrx/rulefilings>, and at the principal office of the Exchange.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

⁶ The full text of Amendment No. 1 can be found on the Commission's website at <https://www.sec.gov/comments/SR-MRX-2026-11/srmrx202611-818280-2493511.pdf>.

⁷ See Securities Exchange Act Release No. 105097 (March 26, 2026), 91 FR 16066 (March 31, 2026) (SR-MRX-2026-11).

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to adopt extended trading hours ("Extended Trading Hours" or "ETH") for certain eligible index options and equity options, and to make related conforming changes. Specifically for index options, the Exchange proposes to allow for ETH trading of NDX,⁸ NDXP,⁹ and XND¹⁰ options during ETH. For equity (e.g., stock and ETF) options, the Exchange proposes to allow for ETH trading of multi-listed equity options that meet certain eligibility criteria based on quantitative metrics like trading volume and market capitalization, which are designed to limit eligibility to actively traded and liquid products. As discussed in detail below, Extended Trading Hours will consist of:

- An early ETH session ("Early ETH Session") from 7:30 a.m. Eastern Time¹¹ to 9:25 a.m.; and
- An extended close ("Extended Close") where trading in certain eligible option classes will extend beyond 4:00 p.m. to 4:15 p.m.

Background

Currently, options transactions may be made on the Exchange from 9:30 a.m. through 4:00 p.m. or 4:15 p.m.¹² (9:30 a.m. through 4:00 p.m. or 4:15 p.m., as applicable, will be referred to as "Regular Trading Hours" or "RTH"). Regular Trading Hours are consistent with the regular trading hours of other U.S. options exchanges and U.S. equity exchanges. However, many U.S. equity exchanges and certain other U.S. options exchanges, including Cboe Exchange, Inc. ("Cboe"), presently allow for trading outside of Regular Trading Hours as well.¹³

The Exchange believes there is investor demand for trading equity options and index options outside of RTH. As noted above, many U.S. equity exchanges allow for trading in securities before and after the regular trading hours of 9:30 a.m. to 4:00 p.m., including in stocks that comprise the Nasdaq-100 Index.¹⁴ It is common for investors to engage in hedging and other investment strategies that involve index options and some of the stocks that comprise the underlying index, as well as investment strategies involving equity options and their underlying securities. Currently, this investment activity on the Exchange would be limited to Regular Trading Hours. Allowing certain eligible index options and equity options to participate during Extended Trading Hours would help align trading in such products to the expanded trading that already occurs for the underlying securities, and help meet investor demand to use these products outside of Regular Trading Hours.

Proposal

To implement Extended Trading Hours, the Exchange proposes to adopt new Options 3C (Extended Trading Hours). All rules applicable to options during Regular Trading Hours will apply to the extent possible to options during Extended Trading Hours, including, without limitation, trading rules (including the Exchange's various auction mechanisms, risk controls, and price protections), obvious error rules, option listing rules, Market Maker¹⁵ requirements, and business conduct rules. All Members may (but are not required to) participate in ETH, and Members do not need to separately apply to participate during ETH. The Exchange is therefore adopting new Options 3C to address only the

Trading Session from 4:00 a.m. to 8:00 a.m., a Pre-Opening Session from 8:00 a.m. to 9:30 a.m., and an After Hours Trading Session from 4:00 p.m. through 8:00 p.m. See BZX Rule 1.5(c), (r), and (ff). Additionally, Cboe currently allows for the trading of certain index options during Global Trading Hours from 8:15 p.m. (previous day) to 9:25 a.m. and during Curb Trading Hours from 4:15 p.m. to 5:00 p.m. See Cboe Rule 5.1(c) and (d). Cboe also recently received approval for its proposal to allow for the trading of certain eligible multi-listed equity options during Global Trading Hours and Curb Trading Hours. See Securities Exchange Act Release No. 105569 (May 28, 2026), 91 FR 33005 (June 2, 2026) (SR-CBOE-2025-079). Further, Cboe C2 Exchange, Inc. ("C2") currently allows for the trading of certain index options during Global Trading Hours from 8:30 a.m. to 9:15 a.m. See C2 Rule 5.1(c).

¹⁴ As noted above, the proposed eligible index options for ETH trading, NDX, NDXP, and XND options, are all based on the Nasdaq-100 Index.

¹⁵ The term "Market Makers" refers to "Competitive Market Makers" and "Primary Market Makers" collectively. See Options 1, Section 1(a)(22).

operational and structural differences that are unique to ETH trading while maintaining the applicability of the broader rulebook.

To reflect this concept, proposed Options 3C, Section 1(a) will provide that Options 3C rules will apply only during Extended Trading Hours. Options traded during Extended Trading Hours will be subject to all other rules applicable to options on the Exchange, including, without limitation, the trading rules, the listing rules, and business conduct rules, unless the context otherwise requires or otherwise provided in Options 3C.

Proposed Section 1(b) will provide that for purposes of Options 3C, "Extended Trading Hours" or "ETH" will mean the trading hours outside of Regular Trading Hours of 9:30 a.m. ET to 4:00 p.m. (or 4:15 p.m. for certain products pursuant to Options 3, Section 1) and will cover:

- the Early ETH Session, as described in Options 3C, Section 2; and
- the Extended Close, as described in Options 3C, Section 2.

Proposed Section 1(c) will provide that for purposes of Options 3C, the "Extended RTH Session" will include RTH and the Extended Close.

The Exchange notes that the Extended Close will not be a separate trading session, but rather an extension of Regular Trading Hours. This is consistent with how certain designated ETF options are allowed to trade on the Exchange until 4:15 p.m. today. However, the Exchange will provide Members flexibility to determine which trading hours their orders will trade on the Exchange, allowing, for example, the exclusion of the Extended Close if preferred by marking their orders as RTH only. Specifically, Members will be able to mark their orders to participate as follows: (1) RTH only (9:30 a.m.–4 p.m., or 4:15 p.m. for designated ETF options), (2) Extended RTH Session (9:30 a.m.–4:15 p.m.), or (3) Early ETH Session and Extended RTH Session (7:30 a.m.–4:15 p.m.).¹⁶

Proposed Options 3C, Section 2(a) will provide that for option classes designated by the Exchange as eligible for trading pursuant to Options 3C, Section 3, the Early ETH Session will be conducted from 7:30 a.m. ET. to 9:25 a.m. ET on the business days specified in General 3, Rule 1030.¹⁷

Proposed Section 2(b) will provide that for option classes designated by the

¹⁶ See proposed Options 3C, Section 4(b).

¹⁷ General 3, Rule 1030, which incorporates Nasdaq General 3, Rule 1030 by reference, provides that the Exchange will be open for the transaction of business days, and lists out the holidays on which the Exchange will not be open for business.

⁸ NDX options refers to a.m.-settled options on the Nasdaq-100 Index.

⁹ NDXP options refers to p.m.-settled options on the Nasdaq-100 Index.

¹⁰ XND options refers to options that are based on 1/100 the value of the Nasdaq-100 Index.

¹¹ All times in this filing are Eastern Time unless otherwise noted.

¹² See Options 3, Section 1.

¹³ For example, The Nasdaq Stock Exchange LLC ("Nasdaq") currently allows for a Pre-Market Hours session from 4:00 a.m. to 9:30 a.m. and a Post-Market Hours session from 4:00 p.m. until 8:00 p.m. See Nasdaq Equity 1, Section 1(a)(9). Cboe BZX Exchange, Inc. ("BZX") also allows for an Early

Exchange as eligible for trading pursuant to proposed Section 3 of Options 3C, trading will continue until 4:15 p.m. ET on the business days specified in General 3, Rule 1030.

Proposed Section 2(c) will specify the interaction between the different trading sessions on holidays and shortened trading days. Proposed Section 2(c)(1) will provide that if there are no Regular Trading Hours, there will be no Early ETH Session or Extended Close. Proposed Section 2(c)(2) will provide that on a trading day with shortened Regular Trading Hours (e.g., the Exchange is open for a half day of regular trading between 9:30 a.m. through 1 p.m.): (1) the Early ETH Session will occur prior to the shortened Regular Trading Hours; and (2) the Extended Close will commence at the end of the shortened Regular Trading Hours and continue for 15 minutes (e.g., 1:00 p.m. to 1:15 p.m.).

The Exchange recognizes that the proposed Extended Trading Hours are shorter than the extended trading hours for equities, which may commence as early as 4:00 a.m. and conclude as late as 8:00 p.m.¹⁸ Since equity options generally will not trade unless the underlying security also trades, any trading hours outside of RTH available for equity options are limited to extended trading hours available for the underlying equities. Although ETH for equity options could mirror the extended trading hours available for the underlying equities, the Exchange proposes to limit ETH trading, and establishes trading hours for equity options that are notably shorter than the hours of extended trading for equities. The Exchange believes that the shorter Extended Trading Hours running from 7:30 a.m. to 9:25 a.m. and 4:00 p.m. to 4:15 p.m., rather than hours that align with the full extended trading hours available to the underlying equities, is appropriate because of the lack of industry experience with ETH for equity options that are physically-settled. Limiting the ETH window of time for equity options allows for a paced introduction of this new type of trading session for equity options. The limited trading hours for ETH will allow the Exchange to monitor and assess the development and functioning of ETH markets for equity options. As it relates to index options, the Exchange recognizes that the proposed Extended Trading Hours for NDX, NDXP, and XND options are notably shorter than the extended trading hours for certain index options on Cboe.¹⁹ However, the

Exchange believes that it is appropriate to align the extended trading hours for both index and equity options on its market to help ensure an orderly and measured implementation, as this is the first time the Exchange is expanding its trading hours beyond RTH.

Additionally, based on numerous industry discussions and feedback from Members, the Exchange believes that the proposed timeframe for ETH for both index and equity options can be supported by Market Makers, clearing firms, and other market participants from a personnel coverage perspective.

Extended Hours Trading will allow market participants to engage in trading of designated index and equity options in conjunction with the trading in the underlying securities during these hours. As it relates to trading in multi-listed equity options during ETH, however, since trading in such options is a new initiative, the Exchange proposes in proposed Options 3C, Section 3(a) to limit the number of equity option classes that may be designated for ETH at 100 option classes.²⁰ The limit is intended to allow the Exchange to monitor and assess the development and functioning of ETH markets for equity options within a limited group of equity options initially.

In particular, proposed Section 3(a) will establish specific eligibility criteria for an equity option class to meet in order to be eligible for ETH trading, and will provide that the Exchange may designate as eligible for trading during ETH up to 100 multiply listed equity option classes that satisfy the following criteria for the preceding six calendar months:

- the option has an average daily volume of 150,000 contracts;
- the underlying equity to the option has a \$50 billion market capitalization; and
- the underlying equity to the option has an average daily trading volume of 10 million shares.

The Exchange believes option classes with the highest anticipated demand will be eligible for trading in ETH based on the requirements established in proposed Section 3(a) and that the criteria described above will result in the listing of options in ETH having sufficient demand and liquidity to support an ETH market.²¹ Furthermore,

the Exchange chose criteria so as to limit the initial number of equity options eligible for ETH to those most likely to have the highest liquidity and to avoid options with underlying securities that may only have temporarily high volume or market capitalization.

To determine which options are eligible and designated by the Exchange for ETH, the Exchange will identify on a semiannual basis (following each January 1 and July 1) the option classes meeting the criteria in proposed Section 3(a)(1) and select up to 100 of such option classes to be designated for trading in ETH; however, the Exchange will have discretion to determine which of the eligible option classes will be designated to trade in ETH. The Exchange will not be obligated to include all options that meet the criteria in ETH, and the number of designated equity options may be less than 100 designated option classes.

Proposed Section 3(a)(2) will establish the initial process by which the Exchange would review and determine eligibility for equity option classes pursuant to proposed Section 3(a)(1). Specifically, the Exchange will use trading data from the preceding six-month period ending either June 30 or December 31 prior to the launch of equity options ETH trading. The initial list of options designated for ETH trading will be announced publicly in an Exchange notice ("ETH Exchange Notice"), and the first day of ETH trading for equity options will also be announced in the ETH Exchange Notice.²² The Exchange will designate options for ETH trading from equity options meeting the criteria in proposed Section 3(a)(1). Following the initial selection process, the Exchange will conduct a review twice per year to reassess the list of eligible equity options using data from the preceding July 1 through December 31, and again based on data from January 1 through June 30.²³ The Exchange will designate equity options eligible for trading in ETH and publish the updated list of designated equity options via an ETH Exchange Notice following completion of a semiannual review, and newly designated option classes may begin

²⁰ As noted above, Cboe already allows for the trading of certain index options outside of their regular trading hours today. See *supra* note 13.

²¹ Proposed rule text in the Initial Filing that permitted accelerated eligibility for certain equity options with underlying securities recently listed as a result of an initial public offering has been removed from this Amendment No. 1 to simplify the proposal.

²² The initial listing of equity options in ETH will be selected by the Exchange and is not subject to the listing date requirements of the semiannual review process that will occur after the launch of ETH.

²³ The Exchange intends to determine options that are initially designated for ETH trading at the time of approval of this Amendment No. 1 based on the most recent 6-month review cycle and subsequently will conduct reviews semiannually commencing the next review cycle.

¹⁸ See *supra* note 13.

¹⁹ See *supra* note 13.

trading on the first trading day of February and August, respectively.

Proposed Section 3(a)(3) further specifies the semiannual review process for the selection of equity options designated for ETH trading by detailing how option classes may be removed from the list of designated options. If an option that was previously designated for ETH trading no longer meets the criteria in proposed Section 3(a)(1) following a semiannual review, the Exchange will identify any such equity option class and provide the last day of ETH trading for each such option class in the semiannual ETH Exchange Notice. Equity options identified as no longer meeting eligibility requirements for ETH will be removed from ETH trading within 18 months of the determination that the option class no longer meets ETH eligibility criteria, and the last day of trading for any such equity option class during ETH will be communicated through the ETH Exchange Notice. Providing a notice of removal of an equity option class from ETH up to 18 months after the date the option class is determined to be no longer eligible for ETH will avoid sudden market disturbances resulting from the abrupt removal of any such option from ETH. Allowing the Exchange to determine a removal date within 18 months ensures that, except for certain longer dated series, open interest existing in the equity option class to be removed from ETH trading will have generally expired. Additionally, the 18-month period will allow for two additional semiannual review cycles during which equity options previously designated for removal may subsequently meet eligibility criteria again and consequently may continue to trade during ETH pursuant to proposed Section 3(a)(3)(C).

Whereas the removal process established in proposed Section 3(a)(3)(A) is intended to provide an extended time period for the removal of equity options to avoid sudden market disruptions, the Exchange acknowledges that certain conditions, although unlikely, may warrant an acceleration of removal of an equity option class from ETH. Consequently, proposed Section 3(a)(3)(B) allows the Exchange to remove an equity option class from ETH trading prior to the announced removal date if the Exchange observes limited or no market activity in ETH for the option class. If such a condition is observed, the Exchange may remove the option class from ETH trading with at least seven days notice. The Exchange may remove the option class from ETH prior to the removal date by issuing an

Exchange notice designating a new removal date for the option class from ETH.

Additionally, pursuant to proposed Section 3(a)(4), the Exchange may remove any option class from ETH trading for any reason with at least 30 days notice. The Exchange expects to use such authority in limited situations, such as in response to Market Maker preference or concern regarding continued ETH trading in a particular option class or the announcement of an unusual corporate action on the underlying equity to an option class (and the effective date of such corporate action is not imminent) that could introduce confusion or uncertainty about the value of an option, thereby significantly reducing liquidity during ETH for the option class. Similarly, the Exchange may immediately remove an option class from ETH if the Exchange deems such action is necessary in the interest of investor protection or the maintenance of fair and orderly markets. For example, if a corporate action that was not previously announced on the underlying security is effective immediately and results in a substantial change to the value or composition of the underlying security (such as may be in the case of a reorganization, among others), the Exchange may immediately remove the option from ETH trading. The Exchange will provide notice of such determination as soon as practicable after the determination to remove has been made. Any option class designated for removal from ETH trading pursuant to proposed Section 3(a)(3) or (4) and that is included in the 100 multiply listed option class limit will continue to be included in the 100 option class limit until the removal date of any such option class.

The Exchange may also designate as eligible for trading during ETH any equity option class that is traded on another exchange during ETH or any other extended trading hours session.²⁴ Any equity option designated by the Exchange as eligible for ETH trading because the option was initially traded by another exchange during ETH or any other extended trading hours session will not be counted against the 100 option class limit in proposed Section 3(a)(1). The Exchange believes that the exclusion from the 100 option class limit of such equity options initially listed for trading on another exchange during that exchange's extended trading session is appropriate for competitive as well as market protection purposes. For example, if other option exchanges adopt the Exchange's qualification

criteria, the exact same list of options would be eligible for extended trading hours sessions pursuant to rules of such other exchange(s) as would be eligible under the Exchange's Rules. However, if more than 100 equity options met the eligibility criteria, the Exchange could designate up to 100 of any of the equity options that met the criteria for trading in extended trading hours sessions, and the Exchange's selection could be different than those selected by another exchange for trading in extended trading hours sessions. Additionally, it is possible that another exchange may adopt different eligibility criteria and/or select more than 100 equity option classes. In either situation in which another exchange could designate for trading equity options that differ from the equity options designated by the Exchange for ETH trading, the Exchange may list those equity options designated by another exchange and such options selected in this manner would not count towards the Exchange's 100 equity options limit for extended trading hours sessions.²⁵

This provision would allow for trading in these options during extended trading hours on multiple exchanges. Options trading on multiple exchanges can encourage competition, improve market efficiencies and increase liquidity while offering investors more trading opportunities. Consequently, the Exchange believes it is appropriate to have the ability to trade options that are multiply-listed for RTH sessions, that the Exchange is permitted to list, and that may trade in extended trading hours on another exchange (through that exchange's extended trading hours rules) without impacting the administration of the Exchange's extended trading hours sessions specifically established pursuant to the Exchange's Rules. Additionally, this exclusion from the 100 option class limit is similar in structure, for example, to the rules for Short Term Options Series, which allows the Exchange to list additional option classes selected by other exchanges under their short term options rules and such selections are in addition to the 50 Short Term Option Series classes that the Exchange may select.²⁶ The exclusion is also in alignment with the Exchange's ability to initially list for trading options that meet the Exchange's listing

²⁵ The Exchange is not obligated to list the same equity option classes selected by another exchange for trading in extended trading hours sessions.

²⁶ See Supplementary Material .03(a) to Options 4, Section 5, which incorporates Nasdaq ISE, LLC ("ISE") Supplementary Material .03(a) to Options 4, Section 5 by reference.

²⁴ See proposed Options 3C, Section 3(a)(1).

requirements for continued listing and are traded on at least one other exchange.²⁷

Proposed Section 3(b)(1) will provide that the Exchange may designate as eligible for trading during ETH the following index options: NDX, NDXP, and XND. Proposed Section 3(b)(2) will provide that if the Exchange designates a class of index options as eligible for trading during ETH, Binary Options with the same underlying index are also deemed eligible for trading during ETH.²⁸ Proposed Section 3(b)(3) will provide that the Exchange will not report a value of an index underlying an index option during ETH because the value of the underlying index is not being calculated during this time.²⁹ The closing value of the index from the previous trading day will be available for Members that trade during ETH. However, the Exchange does not believe it would be useful or efficient to disseminate to Members the same value repeatedly at frequent intervals, as it does during Regular Trading Hours (when the index value is being updated).³⁰

Proposed Section 3(c) and (d) will specify the eligible option series that would be available during ETH and how expiration day trading for those option series would be handled by the Exchange. In particular, any series in option classes eligible for ETH pursuant to proposed Options 3C, Section 3(a) and (b) that would be available during the subsequent RTH would be available during the Early ETH Session. Any series in option classes eligible for ETH pursuant to proposed Options 3C, Section 3(a) and (b) that would be available during the previous RTH would likewise be available during the Extended Close, except for expiring index options. Further, a.m.-settled index options will be available for trading through the Extended Close on the business day prior to expiration, but will not be available for trading during the Early ETH Session on their expiration date. P.M.-settled index options will be available for trading

through Regular Trading Hours on their expiration date, but will not be available for trading in the Extended Close on their expiration date. Lastly, equity options will be available for trading through the Extended Close on their expiration date.

Proposed Options 3C, Section 4(a) provides that the Exchange may determine to make the order types and times-in-force (“TIFs”) in Options 3, Section 7 available on a class or System³¹ basis during ETH, except as otherwise specified herein. The Exchange notes that it currently has the authority to make certain order types and TIFs available on a class or System basis during RTH pursuant to Options 3, Section 7, and therefore proposes to have similar authority with respect to ETH.

Proposed Section 4(b) provides that Members may designate orders for participation in: (1) RTH only, (2) Extended RTH Session only, or (3) both the Early ETH Session and Extended RTH Session (“All Sessions”). All quotes entered during the Early ETH Session will be purged after the end of such session. As discussed in detail below, this is to allow for the System to transition over to Regular Trading Hours.

The Exchange expects reduced liquidity, higher volatility, and wider spreads during ETH, particularly the Early ETH Session. Therefore, the Exchange proposes not to allow Market Orders³² and Stop Orders³³ during the Early ETH Session, and such orders designated for participation in All Sessions will be rejected.³⁴ The

Exchange believes it is appropriate to not allow Market Orders and Stop Orders during the Early ETH Session in order to protect customers should wide price fluctuations occur due to the potential illiquid and volatile nature of the market or other factors that could impact market activity.³⁵ The Exchange will allow Market Orders and Stop Orders during the Extended Close between 4:00 p.m.–4:15 p.m. as it believes this time period will be more actively quoted. The Exchange believes that market participants should have some familiarity with trading within this time frame as the Exchange already designates certain ETF and index options to trade until 4:15 p.m. today. The Exchange therefore believes that offering this flexibility for Market Orders and Stop Orders during the Extended Close is appropriate. To the extent Members do not want their Market Orders and Stop Orders to persist beyond 4:00 p.m., they may designate their orders as RTH only pursuant to proposed Options 3C, Section 4(b).

The Exchange also proposes to not allow Add Liquidity Orders³⁶ during the Early ETH Session to align with current System functionality where Add Liquidity Orders are not allowed to participate in the RTH opening process. Otherwise, Add Liquidity Orders entered during the Early ETH Session

orders for participation during (1) RTH only, (2) RTH and Extended Close (*i.e.*, Extended RTH), or (3) Early ETH Session, RTH, and Extended Close (*i.e.*, All Sessions). *See* proposed Options 3, Section 4(b).

³⁵ Today, Cboe similarly restricts Market Orders outside of their regular trading hours. *See* Cboe Rule 5.6(b).

³⁶ An Add Liquidity Order is a limit order that is to be executed in whole or in part on the Exchange (i) only after being displayed on the Exchange's limit order book; and (ii) without routing any portion of the order to another market center. Members may specify whether an Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the national best bid price (for sell orders) or below the national best offer price (for buy orders) if, at the time of entry, the order (i) is executable on the Exchange; or (ii) the order is not executable on the Exchange, but would lock or cross the national best bid or offer. If at the time of entry, an Add Liquidity Order would lock or cross one or more non-displayed orders or quotes on the Exchange, the Add Liquidity Order shall be cancelled or re-priced to the minimum price variation above the best non-displayed bid price (for sell orders) or below the best non-displayed offer price (for buy orders). Notwithstanding the aforementioned, if an Add Liquidity Order would not lock or cross an order or quote on the System but would lock or cross the NBBO, the order will be handled pursuant to Options 3, Section 5(d). An Add Liquidity Order will be ranked in the Exchange's limit order book in accordance with Options 3, Section 10. Add Liquidity Orders may only be submitted when an options series is open for trading. Add Liquidity Orders may only have a time-in-force designation of Day. *See* Options 3, Section 7(n).

²⁷ *See* Options 4, Section 3(b)(6), which incorporates ISE Options 4, Section 3(b)(6) by reference.

²⁸ *See* Securities Exchange Act Release No. 104966 (March 11, 2026), 91 FR 12652 (March 16, 2026) (SR-MRX-2026-05).

²⁹ *See* Cboe Rule 5.1(c)(3) and (d)(3) for similar provisions.

³⁰ ISE Options 4A, Section 3(d)(11), which the Exchange incorporates by reference, currently provides that the underlying index value for a broad-based index (*e.g.*, Nasdaq-100 Index) will be widely disseminated at least once every 15 seconds. This provision is superseded during ETH by proposed Options 3C, Section 3(b)(2), and thus no dissemination will occur during ETH.

³¹ The term “System” means the electronic system operated by the Exchange that receives and disseminates quotes, executes orders and reports transactions. *See* Options 1, Section 1(a)(50).

³² A Market Order is an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. Members can designate that their Market Orders not executed after a pre-established period of time, as established by the Exchange, will be cancelled back to the Member, once an options series has opened for trading. Market Orders on the order book would be immediately cancelled if an options series is halted, provided the Member designated the cancellation of Market Order. *See* Options 3, Section 7(a).

³³ A Stop Order is an order that becomes a market order when the stop price is elected. A stop order to buy is elected when the option is bid or trades on the Exchange at, or above, the specified stop price. A stop order to sell is elected when the option is offered or trades on the Exchange at, or below, the specified stop price. A Stop Order shall be cancelled if it is immediately electable upon receipt. Stop Orders may only be entered through FIX. A Stop Order shall not be elected by a trade that is reported late or out of sequence or by a Complex Order trading with another Complex Order. *See* Options 3, Section 7(d).

³⁴ *See* proposed Options 3, Section 4(c). As discussed above, Members may designate their

could persist into the next trading session and participate in the RTH opening process if those orders do not execute during the Early ETH Session. Accordingly, proposed Section 4(c) will provide that Add Liquidity Orders designated for participation in All Sessions will be rejected.

Further, the Exchange proposes not to allow Stock-Option Orders³⁷ and Stock-Complex Orders³⁸ during the Early ETH Session because the Exchange currently requires, among other things, that these orders fall within the high-low range for the day in the underlying stock at the time the Stock-Option Order or Stock-Complex Order is processed.³⁹ The Exchange understands that the equity high-low reference is currently only provided between the hours of 9:30 a.m. to 4:00 p.m. and that this information is not being disseminated at the same time

³⁷ The term “Stock-Option Order” refers to an order for a “Stock-Option Strategy,” which is the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (“convertible security”) coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg to the total number of units of the underlying stock or convertible security in the stock leg. See Options 3, Section 14(a)(2) and (5).

³⁸ The term “Stock-Complex Order” refers to an order for a “Stock-Complex Strategy,” which is the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (“convertible security”) coupled with the purchase or sale of a Complex Options Strategy on the opposite side of the market representing either (A) the same number of units of the underlying stock or convertible security, or (B) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option legs to the total number of units of the underlying stock or convertible security in the stock leg. Only those Stock-Complex Strategies with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis, are eligible for processing. See Options 3, Section 14(a)(3) and (5).

³⁹ Specifically, Options 3, Section 16(d) provides that for complex orders in Stock-Option Strategies and Stock-Complex Strategies, the Exchange shall electronically communicate the underlying security component of a Complex Order to Nasdaq Execution Services, LLC (“NES”), its designated broker dealer, for immediate execution. Such execution and reporting will not occur on the Exchange and will be handled by NES pursuant to applicable rules regarding equity trading. NES will ensure that the execution price is within the high-low range for the day in that stock at the time the Complex Order is processed and within a certain price from the current market pursuant to Options 3, Section 16(a). If the stock price is not within these parameters, the Complex Order is not executable and the Exchange will hold the Complex Order on the Order Book, if consistent with Member instructions.

as Extended Trading Hours.

Accordingly, the Exchange will not allow Stock-Option Orders or Stock-Complex Orders during the Early ETH Session since there would be no high-low information available prior to 9:30 a.m. For the Extended Close, the Exchange will use the high-low information from the equity market’s regular trading hour session. To reflect the foregoing, proposed Section 4(c) will provide that Stock-Option Orders and Stock-Complex Orders designated for participation in All Sessions will be rejected.

The Exchange also proposes to eliminate the TIFs of Good-Till-Canceled (“GTC”) and Good-Till-Date (“GTD”) from its rulebook to avoid the operational complexity of having such orders persist between trading sessions. Accordingly, the Exchange proposes to delete the GTC and GTD rule text in Supplementary Material .02(b) and (c) of Options 3, Section 7 and in Options 3, Section 14(b)(11) and (12), and reserve those rules. The Exchange also proposes to delete the sentence referencing GTC and GTD orders in Options 3, Section 8(k). In addition, because the Exchange incorporates by reference ISE Options 5 (Order Protections and Locked and Crossed Markets rules) into its Options 5, and ISE Options 5 references GTC and GTD orders therein, the Exchange proposes to add a sentence at the end of its Options 5 providing that notwithstanding the foregoing, all references to “GTC” and “GTD” in Nasdaq ISE Options 5 will not be incorporated into this Nasdaq MRX Options 5, as those times-in-force designations are not available on Nasdaq MRX. Additionally, as set forth in Supplementary Material .02(a) of Options 3, Section 7, the Exchange currently offers a TIF of “Day,” which expires at the end of the day on which it was entered. The Exchange is not modifying this TIF under this proposal, but notes that a Day order would expire depending on the Member’s session eligibility designation pursuant to proposed Section 4(b) (e.g., RTH only designation means the Day order expires at 4:00 p.m. and All Sessions designation means the Day order expires at 4:15 p.m.).

Proposed Section 4(d) will provide that orders are not routable during ETH. As such, all orders during ETH will be required to be entered as Do-Not-Route (“DNR”) orders and may be repriced pursuant to Options 3, Section 5(d) to comply with the Options Order Protection and Locked/Crossed Market

Plan (“Linkage Plan”).⁴⁰ Options 3, Section 5(d) currently provides that an order would not be executed at a price that trades through another market or displayed at a price that would lock or cross another market and that an order that is designated by a Member as non-routable would be re-priced in order to comply with applicable trade-through and locked and crossed markets restrictions. If, at the time of entry, an order that the entering party has elected not to make eligible for routing would cause a locked or crossed market violation or would cause a trade-through violation, it would be re-priced to the current national best offer (for bids) or the current national best bid (for offers) as non-displayed, and displayed at one minimum price variance above (for offers) or below (for bids) the national best price.

Proposed Options 3C, Section 5 will set forth the opening process for the Early ETH Session. Other than as specified herein, the Exchange will use the same RTH opening process described in Options 3, Section 8, with everything being pushed back by two hours for the Early ETH Session opening process. Proposed Section 5(b) will provide that the opening process for the Early ETH Session will be triggered by the first disseminated trade or first disseminated quote on any national securities exchange at or after 7:30 a.m. This is different from the RTH opening process, which is triggered by the first disseminated trade or quote on the primary market. The Exchange is proposing to use the first disseminated trade or quote on any national securities exchange because not all securities will be trading on their primary market during the proposed Early ETH Session (e.g., certain NYSE-listed securities), and, therefore, an opening process trigger based on the primary market may not occur. Therefore, the proposed rule change would permit the Exchange to list options on eligible equities that also trade during extended trading hours on

⁴⁰ The Linkage Plan requires U.S. options exchanges to establish a framework for providing order protection and addressing locked and crossed markets in eligible options classes. The Linkage Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. The full text of the Linkage Plan is available at https://www.theocc.com/getcontentasset/7fc629d9-4e54-4b99-9f11-c0e4db1a2266/dfc3d011-8f63-43f6-9ed8-4b444333a1d0/options_order_protection_plan.pdf. All operating U.S. options exchanges participate in the Linkage Plan. If another U.S. options exchange lists any of the eligible option classes outside of RTH, trading of such option classes on the Exchange would comply with the Linkage Plan. As noted above, Choe’s proposal to list and trade eligible multi-listed equity options outside of their regular trading hours was recently approved. See *supra* note 13.

any equity market, even if not the primary listing market.

Another difference from the RTH opening process is the Primary Market Maker's current obligation to enter a Valid Width Quote in 90% of its assigned series within one minute of the underlying's open pursuant to Options 3, Section 8(c)(3).⁴¹ In contrast, the Exchange proposes for the Early ETH Session opening process to only require Primary Market Makers to fulfill this obligation if they choose to start quoting in the Early ETH Session opening process. The Exchange believes this is appropriate given that it is not requiring Market Makers, including Primary Market Makers, to participate in the Early ETH Session. Accordingly, proposed Section 5(b) will provide that only Primary Market Makers that choose to quote in the Early ETH Session will be obligated to enter Valid Width Quotes pursuant to Options 3, Section 8(c)(3).

Proposed Section 5(c) will provide that Market Maker Valid Width Quotes and Opening Sweeps⁴² received starting at 7:25 a.m. (versus 9:25 a.m. as currently provided for the RTH opening) will be included in the Early ETH Session opening process. Orders designated for both the Early ETH Session and Extended RTH Session, and entered at any time before an eligible option series opens are included in the Early ETH Session opening process.

⁴¹ In particular, Options 3, Section 8(c)(3) provides that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. Provided an options series has not opened pursuant to Options 3, Section 8(c)(1)(ii), PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. Once an options series has opened pursuant to Options 3, Section 8(c)(1)(i) and ii, a PMM must submit intra-day, two-sided quotes in such options series pursuant to Options 2, Section 5(e)(2).

⁴² An Opening Sweep is a one-sided order entered by a Market Maker through SQF for execution against eligible interest in the System during the Opening Process. This order type is not subject to any protections listed in Options 3, Section 15, except for Automated Quotation Adjustments and Market Wide Risk Protection. The Opening Sweep will only participate in the Opening Process pursuant to Options 3, Section 8(b)(1) and will be cancelled upon the open if not executed. *See* Options 3, Section 7(u).

This is consistent with the current RTH opening process mechanics in Options 3, Section 8(c), including where Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. are included in the RTH opening process. However, the Exchange also proposes to modify this RTH opening process time from 9:25 a.m. to 9:26 a.m. in order to provide the Exchange time to transition between the Early ETH Session and Regular Trading Hours. Because the Early ETH Session would last between 7:30 a.m. to 9:25 a.m., the Exchange would use the one-minute time period between the end of the Early ETH Session at 9:25 a.m. and the time in which it would begin to accept Market Maker interest for the RTH opening process at 9:26 a.m. to purge quotes from the Early ETH Session and prepare to transition over to the next trading session.

The Exchange also proposes to explicitly provide in Options 3C, Section 5(d) that orders would not be routable during the Early ETH Session opening process and that such orders would be required to be entered as DNR orders, consistent with the proposal to not allow routing during the remainder of the Early ETH Session. As such, an order during the Early ETH Session opening process may similarly be repriced pursuant to Options 3, Section 5(d) to comply with the Linkage Plan.

Proposed Options 3C, Section 6 will set forth the trading halt provisions for ETH. The trading halt provisions applicable to equity options and index options during RTH will generally apply to those options during ETH, except limit-up limit-down trading pauses and market-wide circuit breakers because those trading halts by their terms only apply during RTH. Accordingly, the Exchange proposes that for equity options, the Exchange will follow the trading halt and reopening halt procedures in Options 3, Sections 9(a)⁴³

⁴³ An Exchange official designated by the Board may halt trading in any stock option in the interests of a fair and orderly market. The following are among the factors that may be considered in determining whether the trading in a stock option should be halted: (i) trading in the underlying security has been halted or suspended in one or more of the markets trading the underlying security, (ii) the opening of such underlying security has been delayed because of unusual circumstances, (iii) other unusual conditions or circumstances are present. In addition, a designated Exchange official may halt trading (including a rotation) for a class or classes of options contracts whenever there is a halt of trading in an underlying security in one or more of the markets trading the underlying security. In such event, without the need for action by the Primary Market Maker, all trading in the effected class or classes of options may be halted. The Exchange shall disseminate through its trading facilities and over OPRA a symbol in respect of such class or classes of options indicating that

and (b),⁴⁴ for index options the Exchange will follow the trading halt and reopening procedures in Options 4A, Sections 11(c),⁴⁵ (d),⁴⁶ and (f).⁴⁷ The Exchange also proposes that notwithstanding the foregoing, the Exchange may also determine to manually halt or resume trading during

trading has been halted, and a record of the time and duration of the halt shall be made available to vendors. No Member or person associated with a Member shall effect a trade on the Exchange in any options class in which trading has been halted under the provisions of this Rule during the time in which the halt remains in effect. During a halt, the Exchange will maintain existing orders on the book (but not existing quotes prior to the halt), accept orders and quotes, and process cancels and modifications, except existing quotes are cancelled. During a halt, existing auction orders and auction responses, as well as Crossing Orders, are rejected. *See* Options 3, Section 9(a).

⁴⁴ Trading in a stock option that has been the subject of a halt under paragraph (a)(1) above may be resumed upon the determination by an Exchange official designated by the Board that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading. *See* Options 3, Section 9(b).

⁴⁵ Trading on the Exchange in any index option shall be halted or suspended whenever trading in underlying securities whose weighted value represents more than twenty percent (20%), in the case of a broad based index, and ten percent (10%) for all other indices, of the index value is halted or suspended. An Exchange official designated by the Board also may halt trading in an index option when, in his or her judgment, such action is appropriate in the interests of a fair and orderly market and to protect investors. Among the facts that may be considered are the following: (1) whether all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks in the underlying foreign currency market; (2) whether the current calculation of the index derived from the current market prices of the stocks is not available the current prices of the underlying foreign currency is not available; (3) the extent to which the rotation has been completed or other factors regarding the status of the rotation; and (4) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present, including, but not limited to, the activation of price limits on futures exchanges. *See* Options 4A, Section 11(c).

⁴⁶ Trading in options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if an Exchange official designated by the Board determines that the interests of a fair and orderly market are served by a resumption of trading. Among the factors to be considered in making this determination are whether the conditions that led to the halt or suspension are no longer present, and the extent to which trading is occurring in stocks or currencies underlying an index. Upon reopening, a rotation shall be held in each class of index options unless an Exchange official designated by the Board concludes that a different method of reopening is appropriate under the circumstances, including but not limited to, no rotation, an abbreviated rotation or any other variation in the manner of the rotation. *See* Options 4A, Section 11(d).

⁴⁷ With respect to foreign indexes, when the hours of trading of the underlying primary securities market for an index option do not overlap or coincide with those of the Exchange, all of the provisions as described in paragraphs (c), (d) and (e) of Options 4A, Section 11 shall not apply except for (c)(4). *See* Options 4A, Section 11(f).

the Early ETH Session at times other than prescribed under proposed Section 6 if it is determined to be in the interests of a fair and orderly market and to protect investors pursuant to Options 3, Section 9(a) for equity options and Options 4A, Section 11(c) for index options. Proposed Section 6(d) will provide that no Member will effect a trade in any option class in which trading has been halted under the provisions of this Rule during the time in which the halt remains in effect. The Exchange will nullify any transaction that occurs: (1) during a trading halt in the affected option on the Exchange; or (2) with respect to equity options, during a regulatory halt as declared by the primary listing market for the underlying security. This aligns with the Exchange's current halt process in Supplementary Material .01 to Options 3, Section 9.⁴⁸

Proposed Options 3C, Section 7 will set forth the provisions applicable to Market Makers during ETH. Proposed Section 7(a) will provide that the same Market Maker appointments will automatically apply across RTH and ETH. Accordingly, if an option class is designated by the Exchange as eligible for trading during ETH pursuant to proposed Section 3, the Market Maker appointed to that option class during RTH pursuant to Options 2, Section 3 would automatically receive the appointment in such option class during ETH. The Exchange also proposes to make clear in proposed Section 7(a) that Market Makers may not enter quotes during ETH if the Market Maker has not been appointed to such option class for RTH. Notwithstanding the foregoing, the Exchange may appoint different Primary Market Makers between RTH and ETH, except that Primary Market Makers appointed in the RTH will persist into the Extended Close. While Primary Market Maker appointments will automatically apply across RTH and ETH, the participation of Market Makers (including Primary Market Makers) is voluntary during the Early ETH Session. Accordingly, a Primary Market Maker appointed to an option class eligible for trading during ETH may opt out of participating in ETH, at which time the Exchange may declare a separate Primary Market Maker for ETH. Further, as discussed below, quotes entered during RTH will not be purged and Market Maker quotes will automatically persist into the Extended Close. As such, the Exchange is explicitly stating that Primary Market Maker RTH appointments will persist into the

Extended Close because there is no break between RTH and the Extended Close to reassign symbols.

Proposed Section 7(b) will provide that during any given Early ETH Session, a Market Maker is not required to enter quotations in the option class to which it is appointed. If, however, a Market Maker chooses to enter quotations in its assigned option class during the Early ETH Session, it will be subject to the continuous quoting obligations in Options 2, Section 5(e), which will apply across trading sessions and will be calculated pursuant to subparagraph (1) below. Given that participation in ETH trading is optional for all Members (including Market Makers) and Market Makers may not choose to participate in the Early ETH Session, the proposal ensures that quoting obligations only apply during the Early ETH Session in which the Market Maker participates. As discussed below for the Extended Close, the System will not purge quotes after 4:00 p.m. so Market Maker quotes will persist from RTH to the Extended Close.

Proposed subparagraph (1) of Section 7(b) will provide that if a Market Maker chooses to enter quotations in its assigned option class during the Early ETH Session, the Exchange will calculate the continuous quoting obligations in Options 2, Section 5(e)(1)–(3) by (i) taking the total number of seconds the Member disseminates quotes in each assigned options series, excluding, for Competitive Market Makers and Preferred CMMs, Quarterly Options Series, any Adjusted Options Series, and any option series with an expiration of nine months or greater for options on equities and ETFs or with an expiration of twelve months or greater for index options; and (ii) dividing that time by the eligible total number of seconds each assigned option series in the options class is open for trading across all trading sessions. Compliance with this requirement is determined by reviewing the aggregate of quoting in assigned options series for the Member across all trading sessions. The Exchange notes that this is substantially similar to how it calculates the continuous quoting obligations today and as set forth in Options 2, Section 5(e)(4), except the Exchange is making clear for ETH that if a Market Maker chooses to quote in ETH, their ETH quoting time is aggregated with their RTH quoting time (*i.e.*, across all trading sessions) for purposes of determining compliance. In other words, the Exchange is modifying the denominator in the calculation proposed in

subparagraph (1) to encompass all trading sessions.

Proposed subparagraph (2) of Section 7(b) will provide that a Market Maker that does not submit any quotes in their appointed option class during the Early ETH Session will not be subject to the continuous quoting obligations in Options 2, Section 5(e) for that class during the Early ETH Session. Notwithstanding the foregoing, nothing in proposed Options 3C, Section 7(b) relieves the Market Maker of its continuous quoting obligations during RTH.

Proposed subparagraph (3) of Section 7(b) will provide that during the Extended Close, quotes entered during RTH will not be purged. Today under Options 2, Section 5(e)(1) and (2), Market Makers are subject to continuous quoting obligations requiring them to provide two-sided quotations for a specified percentage of the cumulative number of seconds for which their assigned options class is open for trading (90% for Primary Market Makers and 60% for Competitive Market Makers). Primary Market Makers and Competitive Market Makers must also quote in 90% and 60%, respectively, of their assigned series, and this series-based requirement does not vary based on the trading sessions in which a Market Maker chooses to participate. Because the Exchange will not purge quotes at 4:00 p.m., Market Makers that have entered quotations in their assigned option class during RTH will continue to be subject to these continuous quoting obligations in Options 2, Section 5(e) through the Extended Close. For purposes of determining compliance with the continuous quoting obligation, a Market Maker's quoting activity will be measured in the aggregate across all trading sessions in which the Market Maker quotes. Specifically, the total number of seconds during which the Market Maker quotes across all such trading sessions (*i.e.*, the numerator) as set forth in proposed Section 7(b)(1)(i) will be divided by the eligible total number of seconds each assigned option series is open for trading across all such trading sessions (*i.e.*, the denominator) as set forth in proposed Section 7(b)(1)(ii). Accordingly, the denominator will expand to include the additional seconds available in the Extended Close, while the applicable percentage thresholds (90% for Primary Market Makers and 60% for Competitive Market Makers) and the Primary Market Maker and Competitive Market Maker series-based requirement remain unchanged.

⁴⁸ See also Cboe Rule 5.20(c) for similar provisions during their global trading hours.

The Exchange also proposes to make clear in proposed Section 7(c) that the enhanced Primary Market Maker priority in Options 3, Section 10(c)(1)(B),⁴⁹ Preferred Market Maker⁵⁰ priority in Options 3, Section 10(c)(1)(C),⁵¹ and entitlement for orders of 5 contracts or fewer in Options 3, Section 10(c)(1)(D)⁵² will apply during the Early ETH Session only if the Market Maker enters quotes during that trading session. The foregoing allocation methodologies provide enhanced participation entitlements for Market Makers during RTH today. Given that the Exchange will require Market Makers to meet the continuous quoting obligations during the Early ETH Session if Market Makers choose to participate during that trading session, the Exchange believes it is appropriate to apply these participation entitlements during the Early ETH Session as well (only to the extent the Market Maker quotes during that trading session). Further, given that the same continuous quoting obligations will extend into the Extended Close by virtue of Market Makers' quotes persisting through RTH to the Extended Close, the Exchange will apply the Market Maker participation entitlements in Options 3, Section 10(c)(1)(B)–(D) during the Extended Close. The Exchange believes that having the ability to apply the existing participation entitlements for RTH to ETH will appropriately incentivize Market Maker participation

in ETH to help provide market liquidity during such sessions. Additionally, the Exchange does not believe that applying the participation entitlements across trading sessions will result in a reduction in Market Maker quoting activity during RTH because liquidity and demand are expected to remain highest during RTH. As noted above, Market Makers would only receive an entitlement during a trading session if they are quoting at the best price (*i.e.*, at the better of the internal BBO or the NBBO at the time of execution).

Proposed Options 3C, Section 8 will provide that no Market Maker shall effect any transaction during ETH unless one or more effective letter(s) of guarantee has been issued by a Clearing Member⁵³ and filed with the Exchange accepting financial responsibility for all transactions made by the Market Maker pursuant to Options 6, Section 4.⁵⁴

Proposed Options 3C, Section 9 will require Members to make certain disclosures to customers regarding material trading risks that exist during Extended Trading Hours. The Exchange expects overall lower levels of trading during ETH compared to RTH. While trading processes during ETH will be substantially similar to trading processes during RTH (as discussed above), the Exchange believes it is important for investors, particularly public customers, to be aware of any differences and risks that may result from lower trading levels and thus will require these disclosures. Proposed Section 9(a) will provide that no Member may accept an order from a customer for execution during Extended Trading Hours without disclosing to that customer that trading during Extended Trading Hours involves material trading risks, including the possibility of lower liquidity, high volatility, changing prices, an exaggerated effect from news announcements, wider spreads, for index options the absence of an updated underlying index or portfolio value or intraday indicative value and lack of

regular trading in the securities underlying the index or portfolio, for equity options the absence of an underlying price or lack of regular trading in the underlying equity, and any other relevant risk. The proposed rule provides an example of these disclosures in paragraphs (1)–(6). The Exchange believes that requiring Members to disclose these risks to non-Member customers will facilitate informed participation in Extended Trading Hours.⁵⁵

Specifically regarding trading from 4:00 p.m. to 4:15 p.m. for equity options designated for the Extended Close, the Exchange recognizes that company announcements for the equities underlying options may be made after regular trading hours on the underlying exchange concludes, and it is possible that news significantly impacting the value of the underlying security may be released between 4:00 p.m. to 4:15 p.m. while trading in the option for such equity occurs during the Extended Close. The Exchange notes that if such announcement results in the halt of the underlying security for a period of time, trading in the option should also halt once the Exchange receives notification of the underlying halt. As is the case in RTH, the Exchange intends to halt trading upon receipt of regulatory halt indicators from the Securities Information Processors (“SIPs”). Additionally, the Exchange is proposing to adopt authority to declare manual halts in the interest of fair and orderly markets in proposed Options 3C, Section 6(c). In the event that the underlying equity continues to trade and its price moves significantly in either direction in response to company announcement or other news, the availability of an options market in extended trading hours provides investors with the opportunity to place an options trade to potentially hedge against an adverse move or execute an option strategy in response to the price movement on the underlying market. The Exchange also notes that announcements of the effectiveness of a corporate action made after 4:00 p.m. (that do not result in the halt of the underlying security to an option) are similar to the announcement of a corporate action that is made prior to 4:00 p.m. In both scenarios, if the corporate action results in an option contract adjustment, such contract adjustment would not be effective until

⁴⁹ The enhanced Primary Market Maker priority in Options 3, Section 10(c)(1)(B) provides that, after all Priority Customer orders have been fully executed, a Primary Market Maker quoting at the better of the internal best bid or offer (“BBO”) or the national best bid or offer (“NBBO”) is entitled to receive a guaranteed allocation of remaining interest, ranging from 30% to 60% depending on the number of other non-Priority Customer orders or Market Maker quotes at that price, or its Size Pro-Rata share, whichever is greater.

⁵⁰ An Electronic Access Member may designate a “Preferred Market Maker” on orders it enters into the System. A Preferred Market Maker may be the Primary Market Maker appointed to the options class or any Competitive Market Maker appointed to the options class. See Options 2, Section 10(a).

⁵¹ The Preferred Market Maker priority in Options 3, Section 10(c)(1)(C) provides that, after all Priority Customer orders have been fully executed, a Preferred Market Maker quoting at the better of the internal BBO or the NBBO is entitled to receive, with respect to a Preferred Order directed to it, the greater of 40% to 60% of remaining interest (depending on the number of other participants at that price), its Size Pro-Rata share, or, if also the Primary Market Maker, the entitlement for orders of 5 contracts or fewer in Options 3, Section 10(c)(1)(D).

⁵² The entitlement for 5 contracts or fewer in Options 3, Section 10(c)(1)(D) provides that a Primary Market Maker quoting at the better of the internal BBO or the NBBO is entitled to priority on incoming orders of 5 contracts or fewer, subject only to any Priority Customer or Preferred Market Maker interest with higher priority at that price.

⁵³ The term “Clearing Member” means a Member that is self-clearing or an Electronic Access Member that clears Exchange Transactions for other Members of the Exchange. See General 1, Section 1(a)(4).

⁵⁴ Options 6, Section 4 provides that no Market Maker shall make any transactions on the Exchange unless a Letter of Guarantee has been issued for such Member by a Clearing Member and filed with the Exchange, and unless such Letter of Guarantee has not been revoked pursuant to paragraph (c) of this Rule. A Letter of Guarantee shall provide that the issuing Clearing Member accepts financial responsibilities for all Exchange Transactions made by the guaranteed Member. As set forth in General 1, Section 1(a)(9), the term “Exchange Transaction” means a transaction executed on or through the facilities of the Exchange.

⁵⁵ See Cboe 9.20 for materially identical disclosure requirements during their global trading hours. Cboe also added materially identical disclosure requirements for equity options in SR-CBOE-2025-079. See *supra* note 13.

the next trading day.⁵⁶ The Options Clearing Corporation (“OCC”) makes contract adjustment determinations on a case-by-case basis⁵⁷ and such determinations are announced on the OCC website. Presumptions may be made by investors as to whether a contract adjustment will be made (and such presumptions may be correct or incorrect) or an investor may be unaware of the announcement of a corporate action or the announcement of a contract adjustment regardless of whether the announcement on the underlying security event is made before or after 4:00 p.m. Consequently, corporate action announcements made during the additional 15 minutes of trading during the Extended Close will generally have the same impact as corporate action that are announced as effective during RTH.

As discussed above, the differences in the Rules between the trading process during RTH and ETH are that certain order types and instructions like routing will not be available during ETH, no values for indexes underlying index options will be disseminated during ETH, and Members that accept orders from customers during ETH will be required to make certain disclosures to those customers. The differences described above are consistent with the Exchange’s goal to permit ETH trading for those Members that choose to do so without imposing additional burdens on those that do not. The Exchange also notes the following in connection with this goal:

- The Exchange will not require any Member to participate during ETH. Trading during ETH will be optional.
- The Exchange will minimize Members’ preparation efforts to the greatest extent possible by allowing Members to trade during ETH with the same ports and data feeds, that they use during RTH.

⁵⁶ Using capital gains distributions as an example, if the issuer of an ETF announces a capital gains distribution the afternoon before the ex-distribution date and the event will result in a contract adjustment to the options on such ETF (pursuant to the OCC Rules and By-Laws), it is likely that the contract adjustment will be announced the same day as the ETF capital gains distribution announcement, and the contract adjustment announcement will confirm the effective date of the contract adjustment as the next trading day. See, e.g. *OCC Information Memo #58077*. Although less frequent, corporate action announcements for an equity option can occur in a similar manner, with the initial announcement of a corporate action made late on the day prior to the effective date of the corporate action (and resulting contract adjustment to the option, if applicable).

⁵⁷ See *OCC Information Memo #54262*, which describes OCC’s dividend adjustment policy and reminds investors all adjustment decisions are made on a case-by-case basis by OCC.

- The same opening process (with the small change discussed above to move the RTH opening process time from 9:25 a.m. to 9:26 a.m.) will be used to open each trading session.

- Order processing will operate in the same manner during ETH as it does for RTH. There will be no changes to the ranking, display, or allocation algorithm rules.

- There will be no insurmountable operational challenges to make the required changes to the processes for clearing, settlement, exercise, and expiration.⁵⁸

- The Exchange will report the Exchange best bid and offer and executed trades to the Options Price Reporting Authority (“OPRA”) during ETH in the same manner they are reporting during RTH. Exchange proprietary data feeds will also be disseminated during ETH using the same formats and delivery mechanisms with which the Exchange disseminates during RTH. Use of these proprietary data feeds will be optional (as they are during RTH).⁵⁹

- The Exchange will perform all necessary surveillance coverage during ETH.

- The Exchange will process all obvious error breaks during ETH in the same manner as it does during RTH and will have personnel available to do so.

- The Exchange will disseminate last sale and quotation information during ETH through OPRA pursuant to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (“OPRA Plan”), as it does during RTH.⁶⁰

- The Exchange currently offers a variety of auction mechanisms that provide price improvement

⁵⁸ The Exchange has held discussions with OCC, which is responsible for clearing and settlement of all listed options transactions and OCC has informed the Exchange that it will be able to clear and settle all transactions that occur on the Exchange and handle exercises of options during ETH. It is the Exchange’s understanding that OCC will file a rule change to support the extension of trading hours for equity options. The Exchange will delay the launch of equity options trading in ETH until approval of OCC’s rule filing permitting clearance and settlement of equity options transactions ETH.

⁵⁹ The Exchange has confirmed with OPRA that OPRA is ready to handle the reporting of both multiply listed equity options and the Exchange’s proprietary index options.

⁶⁰ The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are trading on the participant exchanges. The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. See Securities Exchange Act Release No. 17638 (March 18, 1981). The full text of the OPRA Plan is available at www.opraplan.com. All operating U.S. options exchanges participate in the OPRA Plan.

opportunities for eligible orders. Particularly, the following auction mechanisms offered by the Exchange may be used during ETH: Block Order Mechanism,⁶¹ Facilitation Mechanism,⁶² Solicited Order Mechanism,⁶³ and Price Improvement Mechanism.⁶⁴ Each auction mechanism will function in the same manner during ETH as it does during RTH.

- The Exchange has various price protection mechanisms and risk controls available to market participants pursuant to Options 3, Section 15 (Simple Order Risk Protections), Section 16 (Complex Order Risk Protections), Section 17 (Kill Switch), and Section 28 (Optional Risk Protections). These will apply in the same manner during ETH as they do during RTH.

- Market Maker obligations in Options 2, Section 4 and quoting requirements in Options 2, Section 5 apply to Market Makers in ETH; provided that the continuous quoting requirements in Options 2, Section 5(e) would only apply to Market Makers in the Early ETH Session if they choose to quote during that trading session, as discussed in detail above.

- ETH will utilize existing criteria for listing option series for an option class. For example, Monday and Wednesday expirations found in RTH will be applicable to equity options in ETH.

The Exchange understands that systems and other issues may arise and is committed to resolving those issues as quickly as possible, including during ETH. Thus, the Exchange will have appropriate staff available as necessary during ETH to handle any technical and support issues that may arise during those hours. Additionally, the Exchange will have personnel available to address any trading issues that may arise during ETH. The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during ETH, and will have appropriately trained, qualified regulatory staff in place during ETH to the extent it deems necessary to satisfy those obligations. The Exchange believes its surveillance procedures are adequate to properly monitor trading of eligible equity and index options during ETH.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

⁶¹ See Options 3, Section 11(a).

⁶² See Options 3, Section 11(b) (for simple orders) and 11(c) (for complex orders).

⁶³ See Options 3, Section 11(d) (for simple orders) and 11(e) (for complex orders).

⁶⁴ See Options 3, Section 13(a)–(d) (for simple orders) and 13(e) (for complex orders).

of the Act,⁶⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁶⁶ 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.

In particular, the proposed rule change to adopt Extended Trading Hours will remove impediments to and perfect the mechanism of a free and open market and a national market system. Extended Trading Hours is a competitive initiative designed to improve the Exchange's marketplace for the benefit of investors. The proposed rule change provides a new investment opportunity within the options trading industry that more closely aligns the Exchange's trading hours with extended trading hours of stock exchanges and other options exchanges.⁶⁷ The Exchange believes that the proposed rule change will enhance competition by providing a service to investors that most other options exchanges are currently not providing. The Exchange believes the competition among exchanges ultimately benefits the entire marketplace. Given the robust competition among options exchanges, innovative trading mechanisms are consistent with the above-mentioned goals of the Act.

The proposed rule change also provides a mechanism for the Exchange to more effectively compete with exchanges located outside the United States. Global markets have become increasingly interdependent and linked, both psychologically and through improved communications technology. This has been accompanied by an increased desire among investors to have access to U.S.-listed exchange products outside of Regular Trading Hours, and the Exchange believes this desire extends to index and equity options. The Exchange believes that its proposal is reasonably designed to provide an appropriate mechanism for trading outside RTH while providing for appropriate Exchange oversight and surveillance pursuant to the Act.

As noted above, the Commission has authorized stock exchanges and a small number of options exchanges to be open for trading outside of RTH pursuant to the Act.⁶⁸ Thus, the proposed rule change to adopt ETH is not novel or unique. As the proposed rule change is a new Exchange initiative, the Exchange

believes it is reasonable to trade a limited number of index and equity option classes for which demand is anticipated to be the highest during ETH upon implementation of ETH trading in those options.

The vast majority of the Exchange's rules applicable to options, including, without limitation, trading rules, listing rules, and business conduct rules, will apply during ETH in the same manner as during RTH (other than as specified above). These rules have all been previously filed with the Commission and established as being consistent with the goals of the Act. Examples of rules that will apply equally during ETH include rules that protect public customers, impose best execution requirements on Members, and prohibit acts and practices that are inconsistent with just and equitable principles of trade as well as fraudulent and manipulative practices. The proposed rule change also provides opportunities for price improvement during ETH and applies the same allocation and priority rules that are available on the Exchange during RTH. The Exchange therefore believes that the rules that will apply during ETH will continue to promote just and equitable principles of trade and prevent fraudulent and manipulative acts.

The proposed rule change clearly identifies the ways in which trading during ETH will differ from trading during RTH (such as identifying order types and instructions that will not be available during ETH) in new Options 3C. This ensures that investors would be aware of any differences among trading sessions. The Exchange believes that the differences are consistent with the expected differences in liquidity, participation, and trading activity between RTH and ETH. Additionally, to further protect investors from any additional risks related to trading during ETH, the proposed rule change requires that disclosures be made to customers describing these potential risks. Consistent with the goals of investor protection, the Exchange will not allow Market Orders and Stop Orders during the Early ETH Session due to the expected increased volatility and decreased liquidity during those hours.

Additionally, the Exchange believes that the proposed rule change will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, as the Exchange will ensure that adequate staffing is available during ETH to provide appropriate trading support during those hours, as well as Exchange personnel to make any

necessary determinations under the rules during ETH (such as trading halts and trade nullification for obvious errors). The Exchange is also committed to fulfilling its obligations as a self-regulatory organization at all times, including during ETH. The Exchange believes its surveillance procedures are adequate to properly monitor trading in eligible index and equity options during ETH. Clearing and settlement processes will be the same for ETH as they are for RTH transactions.

The proposed rule change further removes impediments to a free and open market and does not unfairly discriminate among market participants, as all Members with access to the Exchange may trade during ETH using the same ports and data feeds they use during RTH, minimizing any preparation efforts necessary to participate during ETH. Members will not be required to trade during ETH.

The Exchange believes that the proposed rule change to apply the Market Maker RTH participation entitlements in Options 3, Section 10(c)(1)(B)–(D) to ETH in the manner described above as well as measuring compliance with the continuous quoting obligations across trading sessions in which the Market Maker quotes will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. As discussed above, Market Makers will be subject to the same continuous quoting obligations in Options 2, Section 5(e) during the Early ETH Session with respect to their option class appointments as they are during RTH, provided that these obligations would only be triggered during the Early ETH Session if the Market Maker chooses to enter quotes during that trading session. Further, Market Makers that have entered quotations in their assigned option class during RTH will continue to be subject to the continuous quoting obligations in Options 2, Section 5(e) through the Extended Close because quotes will persist through the Extended Close. In such cases, the Market Maker's quoting activity would be aggregated for all trading sessions in which the Market Maker quotes to determine whether the Market Maker met its continuous quoting obligations. The Exchange believes that these provisions reflect different liquidity and participation dynamics of the Early ETH Session and RTH. The Exchange expects lower levels of trading during the Early ETH Session compared to RTH, which could result in potentially lower liquidity (including

⁶⁵ 15 U.S.C. 78f(b).

⁶⁶ 15 U.S.C. 78f(b)(5).

⁶⁷ See *supra* note 13.

⁶⁸ See *supra* note 13.

fewer Market Makers quoting), higher volatility, and wider spreads. Accordingly, the Exchange is structuring Member (including Market Maker) participation in the Early ETH Session as voluntary to provide them with the choice to engage in that market. If the Exchange required Market Makers to meet continuous quoting obligations during the Early ETH Session even though a Market Maker chose not to participate in that session, the Market Maker could be penalized for choosing not to quote during the Early ETH Session while nonetheless meeting their continuous quoting obligations during RTH. The Exchange believes that the proposed trading session-based calculation promotes clarity and would encourage Market Maker participation in the Early ETH Session without inadvertently penalizing them if they choose not to participate in the Early ETH Session for that day. The Exchange further believes that its proposal to impose continuous quoting obligations during the Extended Close is consistent with the Act because it ensures that investors will have access to continuous, two-sided liquidity throughout the entirety of a trading period that is, by design, a seamless extension of RTH, not a separate, discretionary session. Because quotes are not purged at the end of RTH and instead remain active through the Extended Close, Market Makers are already functionally providing liquidity during that period. Imposing a corresponding obligation ensures that the regulatory framework reflects the operational reality. Further, the Exchange believes that applying the Market Maker participation entitlements in the manner discussed above may help incentivize Market Maker participation in ETH, balanced with the continuous quoting obligations that will apply during those trading sessions in the manner discussed above.

The proposed rule change is also consistent with Section 11A of the Act and Regulation NMS thereunder, because OPRA is ready for the dissemination of transaction and quotation information during ETH through OPRA, pursuant to the OPRA Plan, which the Commission approved and indicated as consistent with the Act.⁶⁹ The Exchange will also comply with the Linkage Plan for all eligible option classes that list and trade on

another U.S. options exchange outside of RTH.⁷⁰

The proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because, as noted above, other options exchanges currently offer trading in certain index options outside of RTH.⁷¹ The Exchange believes that the proposed rule change will also help further competition by providing market participants with yet another investment option.

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 does not believe that the proposed rule change will impose an undue burden on intra-market competition because all Members will be able, but not required, to participate during Extended Trading Hours. Participation in ETH will be voluntary and within the discretion of Members. As discussed above, the Exchange is proposing to impose the same percentage requirements with respect to the continuous quoting obligations for Market Makers, but would impose these obligations during the Early ETH Session if the Market Maker chooses to enter quotes during that session. The Exchange would then calculate these obligations together for the Early ETH Session and the Extended RTH Session. The Exchange believes this is appropriate given that a Market Maker's continuous quoting obligations would be triggered in the Early ETH Session if they decided to begin quoting in their appointed option class. The Exchange believes that its proposal promotes clarity and would encourage Market Maker participation during the Early ETH Session without inadvertently penalizing them if they choose not to participate in the Early ETH Session for that day.

The Exchange does not believe the proposed rule change to adopt Extended Trading Hours will impose an undue burden on inter-market competition because the proposed rule change is a competitive initiative that will benefit the marketplace and investors. The Exchange believes that the proposed rule change enhances competition by providing a service to investors that only a small number of options exchanges currently provide.⁷²

Additionally, all options exchanges are free to compete in the same manner. The Exchange further believes that the same level of competition among options exchanges will continue during Regular Trading Hours. The Exchange also believes that the proposed rule change could increase its competitive position outside of the United States by providing investors with an additional investment vehicle with respect to their global trading strategies during times that correspond with parts of regular trading hours outside of the United States.

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.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified and superseded by Amendment No. 1 ("Amended Proposal"), is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷³ In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(1) of the Act,⁷⁴ which requires, among other things, that the Exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, Commission rules and regulations thereunder, and its own rules; Section 6(b)(5) of the Act,⁷⁵ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and Section

⁶⁹ The Exchange will comply with the OPRA technical specifications and requirements applicable to the dissemination of information during ETH.

⁷⁰ See *supra* note 40.

⁷¹ See *supra* note 13.

⁷² See *supra* note 13.

⁷³ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁷⁴ 15 U.S.C. 78f(b)(1).

⁷⁵ 15 U.S.C. 78f(b)(5).

6(b)(8) of the Act,⁷⁶ which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Amended Proposal largely harmonizes with what is already permitted by another exchange with respect to extended session option trading.⁷⁷ In this vein, Proposed Options 3C sets forth, among other things: (i) an early morning session that would occur from 7:30 a.m. ET to 9:25 a.m. ET and a late afternoon session that would occur from 4:00 p.m. to 4:15 p.m. ET, which timeframes are significantly shorter than the trading sessions for equity securities available on many equity exchanges;⁷⁸ (ii) eligibility criteria for determining the multi-listed equity option classes that would be available for trading during the proposed extended trading sessions that only highly liquid classes could meet;⁷⁹ (iii) a 100-class cap on the number of eligible equity option classes that would be available for extended-session trading with the exception that, if another exchange offers extended trading of an equity option class that the Exchange has not offered, the Exchange could add that class without it counting against the 100-class cap;⁸⁰ (iv) a detailed review procedure to determine the equity option classes eligible for inclusion in or removal from the proposed extended trading sessions;⁸¹

(v) a designation of proprietary index options traded on the Exchange—namely, NDX, NDXP, and XND—as eligible to trade during the proposed extended trading sessions;⁸² (vi) provisions related to the availability of order types and times-in-force, including that market orders and stop orders will not be permitted during the proposed extended sessions;⁸³ (vii) a modified opening process in light of the proposed early morning session;⁸⁴ (viii) provisions related to trading halts;⁸⁵ (ix) provisions regarding certain market maker appointments across RTH and the proposed extended sessions, including the application of priority overlays;⁸⁶ (x) a provision regarding letters of guarantee to authorize trading during the proposed extended sessions;⁸⁷ and (xi) disclosures of the risks of extended session option trading.⁸⁸

These aspects of the Amended Proposal do not raise novel regulatory issues that the Commission has not considered previously,⁸⁹ and are consistent with the Act. Equity

securities are exchange-traded outside of RTH but investors currently are unable to engage in exchange trading outside of RTH to utilize equity option trading strategies, including to hedge equity positions and mitigate downside risk in those positions. Moreover, investors currently are unable to engage in Exchange trading outside of RTH that utilizes the Exchange's index option products. By extending the availability of Exchange trading of its index option products and qualifying equity options, the Amended Proposal is reasonably designed to expand access to options as a tool for risk mitigation and help investors hedge equity positions against price movements. Further, by largely replicating another exchange's approach to permitting extended session option trading, the Amended Proposal is designed to perfect the mechanism of a free and open market and national market system and enhance competition among options exchanges offering such extended session option trading, to the benefit of investors.

Other, discreet aspects of the Amended Proposal that depart from what is already provided in other exchange rules are consistent with the Act.⁹⁰ The Exchange has proposed its own terminology for classifying its extended trading sessions,⁹¹ and would provide members with flexibility to specify the trading sessions during which their option orders may trade, including the ability to exclude the proposed Extended Close session if that is desired.⁹² The Exchange has proposed not to route orders during the proposed extended sessions,⁹³ and would handle orders it receives during these sessions in a manner designed to comply with the Linkage Plan.⁹⁴ The Exchange also has proposed not to permit certain complex orders during its proposed early morning session because information regarding the underlying stock that the Exchange requires for these types of orders would not be available, and to eliminate certain times-in-force modifiers to avoid operational complexity.⁹⁵ These aspects

⁷⁶ 15 U.S.C. 78f(b)(8).

⁷⁷ See, e.g., Cboe Rule 5.1; Securities Exchange Act Release Nos. 105153 (Apr. 6, 2026), 91 FR 18010 (Apr. 9, 2026) (Notice of Amendment No. 1 to SR-CBOE-2025-079) and 105569 (May 28, 2026), 91 FR 33005 (Jun. 2, 2026) (Order approving SR-CBOE-2025-079 as modified by Amendment No. 1) ("Cboe Extended Trading Order" and, collectively with the Notice of Amendment No. 1 to SR-CBOE-2025-079, "Cboe Extended Trading Notice and Order"); Section III, note 13, *supra*; Letters from Katie Kolchin, Managing Director, Head of Equity & Options Market Structure, and Gerald O'Hara, Vice President and Assistant General Counsel, The Securities Industry and Financial Markets Association, dated April 24, 2026 ("SIFMA April Letter") and May 15, 2026 ("SIFMA May Letter") (urging harmonization across options exchanges in regulatory approaches to expanding trading hours). The SIFMA April Letter and SIFMA May Letter were submitted in response to SR-CBOE-2025-079 and are available on the Commission's website at: <https://www.sec.gov/rules-regulations/public-comments/sr-cboe-2025-079>.

⁷⁸ See proposed Options 3C, Section 2; Section III, note 13, *supra*; Cboe Rule 5.1(b) and (c); Cboe Extended Trading Notice and Order.

⁷⁹ See proposed Options 3C, Section 3(a)(1)(A)–(B); Section III, *supra*; Cboe Rule 5.1(c)(2); Cboe Extended Trading Notice and Order.

⁸⁰ See proposed Options 3C, Section 3(a)(1); Section III, *supra*; Cboe Rule 5.1(c)(2); Cboe Extended Trading Notice and Order.

⁸¹ See proposed Options 3C, Section 3(a)(2)–(4); Section III, *supra*; Cboe Rule 5.1(c)(2)(A)–(C); Cboe Extended Trading Notice and Order.

⁸² See proposed Options 3C, Section 3(b); Section III, *supra*. These proprietary index options are not multi-listed but the Amended Proposal's approach to trading them during the proposed extended sessions nevertheless is narrower than what is permitted by another exchange, as that exchange permits trading of its proprietary index options outside of regular trading hours during timeframes that are more expansive than the extended sessions proposed here. See Cboe Rule 5.1; see also Section III, note 13, *supra*. The additional components of proposed Options 3C, Section 3(b)—which provide that certain binary index options are eligible for extended session trading and that the Exchange will not report an index value during the proposed extended sessions—also track another exchange's rules. See proposed Options 3C, Section 3(b); see also Cboe Rule 5.1(c)(1), (c)(4).

⁸³ See proposed Options 3C, Section 4; Section III, *supra*; Cboe Rule 5.6; Cboe Extended Trading Notice and Order.

⁸⁴ See proposed Options 3C, Section 5; Section III, *supra*; Cboe Rule 5.31(d); Cboe Extended Trading Notice and Order.

⁸⁵ See proposed Options 3C, Section 6; Section III, *supra*; Cboe Rule 5.20; Cboe Extended Trading Notice and Order.

⁸⁶ See proposed Options 3C, Section 7; Section III, *supra*; Cboe Extended Trading Notice/Order; Securities Exchange Act Release No. 105763 (Jun. 24, 2026) (Order approving SR-CBOE-2026-016) ("Cboe DPM Order").

⁸⁷ See proposed Options 3C, Section 8; Section III, *supra*; Cboe Extended Trading Notice and Order.

⁸⁸ See proposed Options 3C, Section 9; Section III, *supra*; Cboe Rule 9.20; Cboe Extended Trading Notice and Order. The Amended Proposal also provides that existing options rules and functionalities of the Exchange will apply to extended session option trading on the Exchange unless the context requires otherwise, and the Exchange sets forth various disclosures that, according to the Exchange, are designed to permit extended session trading for members that choose to participate in such trading without imposing additional burdens on those that do not. See proposed Options 3C, Section 1(a); Section III, *supra*; see also Cboe Extended Trading Notice and Order.

⁸⁹ See Cboe Extended Trading Order.

⁹⁰ See, e.g., SIFMA April Letter (pointing out differences between SR-Cboe-2025-079 and the Initial Filing here).

⁹¹ See proposed Options 3C, Section 1(b)–(c); compare Cboe Rule 5.1(c)–(d) and Cboe Extended Trading Notice and Order.

⁹² See proposed Options 3C, Section 4(b); Section III, *supra*.

⁹³ See proposed Options 3C, Section 4(d); compare Cboe Rule 5.36 and Cboe Extended Trading Notice and Order.

⁹⁴ See Section III, *supra*.

⁹⁵ See proposed Options 3, Section 7, Supp. .02; proposed Options 3C, Section 4(c); Section III,

of the Amended Proposal are consistent with the functioning of fair and orderly markets, the perfection of the mechanism of a free and open market and a national market system, and the protection of investors and the public interest.

With respect to the collection and dissemination of quotation and transaction information during the proposed extended sessions, the Exchange states that it will report its best bid and offer and executed trades during these sessions in the same manner as they are reported during RTH, and will disseminate last sale and quotation information during these sessions through OPRA pursuant to the OPRA plan, as it does during RTH.⁹⁶ Additionally, the Exchange has confirmed that OPRA is prepared to handle the reporting of both multiply listed equity options and the Exchange's proprietary index options.⁹⁷

Further, the Exchange states that there will be no insurmountable operational challenges to making required changes to the processes for clearing, settlement, exercise and expiration.⁹⁸ Moreover, the Exchange states that the OCC will be able to clear and settle all transactions that occur on the Exchange and handle exercises of options during the proposed extended trading sessions.⁹⁹ The Exchange also acknowledges that the OCC must file a proposed rule change with the Commission to support the extension of trading hours for equity options, and the Exchange represents that it will not launch extended session equity option trading until Commission approval of OCC's rule filing.¹⁰⁰

As the Commission stated previously, the Exchange's timing for the commencement of its proposed extended trading sessions must be consistent with Sections 6(b)(1), 6(b)(5), and 6(b)(8) of the Act.¹⁰¹ Here, as there, these requirements have been met in light of (i) OPRA's readiness to collect and disseminate quotation and transaction information for any exchange during the proposed extended

trading sessions, (ii) the Exchange's commitment not to launch equity option trading during the proposed extended trading sessions until approval of the proposed rule change that the OCC must file with the Commission, and (iii) the fact that Exchange members should have reasonable time and opportunity to prepare for the proposed extended trading sessions, including during the statutory timeframe that applies to the proposed rule change that the OCC must file with the Commission.¹⁰² Moreover, that no exchange may trade equity options during the proposed extended trading sessions until the OCC's related proposed rule change has been completed should provide for a harmonized point in time at which exchanges may implement the proposed extended sessions for equity option trading, pursuant to rules approved by the Commission or that otherwise become effective pursuant to Section 19(b), if they so choose.¹⁰³

For the foregoing reasons, the Commission finds that the Amended Proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-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-MRX-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-MRX-2026-11 and should be submitted by July 22, 2026.

VI. Accelerated Approval of the Proposed Rule Change, as Modified and Superseded by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified and superseded by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 further harmonizes the Initial Filing with what is already permitted by another exchange with respect to extended session equity option trading, as well as narrows the Initial Filing, such as with respect to the non-availability of certain types of complex orders during the proposed extended sessions. Amendment No. 1, without altering the purpose of the Initial Filing, strengthens the Initial Filing by providing additional clarity and a more harmonized approach to extended session equity option trading.

The Commission therefore finds that Amendment No. 1 does not raise any novel regulatory issues substantially different from those that had been previously subject to comment and is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁰⁴ to approve the proposed rule change, as modified and superseded by Amendment No. 1, on an accelerated basis prior to the 30th day after publication of notice of the filing of Amendment No. 1 in the **Federal Register**.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁰⁵ that the proposed rule change (SR-MRX-2026-11), as modified and superseded by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

supra; compare Cboe Extended Trading Notice and Order.

⁹⁶ See Section III, *supra*.

⁹⁷ *Id.* at note 59. See also Memorandum from the Division of Trading and Markets Regarding a March 4, 2026, Conference Call with Representatives of the Options Price Reporting Authority and the Securities Industry Automation Corporation, dated March 4, 2026 (stating that OPRA is able to support the proposed extended trading sessions for all exchanges, following a 30-day notice period to OPRA subscribers), available on the Commission's website at: <https://www.sec.gov/rules-regulations/public-comments/sr-cboe-2025-079>.

⁹⁸ See Section III, *supra*.

⁹⁹ See Section III, note 58, *supra*.

¹⁰⁰ *Id.*

¹⁰¹ See Cboe Extended Trading Order.

¹⁰² See Section III, note 58, *supra*; see also Section 19(b) of the Act; 15 U.S.C. 78s(b).

¹⁰³ See SIFMA May Letter (urging harmonization of the initial launch of extended trading of equity options); Section 19(b) of the Act; 15 U.S.C. 78s(b).

¹⁰⁴ 15 U.S.C. 78s(b)(2).

¹⁰⁵ *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-13225 Filed 6-30-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105784; File No. SR-CBOE-2026-056]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Its Fees Schedule in Connection With the Exchange's Plans To List and Trade Binary Options That Overlie the Mini-S&P 500 Index

June 26, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 15, 2026, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to update its Fees Schedule in connection with the Exchange's plans to list and trade binary options that overlie the Mini-S&P 500 Index ("XSP binary options"); specifically, the Exchange proposes to adopt certain standard transaction fees in connection with XSP binary options and exclude XSP binary options from certain fees programs. 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/options/regulation/rule_filings/cone/), 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 update its Fees Schedule in connection with its plan to list and trade XSP binary options, effective June 15, 2026.

First, the Exchange proposes to adopt certain standard transaction fees in connection with XSP binary options ("XSPBX"), as follows:³

- Adopts fee code D1, appended to all Customer (capacity "C") orders in

³ Under the proposed changes, Footnotes 1, 3, 4, 7, 13, 15, and 24 (as proposed herein), set forth in the Exchange Fees Schedule will apply to Binary Options. As part of the proposed changes, the Exchange proposes to append these footnotes to the proposed Rates Table for Binary Options. Footnote 1 provides that the standard transaction rates set forth in the proposed Rates Table apply per contract side, including FLEX; Footnote 3 provides that Trading Permit Holder transaction fee policies and rebate programs are described in the Trading Permit Holder Transaction Fee Policies and Rebate Programs table; Footnote 4 provides that transaction fees are charged to the Cboe Options executing firm on the input record; Footnote 7 provides that all fees and rebates assessed prior to the three full calendar months before the month in which the Exchange becomes aware of a billing error shall be considered final, and that any dispute concerning fees or rebates billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation; Footnote 13 provides that transaction fees for Market-Makers and other specified participants are capped at \$0.00 for merger, short stock interest, reversal, conversion, and jelly roll strategies executed in open outcry on the same trading day in the same option class across equities, ETFs, and ETNs, with each strategy type specifically defined, though strategies tied to QCC orders are ineligible for a strategy rebate and those defined in the footnote are ineligible for an ORS/CORS subsidy; and Footnote 15 provides that under Exchange Rule 5.26, when exclusively listed options are traded at a Back-up Exchange, that exchange will apply Cboe Options' per contract fees, while any other Cboe Options listed options traded there will be subject to the Back-up Exchange's fee schedule; conversely, when a Disabled Exchange's exclusively listed options are traded at Cboe Options, Cboe Options will apply the Disabled Exchange's per contract fees, while any other options classes of the Disabled Exchange traded at Cboe Options will be subject to Cboe Options' fee schedule.

XSPBX with a premium price less than \$0.04 or greater than \$0.96 and assesses a fee of \$0.04 per contract;

- Adopts fee code D2, appended to all Customer (capacity "C") orders in XSPBX with a premium price of \$0.04 to \$0.09 or \$0.91 to \$0.96 and assesses a fee of \$0.08 per contract;

- Adopts fee code D3, appended to all Customer (capacity "C") orders in XSPBX with a premium price of \$0.10 to \$0.24 or \$0.76 to \$0.90 and assesses a fee of \$0.20 per contract;

- Adopts fee code D4, appended to all Customer (capacity "C") orders in XSPBX with a premium price of \$0.25 to \$0.75 and assesses a fee of \$0.30 per contract;

- Adopts fee code N1, appended to all Clearing Trading Permit Holder ("TPH") (capacity "F"), Non-Clearing TPH Affiliates (capacity "L"),⁴ Broker-Dealer (capacity "B"), Joint Back-Office (capacity "J"), Non-TPH Market-Maker (capacity "N"), and Professional (capacity "U")⁵ (collectively, "Non-Customer, Non-Market-Maker") orders in XSPBX with a premium price less than \$0.04 or greater than \$0.96 and assesses a fee of \$0.10 per contract;

- Adopts fee code N2, appended to all Non-Customer, Non-Market Maker orders in XSPBX with a premium price of \$0.04 to \$0.09 or \$0.91 to \$0.96 and assesses a fee of \$0.15 per contract;

- Adopts fee code N3, appended to all Non-Customer, Non-Market Maker orders in XSPBX with a premium price of \$0.10 to \$0.24 or \$0.76 to \$0.90 and assesses a fee of \$0.25 per contract;

- Adopts fee code N4, appended to all Non-Customer, Non-Market Maker orders in XSPBX with a premium price of \$0.25 to \$0.75 and assesses a fee of \$0.35 per contract;

- Adopts fee code H1, appended to all electronic Market-Maker (capacity "M") orders in XSPBX taking liquidity, with a premium price less than \$0.04 or greater than \$0.96 and assesses a fee of \$0.10 per contract;

⁴ As part of the proposed changes, the Exchange propose to append Footnotes 12 and 16 to the Clearing TPH Proprietary capacity set forth in the proposed Rate Table for Binary Options. Footnote 12 provides for certain pricing changes that will apply if the Cboe Options trading floor becomes inoperable and the Exchange operates in a screen-based only environment during Regular Trading Hours, while Footnote 16 provides that Broker-Dealer transaction fees apply to broker-dealer orders (orders with "B" capacity code), non-Trading Permit Holder market-maker orders (orders with "N" capacity code) and certain orders with "F" or "L" capacity codes (*i.e.*, orders from OCC numbers that are not from Cboe Options Trading Permit Holders or are not registered with the Exchange).

⁵ As part of the proposed changes, the Exchange propose to append Footnote 16 to the Broker-Dealer and Non-TPH Market Maker capacities set forth in the proposed Rate Table for Binary Options.

¹⁰⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

- Adopts fee code H2, appended to all electronic Market-Maker (capacity “M”) orders in XSPBX taking liquidity, with a premium price of \$0.04 to \$0.09 or \$0.91 to \$0.96 and assesses a fee of \$0.15 per contract;
- Adopts fee code H3, appended to all electronic Market-Maker (capacity “M”) orders in XSPBX taking liquidity, with a premium price of \$0.10 to \$0.24 or \$0.76 to \$0.90 and assesses a fee of \$0.25 per contract;
- Adopts fee code H4, appended to all electronic Market-Maker (capacity “M”) orders in XSPBX taking liquidity, with a premium price of \$0.25 to \$0.75 and assesses a fee of \$0.35 per contract;
- Adopts fee code HA, appended to all electronic Market-Maker (capacity “M”) orders in XSPBX adding liquidity, and assesses a fee of \$0.05 per contract; and
- Adopts fee code HM, appended to all manual Market-Maker (capacity “M”) orders in XSPBX and assesses a fee of \$0.15 per contract.

The Exchange also proposes to adopt and append to fee tables as applicable and needed proposed Footnote 24 (currently marked as Reserved), which provides that XSPBX options are excluded from the following programs: Liquidity Provider Sliding Scale, Liquidity Provider Sliding Scale Adjustment Table, Volume Incentive Program, Break-Up Credits, Affiliate Volume Plan, Marketing Fee, Clearing Trading Permit Holder Fee Cap, Customer Large Trade Discount, Floor Broker Sliding Scale Rebate Program, Floor Broker Sliding Scale Supplemental Rebate Program, Order Router Subsidy Program, and Complex Order Router Subsidy Program.

First, the Exchange proposes to exclude XSPBX options from the Liquidity Provider Sliding Scale, which offers credits on Market-Maker orders where a Market-Maker achieves certain volume thresholds based on total national Market-Maker volume in all underlying symbols, excluding Underlying Symbol List A, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, and FLEX Micros during the calendar month. Specifically, the proposed rule change updates the Liquidity Provider Sliding Scale table to provide that volume thresholds are based on total national Market-Maker volume in all underlying symbols excluding Underlying Symbol List A, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros during the calendar month, and that it applies in all underlying symbols excluding Underlying Symbol List A, DJX, CBTX, MBTX, MGTN, MRUT, NANOS,

SPEQX, SPESG, XSP, XSPBX, and FLEX Micros. The proposed rule change also updates Footnote 10 (appended to the Liquidity Provider Sliding Scale) to provide that the Liquidity Provider Sliding Scale applies to Liquidity Provider (Exchange Market-Maker, DPM and LMM) transaction fees in all products except (1) Underlying Symbol List A, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros, (2) volume executed in open outcry, and (3) volume executed via AIM Responses.

The proposed rule change also updates Footnote 44 (appended to the Liquidity Provider Sliding Scale Adjustment Table) to exclude XSPBX volume from the program by providing (in relevant part) that the Make Rate under the Liquidity Provider Sliding Scale Adjustment Table be derived from a Liquidity Provider’s electronic volume the previous month in all symbols excluding Underlying Symbol List A, DJX, CBTX, MBTX, MGTN, SPEQX, SPESG, XSPBX, and XSP.

The proposed rule change updates the Volume Incentive Program (“VIP”) table to exclude XSPBX volume from the VIP, which currently offers a per contract credit for certain percentage threshold levels of monthly Customer volume in all underlying symbols, excluding Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, and FLEX Micros. The proposed rule change also amends Footnote 36 (appended to the VIP table) to reflect the proposed exclusion of XSPBX from the VIP by providing (in relevant part) that: the Exchange shall credit each TPH the per contract amount resulting from each public customer (“C” capacity code) order transmitted by that TPH which is executed electronically on the Exchange in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros, QCC trades, public customer to public customer electronic complex order executions, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 5.67, provided the TPH meets certain percentage thresholds in a month as described in the Volume Incentive Program (VIP) table; the percentage thresholds are calculated based on the percentage of national customer volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP,

XSPBX, and FLEX Micros entered and executed over the course of the month; and in the event of a Cboe Options System outage or other interruption of electronic trading on Cboe Options, the Exchange will adjust the national customer volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros for the entire trading day. The Exchange also proposes to update the related Affiliate Volume Plan Program (“AVP”) table to append proposed Footnote 24 and exclude XSPBX from the program.

The proposed rule change excludes XSPBX options from the list of products eligible to receive Break-Up Credits in orders executed in AIM, SAM, FLEX AIM, and FLEX SAM, by amending the Break-Up Credits table to exclude XSPBX along with the products currently excluded—Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros.

The Exchange proposes to exclude XSPBX options from the Marketing Fee Program by updating the Marketing Fee table to provide that the marketing fee will be assessed on transactions of Market-Makers (including DPMs and LMMs), resulting from customer orders at the per contract rate provided above on all classes of equity options, options on ETFs, options on ETNs and index options, except that the marketing fee shall not apply to Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, XSP, XSPBX, SPEQX, SPESG, NANOS, FLEX Micros or Underlying Symbol List A. The Exchange notes that, in this way, XSPBX options will be treated as most of the Exchange’s other exclusively listed products that are currently excluded from the Marketing Fee Program.

The Exchange proposes to exclude XSPBX options from the Floor Broker Sliding Scale Rebate Program and Floor Broker Sliding Scale Supplemental Rebate Program, which offers rebates for Firm Facilitated and non-Firm Facilitated orders that correspond to certain volume tiers and is designed to incentivize order flow in multiply-listed options to the Exchange’s trading floor. The Exchange proposes to update the Floor Broker Sliding Scale Rebate Program and Floor Broker Sliding Scale Supplemental Rebate Program to provide that the Floor Broker Sliding Scale Rebate Program and Floor Broker Sliding Scale Supplemental Rebate Program applies to all products except Underlying Symbol List A, Sector

Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, and FLEX Micros.

The Exchange next proposes to exclude XSPBX options from eligibility for the Order Router Subsidy (“ORS”) and Complex Order Router Subsidy (“CORS”) Programs, in which Participating TPHs or Participating Non-Cboe TPHs may receive a payment from the Exchange for every executed contract routed to the Exchange through their system in certain classes. Specifically, the proposed rule change updates the ORS/CORS Program tables to provide that ORS/CORS participants whose total aggregate non-customer ORS and CORS volume is greater than 0.25% of the total national volume (excluding volume in options classes included in Underlying Symbol List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, or FLEX Micros) will receive an additional payment for all executed contracts exceeding that threshold during a calendar month, and updates Footnotes 29 and 30 (appended to the ORS/CORS Program tables) to accordingly provide that Cboe Options does not make payments under the program with respect to executed contracts in options classes included in Underlying Symbols List A, Sector Indexes, DJX, CBTX, MBTX, MGTN, MRUT, NANOS, SPEQX, SPESG, XSP, XSPBX, or FLEX Micros.

The Exchange also proposes to exclude Firm (*i.e.*, Clearing Trading Permit Holders (capacity “F”) and Non-Clearing Trading Permit Holder Affiliates (capacity “L”)) transactions in XSPBX from the Clearing TPH Fee Cap. Specifically, it amends footnote 22 (appended to the Clearing TPH Fee Cap table) to provide that all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction, transaction fees for Clearing TPH Proprietary and/or their Non-TPH Affiliates in all products except CBTX, MBTX, MGTN, MRUT, NANOS, XSP, XSPBX, SPEQX, SPESG, FLEX Micros, Sector Indexes and Underlying Symbol List A, in the aggregate, are capped at \$65,000 per month per Clearing TPH. The proposed rule change additionally updates Footnote 11 (which is also appended to the Clearing TPH Fee Cap table) to provide that the Clearing TPH Fee Cap in all products except CBTX, MBTX, MGTN, MRUT, NANOS, XSP, XSPBX, SPEQX, SPESG, FLEX Micros, Underlying Symbol List A and Sector Indexes (the “Fee Cap”), the Cboe Options Proprietary Products Sliding Scale for Clearing TPH Proprietary Orders, and the Clearing TPH Proprietary VIX Sliding Scale apply to

(i) Clearing TPH proprietary orders (“F” capacity code), and (ii) orders of Non-TPH Affiliates of a Clearing TPH.

The Exchange also proposes to exclude XSPBX volume from the Customer Large Trade Discount, which provides a discount in the form of a cap on transaction fees for certain Customer executions.

Finally, the Exchange also proposes to amend Footnote 6 which provides that, in the event of a Cboe Options System outage or other interruption of electronic trading on Cboe Options that lasts longer than 60 minutes, the Exchange will adjust the national volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, CBTX, MBTX, MGTN, MRUT, NANOS, DJX, SPEQX, SPESG, XSP, and FLEX Micros for the entire trading day, to include XSPBX in the list of underlying symbols excluded.

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.⁶ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ 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)⁸ 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) of the Act,⁹ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that the proposed amendments to the Fees

Schedule in connection with standard transaction rates for XSPBX transactions are reasonable, equitable and not unfairly discriminatory, and reflect the unique economic and structural characteristics of binary options. Unlike standard options, where premiums can range from near zero to multiples of the underlying price, binary options have a fixed \$1.00 maximum payout and a premium that is inherently bounded between \$0.00 and \$1.00, with the premium directly reflecting the market’s assessed probability that the binary outcome will occur. The Exchange designed the proposed fee structure to account for this distinct economic profile. First, the Exchange believes the tiered fee structure is reasonable because it keeps low-probability contracts economically viable. By assessing lower fees on contracts at the extreme ends of the premium range (*i.e.*, less than \$0.04 or greater than \$0.96), the Exchange believes the proposed fees will not deter participants from trading these contracts solely due to fees, thereby supporting a continuous and liquid market across the full probability spectrum. Related, the Exchange believes it is reasonable and appropriate that fees are highest for contracts with premiums in the \$0.25 to \$0.75 range, where the binary outcome is most uncertain, trading interest is greatest, and the economic value of the contract to both buyer and seller is most significant.

The Exchange believes the proposal creates a fee structure that treats the two sides of a binary contract symmetrically. For example, a contract trading at \$0.30 and a contract trading at \$0.70 reflect mirror-image risk profiles and are assessed the same fee under the proposed structure. The Exchange believes this symmetrical treatment is equitable and not unfairly discriminatory because it avoids creating artificial incentives to favor one side of a binary contract over the other based solely on fee considerations. The Exchange further believes the premium-based fee structure calibrated more accurately reflects the true economics of each transaction and is therefore a more appropriate and equitable basis for assessing fees than a flat notional-based charge.

Additionally, the Exchange believes it is reasonable to charge different fee amounts to different user types in the manner proposed because the proposed fees are consistent with the price differentiation that exists today for other products. The Exchange believes the proposed fees are not unfairly discriminatory because they apply

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ 15 U.S.C. 78f(b)(4).

uniformly within each participant category, as applicable.

The Exchange believes the proposed Customer fees are reasonable because they are set at levels designed to encourage Customer participation in XSPBX, which benefits all market participants by contributing to a liquid and competitive marketplace. The tiered fee structure, which scales with premium price, reflects the varying economic value and risk associated with transactions at different premium levels. Options with premiums at the extremes of the pricing range (*i.e.*, less than \$0.04 or greater than \$0.96) are assessed a lower fee of \$0.04 per contract, as these represent near-zero or near-certain outcome contracts where the economic value to the Customer is relatively limited. Fees increase as the premium approaches \$0.25 to \$0.75, where the outcome is most uncertain and the economic value of the contract is greatest, with a maximum fee of \$0.30 per contract. The Exchange believes this tiered approach is equitable and not unfairly discriminatory because it applies uniformly to all Customers trading XSPBX and reflects the relative value of transactions at each premium tier. The Exchange also believes that it is equitable and not unfairly discriminatory to assess lower fees to Customers as compared to other market participants because Customer order flow enhances liquidity on the Exchange for the benefit of all market participants. Specifically, customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market-Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The fees offered to customers are intended to attract more customer trading volume to the Exchange. Moreover, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fees Schedule currently does so in many places, as do the fees structures of many other exchanges. Finally, all fee amounts listed as applying to Customers will be applied equally to all Customers (meaning that all Customers will be assessed the same amount).

The Exchange believes the proposed Non-Customer, Non-Market-Maker fees are reasonable and equitably allocated. These participants, including Clearing TPHs, Non-Clearing TPH Affiliates, Broker-Dealers, Joint-Back Office participants, Non-TPH Market-Makers, and Professionals generally trade for

their own accounts or in a professional capacity and are assessed modestly higher fees than Customers, consistent with the Exchange's longstanding practice of assessing lower fees on Customers to encourage retail participation. The tiered structure mirrors that of the Customer fees and applies uniformly to all Non-Customer, Non-Market-Maker participants, ranging from \$0.10 per contract at the extreme premium tiers to \$0.35 per contract at the mid-range premium tier.

The Exchange also believes the proposed electronic Market-Maker taker fees, which are commensurate with those assessed to other Non-Customer participants, are reasonable because Market-Makers that remove liquidity from the Exchange contribute to price discovery and execution quality in a similar way as Non-Customer, Non-Market Maker participants.

The Exchange believes that it is equitable and not unfairly discriminatory to assess lower fees to Market-Makers orders in XSPBX that are executed electronically and add liquidity because these lower fees are intended to incent Market-Makers to trade more on the Exchange, which benefits all participants by contributing to tighter spreads and a more competitive marketplace. The Exchange believes the proposed fee for manual Market-Maker orders in XSPBX is reasonable as it reflects the different cost structure associated with manual order handling and is consistent with how the Exchange treats manual Market-Maker activity in other products.

The Exchange believes the proposed adoption of Footnote 24, which excludes XSPBX from certain Exchange fee programs and incentives, is reasonable, equitably allocated, and not unfairly discriminatory. The Exchange believes these exclusions are reasonable because XSPBX is a newly listed product with a unique structure. The Exchange believes it is appropriate to assess straightforward transaction fees for XSPBX upon initial listing and notes that similar exclusions apply to other proprietary products on the Exchange. Moreover, the Exchange notes that the proposed rule change does not alter any of the existing programs, but instead, merely proposes not to include transactions in XSPBX options in those programs.

The Exchange believes that excluding XSPBX options transactions from certain fees programs is equitable and not unfairly discriminatory because the programs will equally not apply to, or exclude in the same manner, all market participants' orders in XSPBX options. The Exchange notes that the proposed

rule change does not alter any of the existing program rates or volume calculations, but instead, merely proposes not to include transactions in XSPBX options in those programs and volume calculations.

The Exchange believes the proposed amendment to Footnote 6, which adds XSPBX to the list of underlying symbols excluded from the national volume adjustment applied in the event of a Cboe Options System outage or other interruption of electronic trading lasting longer than 60 minutes, is reasonable, equitably allocated, and not unfairly discriminatory. Further, the Exchange believes it is appropriate to similarly exclude XSPBX given that it is a binary options product with a distinct structure and trading profile that differs from standard equity and index options. The proposed exclusion applies uniformly to all participants trading XSPBX and is therefore not unfairly discriminatory.

The Exchange acknowledges that XSPBX is a proprietary product available exclusively on the Exchange. However, the Exchange notes that market participants retain the ability to migrate activity to economically similar products available at other venues,¹⁰ and that the proposed rates must therefore be set at levels that reflect the value of trading these products, not at levels that would drive participants toward substitutes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed standard transaction fees for XSPBX apply uniformly to all participants within each capacity and, with respect to Market-Makers by execution method and by whether the order adds or removes liquidity, and are structured consistently across those categories in a manner that reflects each participant's role in the marketplace, as described above. The exclusion of XSPBX from certain fee programs and incentives similarly applies uniformly to all participants trading XSPBX.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition

¹⁰ The Exchange notes that binary options similar to XSPBX are available in the OTC market and on other platforms.

that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed fees assessed apply to Exchange proprietary products, which are traded exclusively on the Exchange. As stated above, the Exchange notes that market participants retain the ability to migrate activity to economically similar products available at other venues.

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 Act¹¹ and paragraph (f) of Rule 19b-4¹² 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-2026-056 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CBOE-2026-056. This file number should be included on the

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2026-056 and should be submitted on or before July 22, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-13233 Filed 6-30-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105788; File No. SR-IEX-2026-18]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide That the Exchange Will Identify Priority Customer Interest on Its Order Book Through OPRA and Its Proprietary Market Data Feeds

June 26, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on June 25, 2026, the Investors Exchange LLC ("IEX" 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.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,⁴ and Rule 19b-4 thereunder,⁵ the Exchange is filing with the Commission a proposed rule change to amend Rule 22.240, Data Dissemination, to provide that the Exchange will identify Priority Customer interest on its Order Book through OPRA and through its proprietary market data feeds. The Exchange has designated this rule change as "non-controversial" under Section 19(b)(3)(A) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷

The text of the proposed rule change is available at the Exchange's website at <https://www.iexexchange.io/resources/regulation/rule-filings> and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and the 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to indicate Priority Customer⁸ interest in the Best Bid and Offer (BBO) disseminated by the Exchange to market participants through the Options Price Reporting Authority ("OPRA") Plan⁹ and to identify Priority Customer interest on messages disseminated in its IEX

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4(f)(6).

⁸ The term "Priority Customer" means any person or entity that is not: (A) a broker or dealer in securities; or (B) a Professional. The term "Priority Customer Order" means an order for the account of a Priority Customer. See Rule 17.100.

⁹ The OPRA Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 608 thereunder. See Securities Exchange Act Release No. 17638 (March 18, 1981).

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

Options DEEP¹⁰ and Options TOPS¹¹ market data feeds in order to provide more transparency to market participants and IEX market data subscribers regarding such interest.

Current IEX Rules provide that¹² the Exchange will disseminate to OPRA¹³ the highest bid and the lowest offer, and the aggregate quotation size associated therewith that is available, in accordance with the requirements of Rule 602 of Regulation NMS under the Act.¹⁴ IEX Rules also provide for two proprietary options market data feeds. Options TOPS will be an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System.¹⁵ Options DEEP will be an uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System.¹⁶

The Exchange proposes to make available through OPRA, Options TOPS, and Options DEEP an indication when there is Priority Customer interest included in the IEX BBO.¹⁷ In addition, the Exchange proposes to make available through Options DEEP an indication when there is Priority Customer interest included in depth of book quotations. The Exchange believes that making such Priority Customer interest available through OPRA, Options TOPS, and Options DEEP will provide increased transparency to market participants.

To the extent that Members may prefer to interact with Priority Customer interest, the Exchange believes that such information will help to facilitate such interaction, resulting in potentially faster executions of the Priority Customer orders. Moreover, the Exchange believes that including Priority Customer interest in market data feeds would provide market participants with more information as to

how orders would be allocated when the Priority Customer Overlay is in effect.¹⁸

The Exchange is not proposing to assess additional fees for the inclusion of Priority Customer interest as a component of the information included in the Options DEEP and Options TOPS data feeds.

Disseminating information regarding the presence of Priority Customer¹⁹ interest is customary for options exchanges.²⁰ The proposed rule change is substantively the same as MIAx Rule 506(c), with the only difference being that IEX proposes to indicate Priority Customer Orders in its Options DEEP and Options TOPS data feeds, whereas MIAx includes the same information in its top of book data feed.²¹ In addition to MIAx, several other options exchanges similarly provide Priority Customer information in the data feed they disseminate to OPRA and disclose Priority Customer interest in their proprietary data feeds.²²

Accordingly, the Exchange proposes to amend Rule 22.240 to add the following:

- Add a new subparagraph (c) titled “Notification of Priority Customer Interest on the IEX Options Book;”

¹⁸ The Priority Customer Overlay means that the Exchange will allocate executions to eligible Priority Customer orders at the highest bid or lowest offer before allocating any contracts to non-Priority Customers at that price level. See Rule 22.170(f). Accordingly, Priority Customer interest will get as much of the incoming contra-side size as is necessary to exhaust the Priority Customer interest at that price level before any non-Priority Customer interest participates. Priority Customer Orders will thus have priority over the participation entitlement and the small-size order priority provided to Market Makers and Specialists. See *id.* If there are two or more Priority Customer orders at the same price, the System allocates to them in the order in which the System received them (*i.e.*, in time priority) before any non-Priority Customer interest at that price receives an allocation. See Rule 22.170(f)(1).

¹⁹ Some exchanges use the term “Public Customer” while others use the term “Priority Customer,” but the definitions are comparable, *i.e.*, customers who are not brokers or dealers in securities and not “Professionals.”

²⁰ See, e.g., MEMX Rule 21.15(c); M2 Rule 21.15(c); MIAx Options Rule 506(c); MIAx Emerald Rule 506(c); MIAx Pearl Options Rule 506(d); MIAx Sapphire Rule 506(d); Nasdaq PHLX Options 3 Section 23(a)(1) (including Public Customer Order size in the aggregate in the data sent to OPRA and in its Top of Market (“TOPO”) data feed; Nasdaq PHLX Options 1 Section (b)(46) defines “Public Customer” as a person or entity that is not a broker or dealer in securities and is not a Professional as defined within Options 1, Section (b)(45)); NYSE American Options Top and Deep Feed Specifications state that non-professional customer interest is included in the data feeds, available at: https://www.nyse.com/publicdocs/nyse/data/PILLAR_TOP_Client_Specification.pdf; https://www.nyse.com/publicdocs/nyse/data/PILLAR_DEEP_Client_Specification.pdf.

²¹ See MIAx Rule 506(c).

²² See *supra*, note 20.

- Add a new subparagraph (c)(1) stating that the Exchange will make available to market participants through OPRA an indication that there is Priority Customer interest included in the BBO disseminated by the Exchange; and

- Add a new subparagraph (c)(2) stating that the Exchange will identify Priority Customer Orders as such on messages disseminated by the Exchange through its IEX Options DEEP and IEX Options TOPS data feeds.

As noted above, IEX anticipates launching its options market in October 2026. Thus, the changes in this proposal will be implemented concurrent with the options market launch, which will be announced in future trading alerts.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act²³ in general, and furthers the objectives of Section 6(b)(5) of the Act²⁴ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

The Exchange believes that indicating the presence of Priority Customer interest on OPRA, Options TOPS, and Options DEEP as described in the Purpose section will remove impediments to and perfect the mechanism of a free and open market and national market system and benefit investors by increasing transparency regarding Priority Customer interest on the IEX Options Book and thereby facilitate trading with such interest. The inclusion of Priority Customer interest in the data disseminated by the Exchange is designed to promote just and equitable principles of trade by providing market participants with information that will assist them in assessing current market conditions and making informed trading and routing decisions regarding their options orders. Further, as described in the Purpose section, an indication that Priority Customer interest exists in the BBO, for example, would inform market participants that the Priority Customer Overlay may be in effect, which may

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

¹⁰ IEX Options DEEP is an uncompressed data feed that offers depth of book quotations and execution information based on options orders entered into the System. See Rule 22.240(b)(1).

¹¹ IEX Options TOPS is an uncompressed data feed that offers top of book quotations and execution information based on options orders entered into the System. See Rule 22.240(b)(2).

¹² IEX anticipates launching its options market in October 2026. On September 18, 2025, the Commission approved IEX's proposed rules to govern the trading of options contracts on IEX. See Securities Exchange Act Release No. 103998 (September 18, 2025), 90 FR 45861 (September 23, 2025).

¹³ IEX is not yet a party to OPRA but will have completed the process of joining OPRA by the time IEX Options launches.

¹⁴ See Rule 22.240(a).

¹⁵ See Rule 22.240(b)(2).

¹⁶ See Rule 22.240(b)(1).

¹⁷ See proposed Rule 22.240(c)(1).

affect how their orders are allocated on the Exchange.

The Exchange believes that the proposed rule change is also consistent with the protection of investors and the public interest because, by providing more transparency about Priority Customer interest present on the IEX Options Book,²⁵ it could potentially result in faster executions of Priority Customer orders.

As discussed in the Purpose section above, the proposed rule change is based on existing rules of other options exchanges.²⁶ Accordingly, the Exchange does not believe that the proposed rule change raises any new or novel issues that have not already been considered by the Commission.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is intended to provide more transparency to market participants and IEX Data Subscribers regarding Priority Customer interest present in the BBO disseminated by the Exchange. The proposed rule change is designed to allow the Exchange to compete with other options exchanges that offer similar information in their proprietary market data feeds. Moreover, the Exchange believes that the proposed rule change to include a Priority Customer indicator in its proprietary market data feeds and dissemination to OPRA will foster, not burden, competition by providing additional information about Priority Customer interest present on the IEX Options Book, which is similar to products offered by other exchanges. Thus, the Exchange believes the proposed rule change is consistent with the Exchange Act because it will encourage competition between IEX and other exchanges.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will apply to all Members in the

same manner. While not all Members handle Priority Customer orders, the difference is not based on the type of Member but rather on each Member's business model. Moreover, the proposal would provide potential benefits to all Members who may seek to enter liquidity to trade with Priority Customer orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)²⁷ of the Act and Rule 19b-4(f)(6)²⁸ thereunder. 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

Furthermore, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.²⁹

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)³⁰ 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-IEX-2026-18 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-IEX-2026-18. 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-IEX-2026-18 and should be submitted on or before July 22, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Sherry R. Haywood,

Assistant Secretary.

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²⁵ The term "IEX Options Order Book" means the electronic book of options orders maintained by the System. See Rule 17.100.

²⁶ See *supra*, note 22.

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(6).

²⁹ 17 CFR 240.19b-4(f)(6)(iii).

³⁰ 15 U.S.C. 78s(b)(2)(B).

³¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-105779; File No. SR-CTA/CQ-2026-01]

Consolidated Tape Association; Order Approving the Fortieth Substantive Amendment to the Second Restatement of the CTA Plan and Thirty-First Substantive Amendment to the Restated CQ Plan, as Modified by Amendment No. 1 Thereto

June 26, 2026.

I. Introduction

On January 12, 2026,¹ the Participants² in the Second Restatement of the Consolidated Tape Association Plan (“CTA Plan”) and the Restated Consolidated Quotation Plan (“CQ Plan”) (collectively “CTA/CQ Plans” or “Plans”) filed with the Securities and Exchange Commission (“Commission”), pursuant to section 11A of the Securities Exchange Act of 1934 (“Act”)³ and Rule 608(a) of Regulation National Market System (“NMS”) thereunder,⁴ a proposal to amend the Plans to extend the Processor’s⁵ hours of operation (“Proposal”). The Proposal represents the Fortieth Substantive Amendment to the CTA Plan and the

Thirty-First Substantive Amendment to the CQ Plan.

The Proposal was published for comment in the **Federal Register** on January 27, 2026.⁶ The Commission received no comment letters on the Proposal. On April 7, 2026, the Participants filed Amendment No. 1 to the Proposal, which: (1) specified the date of implementation; (2) clarified operational hours consistent with current practice when the markets close early; (3) clarified the times of a trade date for the Processor; and (4) described the allocation of the development and operating costs associated with the Additional Period (as defined herein).⁷ On April 17, 2026, the Commission published Amendment No. 1 for notice and comment and instituted proceedings to determine whether to approve or disapprove the Proposal, as amended by Amendment No. 1 (“Amended Proposal”), or to approve the Amended Proposal with any changes or subject to any conditions the Commission deems necessary or appropriate after considering public comment.⁸ The Commission received no comments on the Amended Proposal. This order approves the Amended Proposal.

II. Description of the Amended Proposal

The Participants propose to amend the Plans to extend the Processor’s hours of operations to receive and disseminate quotation information, last sale price information, and related information in Eligible Securities from 9:00 p.m. Eastern Time (“ET”) Sunday to 8:00 p.m. ET Friday; provided however, that the Processor will pause operations at 8:00 p.m. ET on Monday through Thursday for one hour to accommodate technical refreshes for the Processor, Participants, and other market participants. Other than extending the hours of operations, the Processor will operate as it currently does.⁹

A. Processor’s Hours of Operation

1. Background

CQ Plan section VIII(b), among other things, provides that the Processor shall

receive and make available quotation information between 9:00 a.m. and 6:30 p.m. ET, Monday through Friday, and “shall receive and make available quotation information pursuant to this CQ Plan during any other period. . . . during which any one or more Participants wish to furnish quotation information to the Processor, provided that such Participant or Participants have agreed to pay all costs and expenses which would not have been incurred by the Processor had it not made the quotation information available during such additional period. . . .” CTA Plan section XI(b), among other things, provides that the “Processor shall disseminate last sale price information reported to it related to Eligible Securities during the hours any Participant which regularly reports to the Processor during the full trading day 51% or more of the last sale prices reported over CTA Network A or CTA Network B is open for trading. . . . [and] at other times . . . during which any exchange Participant is open for trading, provided, however, that the Processor shall not disseminate such prices during the additional period unless the Participant or Participants which report prices to the Processor for dissemination during the additional period have agreed to pay all costs and expenses which would not have been incurred in the generation or dissemination of the consolidated tape had the Processor not disseminated last sale price information reported to it during the additional period. . . .” The current hours of operation of the Processor are 4:00 a.m. to 8:00 p.m. ET, Monday through Friday, excluding holidays.¹⁰

Some exchange Participants have adopted rules that will extend their hours of operation to provide for trading during hours that are outside of the hours of operation for the Processor (“Exchange Extended Hours”).¹¹ These

¹⁰ See also SIPs Submit Plan Amendment to Extend Operating Hours to Accommodate Overnight Trading available at https://www.prnewswire.com/news-releases/sips-submit-plan-amendment-to-extend-operating-hours-to-accommodate-overnight-trading-302647034.html?tc=eml_cleartime.

¹¹ See, e.g., Securities Exchange Act Release Nos. 101777 (Nov. 27, 2024), 89 FR 97092 (Dec. 6, 2024) (Approval of the 24X Form 1 application (“24X Approval Order”)) and 104086 (Sept. 26, 2025), 90 FR 46978 (Sept. 30, 2025) (amending 24X Rule 1.5(c) defining the 24X Market Session to generally include times from 9:00 p.m. through 4:00 a.m. Sunday through Thursday); Securities Exchange Act Release No. 105532 (May, 21, 2026), 91 FR 31509 (May 27, 2026) (amending 7.34–E(T) to extend NYSE Arca’s trading hours to 23 hours a day, five days a week); Securities Exchange Act Release No. 105199 (Apr. 10, 2026), 91 FR 20222 (Apr. 15, 2026) (adopting rules to extend Nasdaq’s trading hours to 23 hours a day, five days a week);

¹ See Letter from Jeff Kimsey, Chair, CTA/CQ Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Jan. 12, 2026). The Participants also filed amendments to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (“UTP Plan”). See also Letter from Jeff Kimsey, Chair, UTP Plan Operating Committee, to Vanessa Countryman, Secretary, Commission (Jan. 12, 2026).

² The Participants are: 24X National Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors’ Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAx PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc. Effective as of April 22, 2026, the Plans were amended to reflect the new name of Nasdaq BX, Inc. as Nasdaq Texas, Inc. and Texas Stock Exchange LLC was added as a participant to the Plans. See Securities Exchange Act Release No. 105349 (May 1, 2026), 91 FR 24619 (May 6, 2026).

³ 15 U.S.C. 78k–1.

⁴ 17 CFR 242.608(a).

⁵ Section I of the CTA Plan defines Processor as the organization designated as recipient and processor of last sale price information furnished by Participants pursuant to the CTA Plan, as described in section V of the CTA Plan. Section I of the CQ Plan defines Processor as the organization designated as recipient and processor of quotation information furnished by Participants pursuant to the CQ Plan, as described in section V of the CQ Plan.

⁶ See Securities Exchange Act Release No. 104665 (Jan. 22, 2026), 91 FR 3602.

⁷ See Letter from Jeff Kimsey, Chair, CTA/CQ Plan Operating Committee, to Vanessa Countryman, Secretary, Commission dated April 7, 2026 (“Amendment No. 1”).

⁸ See Securities Exchange Act Release No. 105269, 91 FR 21563 (April 22, 2026).

⁹ See Amended Proposal, *supra* note 8 at 21563–64. Unless otherwise noted, all capitalized terms used herein have the same meaning as is given such terms in the Plans.

exchange Participants have not started trading during the Exchange Extended Hours because their rules state that the exchanges will not commence operations until the Equity Data Plans¹² have (1) established a mechanism to collect, consolidate, process and disseminate quotation and transaction information at all times during the Exchange Extended Hours that is equivalent to the mechanism established for times outside of Exchange Extended Hours; and (2) provided the exchanges with notification that they are prepared to collect, consolidate, process and disseminate quotation and transaction information during the Exchange Extended Hours.¹³

2. Extending the Processor's Hours

The Participants propose to extend the Processor's hours of operation to receive and disseminate quotation, last sale information and related information in Eligible Securities from 9:00 p.m. to 4:00 a.m. ET on Sunday through Thursday (the "Additional Period").¹⁴ As proposed, the Processor's hours of operation will begin at 9:00 p.m. ET Sunday and continue through 8:00 p.m. ET Friday; provided, however, that the Processor would pause operations at 8:00 p.m. ET on Monday through Thursday for one hour to accommodate technical refreshes for the Processor, Participants, and other market participants.¹⁵ In the event of a holiday where U.S. markets are closed, the Processor would not operate from 8:00 p.m. ET the day before the holiday through 9:00 p.m. ET the day of the holiday.¹⁶ With respect to a holiday where U.S. markets close early on the day before the holiday, the Processor would not operate from 5:00 p.m. ET on the day before the holiday through 9:00

p.m. ET on the day of the holiday.¹⁷ The Participants stated that the Processor would endeavor to reduce the length of the pause where technically feasible, and in the event the length of the pause is reduced, the Participants would amend the Plans and notify the industry at least 90 days prior to the implementation of a reduction.

Consistent with the current hours of operation, the Participants proposed the following provisions regarding the Processor's operation during hours outside of Regular Trading Hours:¹⁸

- For transactions reported outside the hours of 9:30 a.m. ET and 4:00 p.m. ET, such transactions will be designated as "T" trades to denote their execution outside of Regular Trading Hours.¹⁹
- Late trades will be reported in accordance with the rules of the Participant in whose market the transaction occurred and can be reported at any time the Processor is able to receive last sale price information.²⁰
- Transactions reported outside the hours of 9:30 a.m. ET and 4:00 p.m. ET will be included in the calculation of total trade volume for purposes of determining net distributable operating revenue, but will not be included in the calculation of the daily high, low, or last sale.²¹
- Quote Credits may be earned only in connection with quotations transmitted by a Participant to the Processor during Regular Trading Hours.²²

B. Trade Date

The Participants propose to define a trade date for purposes of the Plans.²³ Specifically, under the Plans, the Processor will consider a trade date to be between 8:00 p.m. ET on the day before Regular Trading Hours begin and 8:00 p.m. ET on the same day as when Regular Trading Hours begin.²⁴ For

example, Wednesday's trading day would be between 8:00 p.m. ET on Tuesday and 8:00 p.m. ET on Wednesday. The Participants stated that having the start of a trading day prior to the opening of markets would reduce complexity and burden—as the alternative would have required a new trading day to start in the middle of a trading session (*i.e.*, at midnight)—and would align with current practice for venues already trading during the proposed extended hours.

C. Extended Hours Development and Operating Costs

Consistent with the current language of the Plans,²⁵ Participants that utilize the Additional Period are required to pay for the development and operating costs and expenses which are incurred by the Processor to accommodate the Additional Period.²⁶ Participants that utilize the Additional Period at a later time, will be required to pay a proportionate share of the aggregate development costs previously paid by other Participants, and will contribute to the operating costs from the point at which it begins operating during the Additional Period.²⁷ As part of the Amended Proposal, the Participants have proposed moving existing language related to costs and making minor changes for readability.²⁸

D. Implementation of the Amended Proposal

In the Amended Proposal, the Operating Committee stated that it "expects that the implementation of the amendment will occur on December 6, 2026."²⁹ The Operating Committee also stated that prior to the implementation, the Processor will announce testing dates.³⁰

The Amended Proposal also stated that, if approved, the amendments to the Plans, "including the proposed changes to the language of the Plans, will not become operative until the Operating Committee determines that market conditions will support the extended hours of operation."³¹ The Amended Proposal further stated that the "specific market conditions to be considered by

and Securities Exchange Act Release No. 105587 (May 29, 2026), 91 FR 33238 (June 3, 2026) (adopting rules to extend Cboe EDGX's trading hours to 23 hours a day, five days a week).

¹² See, e.g., 24X Rule 1.5(o); NYSE Arca Rule 1.1; and Nasdaq Equity 1, Sec. 1(a)(16). The "Equity Data Plans" are collectively the CTA Plan, the CQ Plan, the UTP Plan, and the CT Plan LLC.

¹³ See 24X Rule 1.5(c); NYSE Arca Rule 7.34–E (Preamble); and Nasdaq Equity 1, Sec. 1(a)(19).

¹⁴ See proposed CQ Plan section VIII(b)(i) and proposed CTA Plan section XI(b)(i). See also proposed CQ Plan section VIII(b)(iii) and proposed CTA Plan section XI(b)(v) defining "Additional Period".

¹⁵ See proposed CQ Plan section VIII(b)(i) and proposed CTA Plan section XI(b)(i). According to the Participants, requiring a pause at 8:00 p.m. ET each Monday through Thursday would lessen the cost, complexity, and burden of designing a system that did not have a pause.

¹⁶ See proposed CQ Plan section VIII(b)(i) and proposed CTA Plan section XI(b)(i).

¹⁷ See proposed CQ Plan section VIII(b)(i) and proposed CTA Plan section XI(b)(i) and Amended Proposal, *supra* note 8 at 21564.

¹⁸ See Amended Proposal, *supra* note 8 at 21564–65. The CTA Plan and CQ Plan propose to define Regular Trading Hours in sections XI(b)(ii) and XII(a)(iv) of the CTA Plan and section VIII(b)(ii) of the CQ Plan with reference to the definition in Rule 600 of Regulation NMS. See Amended Proposal, *supra* note 8 at n.19.

¹⁹ See proposed CTA Plan section XI(b)(iii).

²⁰ See proposed CTA Plan section XI(b)(iv).

²¹ See proposed CTA Plan section XI(b)(iii).

²² See proposed CTA Plan XII(a)(iv).

²³ See proposed CQ Plan section VIII(b)(ii) and proposed CTA Plan section XI(b)(i).

²⁴ The Participants stated that setting the start of the trading day is only applicable to the operation of the Processor. The Operating Committee further stated that it does not have the authority to set the start of the trading day for rules and regulations that might be dependent on when a trading day begins. See Amended Proposal, *supra* note 8 at n.22.

²⁵ See CQ Plan section VIII(b) and CTA Plan section XI(b) (providing for the allocation of development and operating costs and expenses).

²⁶ See proposed CQ Plan section VIII(b)(iii) and proposed CTA Plan section XI(b)(v).

²⁷ See Amended Proposal, *supra* note 8 at 21566.

²⁸ See Amended Proposal, *supra* note 8 at 21566.

²⁹ The Proposal stated that the implementation would occur in December 2026. See Proposal, *supra* note 6 at 3604.

³⁰ See Amended Proposal, *supra* note 8 at 21565.

³¹ See Amended Proposal, *supra* note 8 at 21565.

the Operating Committee include, but are not limited to, the following:

- Depository Trust & Clearing Corporation (“DTCC”) offers clearing during the extended hours of operation.
- The Processor has implemented changes to symbol directory messages as specified in a previously approved change request, which requires the Processors to disseminate specified reference information for Eligible Securities in symbol directory messages.
- Listing markets are able to support the changes to the symbol directory messages, including corporate actions information.

- The Processor will be able to disseminate all quotes and trades, including off-exchange trades, during the extended trading hours.”³²

In the Amended Proposal, the Participants stated that the Processors and listing markets anticipate meeting “the final three requirements before the planned December 6, 2026, launch of the extended hours.”³³ In addition, in the Amended Proposal, the Participants stated that “based on publicly available information, DTCC will support the extended hours by the second quarter of 2026.”³⁴

The Participants also requested a determination by the Commission as to whether the “dissemination of real-time Trade Reporting Facility (“TRF”) information outside of Regular Trading Hours is a prerequisite for implementation.”³⁵

III. Discussion and Commission Findings

After careful review, the Commission is approving the Amended Proposal. Section 11A of the Act authorizes the Commission, by rule or order, to authorize or require the self-regulatory organizations (“SROs”) to act jointly with respect to matters as to which they share authority under the Act in planning, developing, operating, or regulating a facility of the national market system.³⁶ Rule 603(b)(3) of Regulation NMS, among other things, requires the SROs to act jointly pursuant to effective national market system plans to “disseminate consolidated information, including a national best bid and national best offer and odd-lot information, on quotations for and transactions in NMS stocks.”³⁷ In addition, Rule 608 of Regulation NMS

authorizes two or more SROs, acting jointly, to file with the Commission a proposed amendment to an effective national market system plan and Rule 608 provides that the Commission shall approve an amendment to an effective national market system plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Act.³⁸

The Commission has approved the rules of certain national securities exchanges that intend to operate during Exchange Extended Hours.³⁹ As discussed above, as part of the exchange rules to permit Exchange Extended Hours, exchange rules require the Equity Data Plans to have: (1) established a mechanism to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Exchange Extended Hours that is equivalent to the mechanism established for times outside of Exchange Extended Hours,⁴⁰ and (2) provided the exchanges with notification that they are prepared to collect, consolidate, process, and disseminate quotation and transaction information to accommodate the Exchange Extended Hours.⁴¹ In the Amended Proposal, the Participants stated that “[o]ther than extending the hours of operations, the Processor will operate as it currently does.”⁴² The Commission stated in the context of approving Exchange Extended Hours, that requiring the operation of the Equity Data Plans during Exchange Extended Hours “is designed to ensure that consolidated quotation and transaction data are provided in a manner that is consistent with existing extended hours sessions on exchanges.”⁴³ The Amended Proposal will provide for the operation of the Processor pursuant to the Plans during the times that coincide with the Exchange Extended Hours.⁴⁴

³⁸ See 17 CFR 242.608(a)(1) and 17 CFR 242.608(b)(2).

³⁹ See *supra* note 11.

⁴⁰ See *supra* note 13.

⁴¹ See *supra* note 13.

⁴² See Amended Proposal, *supra* note 8 at 21564.

⁴³ See 24X Approval Order, *supra* note 11 at 97105.

⁴⁴ Pursuant to the exchanges’ rules, the exchanges are required to file a proposed rule change confirming that the exchange can comply with its obligations under the Act and that the Equity Data Plans are prepared to collect, consolidate, process, and disseminate quotation and transaction information at all times during the Exchange Extended Hours. See 24X Rule 1.5(c) NYSE Arca

The Amended Proposal will expand the hours of operation for the Processor to collect, consolidate, process and disseminate quotation information, last sale price information, and related information in Eligible Securities consistent with the hours of trading that will be available on certain national securities exchanges and is available in the over-the-counter market, which will provide transparency of information with respect to quotations for and transactions in NMS stocks during the Additional Period. Under the Amended Proposal, other than extending the hours of operation, the Processor will operate as it currently operates.⁴⁵ Accordingly, the Amended Proposal furthers the goals of section 11A of the Act by assuring “the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities”⁴⁶ because it amends the Plans to require the Processor to collect, consolidate, process, and disseminate quotation and transaction information during the Additional Period. The Amended Proposal will enhance transparency and promote the goals of the national market system during the Additional Period.⁴⁷

In addition to amending the hours of the Processor’s operations under the Plans, the Amended Proposal defines a trade date for purposes of the Plans. This definition will help to provide clarity as to a specified trade date in light of the Processor’s expanded hours of operation. Further, the Amended Proposal provides for a one-hour trading pause from 8:00 p.m. to 9:00 p.m. ET Monday through Thursday, which will provide the Processor, the Participants, and other market participants with the time to perform systems updates and refreshes prior to the start of a new trade day. These amendments are appropriate and will help to support the expanded hours of operation of the Processor.

Moreover, the Amended Proposal amends the Plans to require the Participants that operate during the Additional Period to pay for the costs and expenses to develop and expand the Processor’s system to account for the Additional Period. Similarly, the Amended Proposal amends the Plans to require Participants that decide to operate during the Additional Period at a later date, after the initial launch of the Additional Period, to pay a proportionate share of the aggregate development costs and contribute to the

Rule 7.34–E (Preamble); Nasdaq Equity 1, Sec. 1(a)(19); and Cboe EDGX Rule 1.5(ii).

⁴⁵ See Amended Proposal, *supra* note 8 at 21566.

⁴⁶ 15 U.S.C. 78k–1(a)(1)(C)(iii).

⁴⁷ See, e.g., 15 U.S.C. 78k–1(a)(1)(C)(iii).

³² See Amended Proposal, *supra* note 8 at 21565. See also Proposal, *supra* note 6 at 3604.

³³ See Amended Proposal, *supra* note 8 at 21565.

³⁴ See Amended Proposal, *supra* note 8 at 21565.

³⁵ See Amended Proposal, *supra* note 8 at 21565.

See also Proposal, *supra* note 6 at 3604.

³⁶ See 15 U.S.C. 78k–1(a)(3)(B).

³⁷ 17 CFR 242.603(b)(3).

operating costs going forward. These amendments are appropriate and consistent with the Plans' previous language.

Finally, the Operating Committee stated that it "expects that implementation of the amendment will occur on December 6, 2026."⁴⁸ Pursuant to Rule 608(c) of Regulation NMS, the Participants must comply with the terms of any effective NMS plan of which it is a sponsor or participant and must enforce compliance with the terms of such a plan by its members and persons associated with its members.⁴⁹ The Participants have proposed amendments to the Plans to accommodate the move to overnight trading and have specified the date upon which the Operating Committee expects the changes to the operation of the Processor under the Plans can occur. Accordingly, under the Amended Proposal, the effective Plans that the Participants must comply and enforce compliance with will be the Plans as amended by the Amended Proposal starting December 6, 2026.⁵⁰

For the reasons discussed above, the Commission finds that the Amended Proposal is consistent with the requirements of the Act and the rules and regulations thereunder, and in particular, section 11A of the Act, and Rule 608 of Regulation NMS, in that the Amended Proposal is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to improve impediments to, and perfect the mechanisms of, a national market system.

IV. Conclusion

It is therefore ordered, pursuant to section 11A of the Act,⁵¹ and Rule 608(b)(2) thereunder,⁵² that the Amended Proposal to the CTA and CQ Plans (File No. SR-CTA/CQ-2026-01) is approved.

⁴⁸ See Amended Proposal, *supra* note 8 at 21565. Regarding the Participants' query about whether dissemination of real-time TRF information outside of Regular Trading Hours is a prerequisite for implementation, FINRA has announced its plans to amend its TRF reporting rules to extend the operating hours of the TRFs starting on December 6, 2026, which would align with the Amended Proposal. See FINRA, Extension of TRF Operating Hours (May 22, 2026), available at <https://www.finra.org/filing-reporting/technical-notice/extension-of-trf-operating-hours>.

⁴⁹ 17 CFR 242.608(c).

⁵⁰ To the extent that the Plans are unable to implement the Amended Proposal by December 6, 2026, the Participants must submit an amendment to the Plans pursuant to Rule 608 of Regulation NMS.

⁵¹ 15 U.S.C. 78k-1.

⁵² 17 CFR 242.608(b)(2).

By the Commission.
Sherry R. Haywood,
Assistant Secretary.
 [FR Doc. 2026-13234 Filed 6-30-26; 8:45 am]
BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 13054]

30-Day Notice of Proposed Information Collection: Disclosure of Violations of the Arms Export Control Act

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. 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 July 31, 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 Andrea Battista, who may be reached at BattistaAL@state.gov or 202-992-0973.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Disclosure of Violations of the Arms Export Control Act.
- *OMB Control Number:* 1405-0179.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* T/PM/DDTC.
- *Form Number:* DS-7787.
- *Respondents:* Individuals and companies engaged in the business of exporting, temporarily importing, or brokering, defense articles or defense services who have committed an ITAR violation.
- *Estimated Number of Respondents:* 14,500.

- *Estimated Number of Responses:* 600.
 - *Average Time per Response:* 10 hours.
 - *Total Estimated Burden Time:* 6,000 hours.
 - *Frequency:* On Occasion.
 - *Obligation to Respond:* Voluntary.
- We are soliciting public comments to permit the Department to:
- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
 - Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
 - Enhance the quality, utility, and clarity of the information to be collected.
 - Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, encourages voluntary disclosures of violations of the Arms Export Control Act (AECA) (22 U.S.C. 2751 *et seq.*), its implementing regulations, the International Traffic in Arms Regulations (ITAR) (22 CFR 120-130), and any regulation, order, license, or other authorization issued thereunder. The information disclosed is analyzed by DDTC to ultimately determine whether to take administrative action concerning any violation that may have occurred. Voluntary disclosures may be considered a mitigating factor in determining the administrative penalties, if any, that may be imposed. Failure to report a violation may result in circumstances detrimental to U.S. national security and foreign policy interests and will be an adverse factor in determining the appropriate disposition of such violations. Also, the activity in question might merit referral to the Department of Justice for consideration of whether criminal prosecution is warranted. In such cases, DDTC will notify the Department of Justice of the voluntary nature of the disclosure, but the Department of Justice

is not required to give that fact any weight.

ITAR § 127.12 describes the information which should accompany a voluntary disclosure. Historically, respondents to this information collection submitted their disclosures to DDTC in writing via hard copy documentation. However, as part of an IT modernization project designed to streamline the collection and use of information by DDTC, a discrete form has been developed for the submission of voluntary disclosures. This will allow both DDTC and respondents submitting a disclosure to more easily track submissions.

Methodology

This information will be collected by electronic submission.

Michael J. Vaccaro,

Deputy Assistant Secretary for Defense Trade Controls, U.S. Department of State.

[FR Doc. 2026-13242 Filed 6-30-26; 8:45 am]

BILLING CODE 4710-05-P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on July 30, 2026. The Commission will hold this hearing in person and telephonically. At this public hearing, the Commission will hear testimony on the projects and actions listed in the Supplementary Information section of this notice. In addition to the projects listed below, the Commission will also hear testimony on its proposed Sustainable Water Resources Fund Policy. Such projects and actions are intended to be scheduled for Commission action at its next business meeting, scheduled for September 16, 2026, which will be noticed separately. The public should note that this public hearing will be the only opportunity to offer oral comments to the Commission for the listed projects and actions. The deadline for the submission of written comments is August 10, 2026.

DATES: The public hearing will convene on July 30, 2026, at 5:00 p.m. The public hearing will end at 8:00 p.m. or at the conclusion of public testimony, whichever is earlier. The deadline for submitting written comments is Monday, August 10, 2026.

ADDRESSES: This public hearing will be conducted in person and telephonically. You may attend in person at Susquehanna River Basin Commission, 4423 N Front St., Harrisburg, Pennsylvania, or join by telephone at Toll-Free Number 1-877-304-9269 and then enter the guest passcode 2619070 followed by #.

FOR FURTHER INFORMATION CONTACT:

Andrew Zerby, Assistant Counsel, telephone: (717) 238-0423 or azerby@srbc.gov.

Information concerning the project applications is available at the Commission's Water Application and Approval Viewer at <https://www.srbc.gov/waav>. Information regarding the proposed Sustainable Water Resources Fund Policy can be found at <https://www.srbc.gov/regulatory/public-participation/>.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on its revised Sustainable Water Resources Fund. The proposed Policy would update and replace the existing policy adopted in 2016. The public hearing will also cover the following projects:

Projects Scheduled for Action

1. *Project Sponsor and Facility:* 3 Springs Water Company, Inc., Laurel Run Borough, Luzerne County, Pa. Application for consumptive use of up to 0.051 mgd (peak day).

2. *Project Sponsor:* Aqua Pennsylvania, Inc. *Project Facility:* Susquehanna Division, Athens Borough, Bradford County, Pa. Application for groundwater withdrawal of up to 2.880 mgd (30-day average) from Well 20.

3. *Project Sponsor and Facility:* Cargill Meat Solutions Corporation, Wyalusing Borough, Bradford County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.180 mgd from Well 6, 0.080 mgd from Well 7, and 0.150 mgd from Well 8.

4. *Project Sponsor:* Columbia Water Company. *Project Facility:* East Donegal Division, East Donegal Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.324 mgd (30-day average) from Well 1.

5. *Project Sponsor and Facility:* EQT ARO LLC (Loyalsock Creek), Hillsgrove Township, Sullivan County, Pa. Application for surface water withdrawal of up to 1.700 mgd (peak day).

6. *Project Sponsor and Facility:* Expand Operating LLC (Susquehanna River), Ulster Township, Bradford County, Pa. Application for surface water withdrawal of up to 4.000 mgd (peak day).

7. *Project Sponsor:* Greek Peak Holdings, LLC. *Project Facility:* Greek Peak Mountain Resort, Town of Virgil, Cortland County, N.Y. Applications for surface water withdrawal of up to 7.200 mgd (peak day) from Gridley Creek and consumptive use of up to 1.584 mgd (peak day).

8. *Project Sponsor:* Heritage Hills Associates. *Project Facility:* Heritage Hills Golf Resort & Conference Center, Springettsbury and York Townships, York County, Pa. Applications for surface water withdrawal of up to 0.249 mgd (30-day average) from an unnamed tributary to Mill Creek and consumptive use of up to 0.249 mgd (30-day average).

9. *Project Sponsor and Facility:* Mars Wrigley Confectionery US, LLC, Elizabethtown Borough, Lancaster County, Pa. Application for consumptive use of up to 0.150 mgd (30-day average).

10. *Project Sponsor and Facility:* Middlesex Township Municipal Authority, Middlesex Township, Cumberland County, Pa. Application for groundwater withdrawal of up to 0.914 mgd (30-day average) from Well 2.

11. *Project Sponsor and Facility:* Montgomery Water Authority, Clinton Township, Lycoming County, Pa. Application for groundwater withdrawal of up to 0.246 mgd (30-day average) from Well 5.

12. *Project Sponsor and Facility:* Mount Joy Borough Authority, East Donegal Township, Lancaster County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 1.300 mgd from Well 1 and 1.270 mgd from Well 2.

13. *Project Sponsor:* New Enterprise Stone & Lime Co., Inc. *Project Facility:* Alfred Sand and Gravel Quarry, Town of Alfred, Allegany County, N.Y. Applications for groundwater withdrawal of up to 0.288 mgd (30-day average) from Well 1 and consumptive use of up to 0.279 mgd (peak day).

14. *Project Sponsor:* Veolia Water Pennsylvania, Inc. *Project Facility:* Newberry Operation, Newberry Township, York County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.076 mgd from Reeser Well 1, 0.076 mgd from Reeser Well 2, 0.066 mgd from Susquehanna Village Well 1, and 0.066 mgd from Susquehanna Village Well 2.

15. *Project Sponsor and Facility:* Williamsport Municipal Water Authority, Williamsport City, Lycoming County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 1.300 mgd from Well 10 and 0.374 mgd from Well 11.

Opportunity To Appear and Comment

Interested parties may appear or call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by emailing Andrew Zerby at azerby@srbc.gov before the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to control the course of the hearing otherwise. Access to the hearing via telephone will begin at 4:45 p.m. Guidelines for the public hearing are posted on the Commission's website, www.srbc.gov, before the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Andrew Zerby, Assistant Counsel to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.gov/meeting-comment/default.aspx?type=2&cat=7>. Comments mailed or electronically submitted must be received by the Commission on or before Monday, August 10, 2026.

Authority: Pub. L. 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: June 29, 2026.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2026-13340 Filed 6-30-26; 8:45 am]

BILLING CODE 7040-01-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration**

[Docket No. FAA-2025-5634]

Agency Information Collection**Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Flight and Duty Limitations and Rest Requirements—Flightcrew Members**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our

intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 30, 2026. The collection involves reporting exceeded flight duty periods and flight times, including scheduled maximum and actual flight duty periods and flight times, basic flight information (e.g., city pairs, departure times, flight number), and reason for exceedance. Reporting and recordkeeping are required any time a certificated air carrier has exceeded a maximum daily flight time limit or a maximum daily Flight Duty Period (FDP) limit. It is also required for the voluntary development of a Fatigue Risk Management System (FRMS), and for fatigue training. The information is necessary to monitor trends in exceedance and possible underlying systemic causes requiring operator action, and to determine whether operator is scheduling realistically.

DATES: Written comments should be submitted by July 31, 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:

Sandra L. Ray by email at: Sandra.ray@faa.gov; phone: 412-546-7344.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120-0751.

Title: Flight and Duty Limitations and Rest Requirements—Flightcrew Members.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 30, 2026 (91 FR 23336). The FAA collects reports from air carriers

conducting passenger operations certificated under 14 CFR part 121 as prescribed in 14 CFR part 117 Flightcrew Member Duty and Rest Requirements, §§§ 117.11, 117.19, and 117.29. Air carriers are required to submit a report of exceeded flight duty periods and flight times, including scheduled maximum and actual flight duty periods and flight times, basic flight information (e.g., city pairs, departure times, flight number), and reason for exceedance. The purpose for the reports is to notify the FAA that the certificate holder has extended a flight time and/or FDP limitation. This information enables FAA to monitor trends in exceedance and possible underlying systemic causes requiring operator action as well as determine whether operators are scheduling realistically. Additionally, if air carriers choose to develop a Fatigue Risk Management System (FRMS) under § 117.7 they are required to collect data specific to the need of the operation for which they will seek an FRMS authorization. It results in an annual recordkeeping and reporting burden when carriers adopt the system because they need to report the related activities to the FAA. Each air carrier is also required to develop specific elements and incorporate these elements into their training program (§ 117.9). Once the elements have been incorporated, the air carrier must submit the revised training program for approval.

Respondents: 52 Air Carriers.

Frequency: On Occasion.

Estimated Average Burden per Response: 12 Hours.

Estimated Total Annual Burden: 30,954 Hours.

Issued in Washington, DC, on June 26, 2026.

Polli L. DeWalt,

Manager, Technical Programs, Air Transportation Division, AFS-260.

[FR Doc. 2026-13237 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Notice of Intent To Rule on a Land Release Request at North Platte Regional Airport (LBF), North Platte, NE**

AGENCY: Federal Aviation Administration (FAA), Department of Transportation.

ACTION: Notice of request to release airport land.

SUMMARY: The FAA proposes to rule and invites public comments on the request to release and sell 77.80 acres of federally obligated airport property at the North Platte Regional Airport (LBF), North Platte, Nebraska.

DATES: Comments must be received on or before July 31, 2026.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE-620G, 1100 Main Street, Suite 800, Kansas City, MO 64105.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to: David Walsh, Chairman, North Platte Airport Authority, 5400 East Lee Bird Drive, North Platte, NE 69101, (402) 399-1000.

FOR FURTHER INFORMATION CONTACT: Amy J. Walter, Airports Land Specialist, Federal Aviation Administration, Airports Division, ACE-620G, 1100 Main Street, Suite 800, Kansas City, MO 64105, (816) 329-2603, amy.walter@faa.gov. The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release 77.80 acres of airport property at the North Platte Regional Airport (LBF) under the provisions of 49 U.S.C. 47107(h)(2). The North Platte Airport Authority requested a release from the FAA to sell the land to the Central Nebraska Public Power and Irrigation District (CNPPID) for dredging and other operations associated with the North Platte River and its downstream diversion dam. The FAA determined this request to release and sell property at the North Platte Regional Airport (LBF) submitted by the Sponsor meets the procedural requirements of the FAA and the release and sale of the property does not and will not impact future aviation needs at the airport. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice.

The following is a brief overview of the request:

The North Platte Regional Airport (LBF) is proposing the release and sale of 77.80 acres of airport property. The release of land is necessary to comply with Federal Aviation Administration Grant Assurances that do not allow federally acquired airport property to be used for non-aviation purposes. The sale of the subject property will result in the land at the North Platte Regional Airport (LBF) being changed from aeronautical to non-aeronautical use and release the

land from the conditions of the Airport Improvement Program Grant Agreement Grant Assurances in order to sell the land. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, and the proceeds of the sale will be used for eligible airport projects that will benefit civil aviation.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may request an appointment to inspect the application, notice and other documents determined by the FAA to be related to the application in person at the North Platte Regional Airport.

Issued in Kansas City, MO on June 29, 2026.

Rodney N. Joel,

Director, FAA Central Region, Airports Division.

[FR Doc. 2026-13306 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2025-0558]

Decommission Remote Communications Outlets (RCOs) Used by Flight Service Stations Within the Conterminous United States, Hawaii, and Puerto Rico

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of final decision.

SUMMARY: This action sets forth the final determination by Federal Aviation Administration (FAA) to decommission remote communications outlets (RCOs) used by Flight Service Stations within the conterminous United States, Hawaii, and Puerto Rico. After consideration of public comments and the completion of additional safety analyses, FAA has revised its initial proposal and will decommission 674 RCOs, consisting of 504 RCOs and 170 VOR voice outlets, while retaining 262 outlets. This revised approach reflects a balance between modernization objectives and the continued availability of essential aeronautical services.

DATES: This action begins September 3, 2026.

FOR FURTHER INFORMATION CONTACT: Kevin J. Hanson, Director, Flight Service, System Operations Services, Federal Aviation Administration, 800 Independence Avenue SW, Washington,

DC 20591; telephone (202) 267-1240; email: kevin.j.hanson@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

FAA currently maintains a network of 936 remote communications outlets (RCOs) throughout the conterminous United States, Hawaii, and Puerto Rico. These facilities support communications between pilots and Flight Service Stations, enabling the provision of weather briefings, flight plan services, and other advisory functions.

On March 27, 2025, FAA requested comments on its plan to decommission the entire network of RCOs supporting advisory services in these regions, excluding Alaska.¹ That proposal was informed by technical studies, stakeholder engagement, and safety analyses conducted by Spectrum Testing & Engineering Analysis and FAA subject matter experts.

Following review of public comments and completion of additional safety risk assessments, FAA has revised its approach. Under this final policy, FAA will decommission 674 RCOs while retaining 262 outlets to maintain coverage comparable to existing service levels. Frequencies in Alaska and Ground Communications Outlets are not included in this action.

This phased reduction supports ongoing modernization efforts and allows for continued transition to alternative communication and information systems while maintaining operational safety.

FAA estimates that the reduction will result in annual cost savings of approximately \$4.8 million in maintenance, lease, and infrastructure expenses. Additional savings are anticipated through the avoidance of future capital investments in legacy systems.

Discussion of Comments

FAA received 337 responses to the notice of proposed policy. Commenters included individual pilots, aviation organizations, industry stakeholders, and FAA personnel.

The following discussion summarizes the principal issues raised. FAA has considered all comments received, including those not specifically addressed below.

Safety Concerns and Emergency Communications

Comments: A total of 327 comments expressed concerns regarding

¹ Notice of Intent To Decommission Flight Service Remote Communications Outlets (RCOs), 90 FR 13977.

emergency communications, search and rescue coordination, and the safety of VFR and IFR operations.

FAA Response: FAA reaffirms that safety remains its highest priority. A comprehensive safety risk assessment was conducted to evaluate communication redundancy, search and rescue coordination, and the availability of alternative technologies, including satellite-based and ADS-B-enabled systems.

Based on this analysis and stakeholder input, FAA revised its proposal to retain 262 outlets, providing coverage comparable to current levels. FAA has determined that this approach does not introduce new hazards into the National Airspace System (NAS).

FAA also notes that Flight Service Stations no longer monitor emergency frequencies within the conterminous United States, Hawaii, and Puerto Rico. Emergency communications are managed by Air Traffic Control (ATC), which retains the capability to provide assistance as needed.

Air Traffic Control Workload

Comments: A total of 158 comments raised concerns regarding potential increases in ATC workload and IFR clearance delivery.

FAA Response: FAA recognizes the importance of maintaining appropriate workload distribution. Under the revised policy, the vast majority of the workload will remain with Flight Service due to the retention of key outlets. Additionally, ATC handles 50,000 flights per day; any small portion of the 290 calls per day on the RCO network that transfers to ATC can be safely absorbed.

Technology Limitations and Accessibility

Comments: A total of 182 comments addressed concerns related to reliance on newer technologies, system redundancy, and service availability in remote areas.

FAA Response: FAA is committed to ensuring equitable access to aviation services. The revised plan maintains communication coverage at levels comparable to existing service.

FAA will continue to monitor the adoption of emerging technologies and will conduct targeted outreach to ensure that pilots, including those operating non-equipped aircraft, are aware of available communication options.

In-Flight Support and Pilot Education

Comments: A total of 179 comments emphasized the importance of in-flight access to weather information, NOTAMs, and pilot education and

awareness associated with this reduction of RCO outlets.

FAA Response: FAA agrees that pilot awareness and access to information are critical. The retention of 262 outlets will preserve access to Flight Service communications.

FAA will implement a comprehensive outreach strategy, including educational materials, webinars, and coordination with aviation organizations to ensure that pilots are informed of changes and available alternatives.

Cost and Efficiency

Comments: A total of 36 comments addressed the balance between safety and cost savings.

FAA Response: FAA emphasizes that safety considerations are independent of cost analyses. The proposed reductions were approved only after confirming that no additional risk would be introduced into the NAS.

Cost savings achieved through the decommissioning of legacy infrastructure will be reinvested in modernization initiatives that enhance overall system performance.

Alternatives to RCO Usage

Comments: A total of 23 comments proposed alternative approaches or technologies.

FAA Response: FAA acknowledges the availability of alternative technologies and the declining demand for traditional Flight Service interactions. While recognizing that access to these technologies is not yet universal, FAA determined that retaining 262 outlets provides an appropriate balance between modernization and continued service availability.

Support for the Proposal

Comments: A total of 27 comments expressed support for the proposed reductions.

FAA Response: FAA appreciates stakeholder support and recognizes the importance of modernization efforts. This feedback supports the agency's approach to implementing changes in a deliberate and transparent manner.

Other Comments

Comments: A total of 23 comments did not directly address the proposed action.

FAA Response: FAA appreciates all submissions and has considered them in its overall evaluation.

Final Decision

Based on the foregoing, FAA will reduce the number of radio frequencies used by Flight Service Stations to

communicate with aircraft in flight by decommissioning 674 RCOs beginning in late fiscal year 2026.

Notices to Airmen (NOTAM) will be issued as each frequency is decommissioned. Frequencies in Alaska and those designated for emergency or military use are not included.

Information regarding post-reduction coverage and affected frequencies is available on the Flight Service home page located at: www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/fs.

The following links are available on the home page:

- RCO Service Volumes—map of service coverages
- Decommissioned and retained RCOs

- Frequently Asked Questions (FAQs)

These materials will be updated as necessary until FAA publications reflect the changes described in this notice.

Authority: 49 U.S. Code § 40103.

Issued in Washington, DC, on June 23, 2026.

Joshua J. Daily,

Manager, Flight Service Safety & Operations Policy Group, Federal Aviation Administration.

[FR Doc. 2026–13257 Filed 6–30–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–6740]

Agency Information Collection

Activities: Requests for Comments; Clearance of a New Approval of Information Collection: Generic Clearance for FAA Aviation Workforce and Education Division—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments; correction.

SUMMARY: On June 23, 2026, FAA published a notice regarding the FAA Aviation Workforce and Education Division that included a partial docket number. This document corrects that omission.

FOR FURTHER INFORMATION CONTACT:

Nitin Rao by email at: nitin.rao@faa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 23, 2026, in FR Doc. 2026–12538, appearing on page 37488, in the second column, in the document heading, the document number to read: [Docket No. FAA–2026–6740].

Issued in Des Plaines, IL.

Nitin Rao,

Manager, Aviation Workforce and Education
Division, ARA-100.

[FR Doc. 2026-13236 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2025-5634]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Flight and Duty Limitations and Rest Requirements— Flightcrew Members

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice and request for
comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 30, 2026. The collection involves reporting exceeded flight duty periods and flight times, including scheduled maximum and actual flight duty periods and flight times, basic flight information (e.g., city pairs, departure times, flight number), and reason for exceedance. Reporting and recordkeeping are required any time a certificated air carrier has exceeded a maximum daily flight time limit or a maximum daily Flight Duty Period (FDP) limit. It is also required for the voluntary development of a Fatigue Risk Management System (FRMS), and for fatigue training. The information is necessary to monitor trends in exceedance and possible underlying systemic causes requiring operator action, and to determine whether operator is scheduling realistically.

DATES: Written comments should be submitted by July 31, 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:

Sandra L. Ray by email at: Sandra.ray@faa.gov; phone: 412-546-7344

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120-0751.

Title: Flight and Duty Limitations and Rest Requirements—Flightcrew Members.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 30, 2026 (91 FR 23336). The FAA collects reports from air carriers conducting passenger operations certificated under 14 CFR part 121 as prescribed in 14 CFR part 117 Flightcrew Member Duty and Rest Requirements, §§§ 117.11, 117.19, and 117.29. Air carriers are required to submit a report of exceeded flight duty periods and flight times, including scheduled maximum and actual flight duty periods and flight times, basic flight information (e.g., city pairs, departure times, flight number), and reason for exceedance. The purpose for the reports is to notify the FAA that the certificate holder has extended a flight time and/or FDP limitation. This information enables FAA to monitor trends in exceedance and possible underlying systemic causes requiring operator action as well as determine whether operators are scheduling realistically. Additionally, if air carriers choose to develop a Fatigue Risk Management System (FRMS) under § 117.7 they are required to collect data specific to the need of the operation for which they will seek an FRMS authorization. It results in an annual recordkeeping and reporting burden when carriers adopt the system because they need to report the related activities to the FAA. Each air carrier is also required to develop specific elements and incorporate these elements into their training program (§ 117.9). Once the elements have been incorporated, the air carrier must submit the revised training program for approval.

Respondents: 52 Air Carriers.

Frequency: On Occasion.

Estimated Average Burden per Response: 12 Hours.

Estimated Total Annual Burden: 30,954 Hours.

Issued in Washington, DC, on June 29, 2026.

Barbara Pisaro,

Program Analyst, Programs Support and Safety Recommendations, Air Transportation Division, AFS-260.

[FR Doc. 2026-13293 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2026-1421]

Petition for Approval of Test Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: This document provides the public notice that by letter dated June 9, 2026, and supplemented on June 26, 2026, Union Pacific Railroad Company (UP) submitted a request for FRA approval of a test program related to a locomotive control system, and the temporary suspension of certain FRA safety regulations in connection with that program.

DATES: Comments: FRA must receive comments on the petition by August 31, 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: Fred Mottley, Systems Engineer, Engineering, Technology, and Automation Division,

FRA, telephone: 617-494-3160, email: fred.mottley@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 June 9, 2026 and supplemented on June 26, 2026, UP submitted a request for FRA approval of a test program (Program) related to a locomotive control system, and the temporary suspension of certain FRA safety regulations in connection with the Program. FRA assigned the petition Docket Number FRA-2026-1421.

Specifically, UP explains that the Program is a “structured, phased test program of a locomotive control system designed to enhance operational safety by integrating existing locomotive control technologies and enabling new operating methodologies.” Further, UP explains that the locomotive control system (System) proposed to be tested enables a locomotive operator to “direct train movement at the point of the work, reducing risk of misinterpreting radio communication while enhancing safety in red zones when operating between equipment.”

UP asserts that suspending certain provisions of the Federal railroad safety regulations is necessary for the Program, and, accordingly, UP requests that FRA temporarily suspend certain provisions of the CFR throughout the Program. Specifically, UP requests that FRA temporarily suspend the following specific regulatory requirements during the Program:

- 49 CFR part 218, appendix D(ii)(B)(1) and (2) (pertaining to camera-assisted remote control locomotive operations);
- 49 CFR 229.15(b)(1) (pertaining to the testing of a remote control locomotive’s Operator Control Unit);
- 49 CFR 229.311(a); and
- 49 CFR 236.913(b).¹

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 relating to the Program and associated regulatory suspension requests. 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 parties desire 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 August 31, 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.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2026-13296 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2026-0199 (Notice No. 2026-04)]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requests (ICRs) discussed below will be forwarded to the Office of Management and Budget (OMB) for renewal and extension. These ICRs describe the nature of the information collections and their expected burdens. A **Federal Register** notice and request

for comments with a 60-day comment period on these ICRs was published in the **Federal Register** on January 30, 2026 (91 FR 4172) under Docket No. PHMSA-2026-0199 (Notice No. 2026-04). PHMSA received one comment in response to the 60-day notice from the Railway Safety Institute (RSI) regarding OMB Control Number 2137-0559, “Rail Carrier and Tank Car Tanks—Requirements, Rail Tank Car Tanks—Transportation of Hazardous Materials by Rail” (expiring September 30, 2027). However, PHMSA is not addressing the renewal of this OMB Control Number in today’s notice. Instead, RSI’s comments will be addressed either through a separate 30-day notice or in conjunction with responding to the proposals in the HM-265 Notice of Proposed Rulemaking (NPRM).¹

DATES: Interested persons are invited to submit comments on or before July 1, 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.

We invite comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the Department’s estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Docket: For access to the dockets to read background documents or comments received, go to <https://www.regulations.gov> or DOT’s Docket Operations Office.

FOR FURTHER INFORMATION CONTACT: Ryan Larson or Steven Andrews, Standards and Rulemaking Division, (202) 366-8553, ohmspra@dot.gov, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to

¹ UP notes that a safety analysis consistent with the requirements of both 49 CFR part 229, subpart E and 49 CFR part 236, subpart H will be completed prior to the start of the Program, but requests suspension of 49 CFR 229.311(a) and 236.913(b) until it can be “determined through observation of the System” which regulatory review path may be appropriate.

¹ 89 FR 85590 (Oct. 28, 2024).

provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on more up to date information. The following information is provided for each information collection: (1) title of the information collection, including former title if a change is being made; (2) OMB Control Number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** upon OMB's approval. PHMSA requests comments on the following information collections:

Title: Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

OMB Control Number: 2137–0018.

Summary: This OMB Control Number describes the information collections in 49 CFR 173, 178, and 180 of the HMR pertaining to the documenting qualifications, inspections, tests, and approvals pertaining to the manufacture and use of portable tanks and intermediate bulk containers (IBCs) under various provisions of the HMR. Information collections under this OMB Control Number include:

(1) *Design Qualification Testing for IBCs:* This information collection consists of the minimum requirements for testing procedures to ensure that IBCs containing hazardous materials can withstand normal conditions of transportation. Each packaging must pass the prescribed tests and conform to § 173.24 while in transportation. The testing requirements in § 178.801(d) ensure that the packaging manufacturer achieves successful test results for the design qualification testing at the start of production of each new or different IBC design type.

(2) *Periodic Design Requalification Testing of IBCs:* This information collection consists of the requirements for periodic design re-qualification of each qualified IBC design type to maintain authorization for continued production. IBC manufacturers must conduct successful tests at sufficient frequency to ensure each packaging produced is capable of passing the design qualification tests, which must be conducted at least once every 12 months.

(3) *Applications for Approval of Equivalent Packaging:* This information collection consists of the requirements for approval of equivalent packaging applications submitted by the regulated community to PHMSA, which allows the use of an IBC differing from the standards outlined in the HMR if it is shown to be equally effective and if the testing methods used are equivalent.

(4) *Reporting Requirements for Retest and Inspection of IBCs:* This information collection consists of the requirements for the continuing qualification, maintenance, or periodic retesting of an IBC by any person responsible for it. Each IBC constructed in accordance with a United Nations (UN) standard for which a test or inspection is required may not be filled and offered for transportation or transported until the testing and inspection have been successfully completed. The information collection also reflects the creation of a report that identifies the testing and inspection of IBCs.

(5) *Recordkeeping for IBC Testing:* This information collection consists of the recordkeeping requirements associated with IBC testing in §§ 178.801 and 180.352. The IBC owner or lessee must keep records of periodic retests, initial and periodic inspections, and test performance on the IBC if it has been repaired. Records must be kept for each packaging at each location where periodic tests are conducted and must be available for inspection by a DOT representative upon request.

(6) *Manufacturers Data Report (ASME) for Portable Tanks:* This information collection consists of the requirements for tanks designed and constructed in accordance with, and that fulfill all the requirements of, the American Society of Mechanical Engineers (ASME) Code. In addition to

the markings required by the ASME Code, every tank must bear permanent marks that include the information specified in § 178.255–14, which must be stamped into the metal near the center of one of the tank heads or stamped into a plate permanently attached to the tank by means of brazing or welding or other suitable means.

(7) *Approval Applications for Specification UN Portable Tank Design:* This information collection requires an owner or manufacturer of a portable tank to apply for an approval to a designated approval agency authorized to approve new portable tanks designs.

(8) *Applications for Modifications to Portable Tank Designs:* This information collection requires an owner or manufacturer of a portable tank to apply for an approval to a designated approval agency authorized to approve the modifications to portable tanks designs.

(9) *Portable Tanks—Approval Agency Retention of Documents:* This information collection consists of the requirement for approval agencies to review all drawings and calculations to ensure that the design is compliant with the relevant specification. The approval agency must maintain the drawings and approval records for as long as the portable tank remains in service and provide this information to the DOT upon request.

(10) *Portable Tanks—Manufacturers Retention of Documents:* This information collection requires that qualification records for specification portable tanks be retained for at least 5 years by the tank manufacturer and made available to duly identified representatives of the DOT or the owner of the tank.

(11) *Recordkeeping for the Testing of Portable Tank:* This information collection requires that the owner of the portable tank or his/her authorized agent will retain a written record indicating the date and results of all required tests, as well as the name and address of the tester, until the next retest has been satisfactorily completed and recorded. This information must be provided to the DOT upon request.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Design Qualification Testing for IBCs—Applications for the Certification Mark	13	494	3	1,482
Periodic Design Requalification Testing of IBCs—Submission of Changes to Test Frequency to the Associate Administrator	13	494	3	1,482

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Applications for Approval of Equivalent Packaging—IBCs	5	5	3	15
Reporting Requirements for Retest and Inspection of IBCs	1,000	100,000	0.25	25,000
Recordkeeping for IBC Testing	150	150	0.25	38
Manufacturers Data Report (ASME) for Portable Tanks	50	50,000	0.25	12,500
Approval Applications for Specification UN Portable Tank Design	13	494	3	1,482
Applications for Modifications to Portable Tank Designs	13	494	3	1,482
Portable Tanks—Approval Agency Retention of Documents	13	494	0.25	124
Portable Tanks—Manufacturers Retention of Documents	50	50,000	0.25	12,500
Recordkeeping for the Testing of Portable Tanks	150	150	0.25	38

Affected Public: Manufacturers and owners of portable tanks and intermediate bulk containers.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 1,470.

Total Annual Responses: 202,775.

Total Annual Burden Hours: 56,143.

Frequency of Collection: On occasion.

Title: Hazardous Materials Incident

Reports.

OMB Control Number: 2137–0039.

Summary: This information collection is applicable upon occurrence of an

incident as prescribed in 49 CFR 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed by a person in physical possession of a hazardous material at the time a hazardous material incident occurs in transportation, such as the release of materials, serious accident, evacuation, or closure of a main artery. Incidents meeting criteria in 49 CFR 171.15 also require a telephonic report. This information collection enhances the

Agency's ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway. The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Telephone Notifications	180	720	0.08	58
Incident Reports Paper—Written	172	2,888	1.6	4,621
Incident Reports—Electronic	166	19,720	0.8	15,776

Affected Public: Shippers and carriers of hazardous materials.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 518.

Total Annual Responses: 23,328.

Total Annual Burden Hours: 20,455.

Frequency of Collection: On occasion.

Title: Testing Requirements for Non-Bulk Packaging.

OMB Control Number: 2137–0572.

Summary: This OMB Control Number describes the information collections in 49 CFR 173 and 180 of the HMR pertaining to the testing requirements for non-bulk packagings. This OMB Control Number covers performance-oriented packaging standards and allows packaging manufacturers and shippers more flexibility in selecting more economical packagings for their products. These information collections also allow customizing the design of packagings to better suit the transportation environment that they will encounter and encourages technological innovations, decreases packaging costs, and significantly reduces the need for special permits. These information collections specifically include:

(1) *Testing Requirements for Non-Bulk Packaging (Reporting):* This information collection consists of

various testing requirements that must be met by non-bulk packaging, depending on the type of material it will contain. These include thermal resistance tests for packaging transporting oxygen cylinders, leakproofness tests for liquid hazardous materials, hydrostatic pressure tests for metal, plastic, and composite containers, cooperage tests for bung-type wooden barrels, and additional testing for packaging intended to contain infectious substances. The specific tests required may vary based on the outer and inner packaging material used.

(2) *Additional Test Reports (Reporting):* This information collection consists of the requirement to prepare and maintain a test report after each design qualification test or periodic retest of a packaging. The test report must be available to the user of the packaging or a representative of the DOT upon request and includes details such as the date, name, and address of the testing facility, packaging design type, maximum capacity, characteristics of test contents, and test descriptions and results.

(3) *Test Reports (Recordkeeping):* This information collection requires that test report must be made available to a user

of a packaging or a representative of the DOT, upon request. The test report includes information such as: the date, name, and address of the testing facility; a description of the packaging design type; the maximum capacity; characteristics of test contents; and test descriptions and results.

(4) *Closure Instructions (Reporting):* This information collection consists of the requirement for the manufacturer or certifier of non-bulk packaging to create closure instructions, in accordance with § 178.2(c). These instructions indicate the means of closure with which the package was tested and ensure that any subsequent shipper maintains the same level of safety when the package is closed for transportation of hazardous materials.

(5) *Closure Instructions (Recordkeeping):* This information collection requires that the manufacturer or other person certifying compliance, along with each subsequent distributor of the packaging, provide closure instructions to each person to whom the packaging is transferred, as well as any representative of the DOT, for inspection.

The following is a list of the information collections and burden

estimates associated with this OMB
Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Testing Requirements for Non-Bulk Packaging—Reporting	5,000	15,000	2.016	30,250
Additional Test Reports—Reporting	10	30	2	60
Test Reports—Recordkeeping	100	1,000	0.1	100
Closure Instructions—Reporting	500	500	2	1,000
Closure Instructions—Recordkeeping	16,080	16,080	0.083	1,340

Affected Public: Each non-bulk packaging manufacturer that tests packagings to ensure compliance with the HMR.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 21,690.

Total Annual Responses: 32,610.

Total Annual Burden Hours: 32,750.

Frequency of Collection: On occasion.

Title: Hazardous Materials Public Sector Training and Planning Grants.

OMB Control Number: 2137–0586.

Summary: This OMB Control Number describes the information collections in 49 CFR 110 pertaining to the procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes, and local communities to manage hazardous

materials emergencies, particularly those involving transportation. Sections in this Part address information collection and recordkeeping with regard to applying for grants, monitoring expenditures, and reporting and requesting modifications.

The following is a list of the information collections and burden estimates associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Hazardous Materials Grants Applications	68	68	83.26	5,662

Affected Public: State and local governments, Indian tribes.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 68.

Total Annual Responses: 68.

Total Annual Burden Hours: 5,662.

Frequency of Collection: On occasion.

Title: Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

OMB Control Number: 2137–0595.

Summary: This information collection and recordkeeping burden pertains to the requirements applicable to the manufacture, certification, inspection,

repair, maintenance, and operation of certain DOT specification and non-specification cargo tank motor vehicles used to transport liquefied compressed gases. These requirements are intended to ensure cargo tank motor vehicles used to transport liquefied compressed gases are operated safely, and to minimize the potential for catastrophic releases during unloading and loading operations. They include: (1) requirements for operators of cargo tank motor vehicles in liquefied compressed gas service to develop operating procedures applicable to unloading

operations and carry the operating procedures on each vehicle; (2) inspection, maintenance, marking, and testing requirements for the cargo tank discharge system, including delivery hose assemblies; and (3) requirements for emergency discharge control equipment on certain cargo tank motor vehicles transporting liquefied compressed gases that must be installed and certified by a Registered Inspector.

The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Marking New/Repaired Hoses with Unique Identifier	6,800	12,172	0.083	1,010
Monthly Hose Inspections Record	6,800	439,960	0.1	43,996
Record of Monthly Piping Tests Record	6,800	400,112	0.2	80,022
Hose Pressure Test Marking Record	6,800	12,172	0.083	1,010
Annual Hose Test Record	6,800	36,652	0.42	15,394
Cargo Tanks in Other Than Metered Delivery Service—Design Certification for Automatic Shutoff	150	900	8	7,200
Cargo Tanks in Other Than Metered Delivery Service—Installation of Shutoff System by a Registered Inspector	150	900	8	7,200
Cargo Tank Motor Vehicles in Metered Delivery Service—Certification of Remote-Control Equipment by a Registered Inspector	150	3,300	8	26,400

Affected Public: Carriers in liquefied compressed gas service, manufacturers and repairers.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 34,450.

Total Annual Responses: 906,168.

Total Annual Burden Hours: 182,232.

Frequency of Collection: On occasion.

Title: Inspection and Testing of Meter Provers.

OMB Control Number: 2137–0620.

Summary: This information collection and recordkeeping burden results from

the requirements pertaining to the use, inspection, and maintenance of mechanical displacement meter provers (meter provers) used to check the accurate flow of liquid hazardous materials into bulk packagings—such as portable tanks and cargo tank motor

vehicles. These meter provers are used to ensure that the proper amount of liquid hazardous materials is being loaded and unloaded. These meter provers consist of a gauge and several pipes that always contain small amounts of the liquid hazardous material in the pipes as residual material and, therefore, must be inspected and maintained in accordance with the HMR to ensure they are in proper calibration and working order. These meter provers are not subject to the specification testing and inspection requirements in 49 CFR 178. However, these meter provers must be visually annually inspected and hydrostatic

pressure tested every five years in order to ensure they are properly working as specified in 49 CFR 173.5a of the HMR. Therefore, this information collection requires that:

(1) Each meter prover must undergo and pass an annual external visual inspection to ensure that the meter provers used in the flow of liquid hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(2) Each meter prover must undergo and pass a hydrostatic pressure test at least every 5 years to ensure that the meter provers used in the flow of liquid

hazardous materials into bulk packagings are accurate and in conformance with the performance standards in the HMR.

(3) Each meter prover must successfully complete the test and inspection and must be marked in accordance with 49 CFR 180.415(b) and 173.5a.

(4) Each owner must retain a record of the most recent visual inspection and pressure test until the meter prover is requalified.

The following information collections and their burdens are associated with this OMB Control Number:

Information collection	Respondents	Total annual responses	Hours per response	Total annual burden hours
Annual Visual Inspection	250	250	0.5	125
Hydrostatic Pressure Test (Every 5 Years)	250	250	0.2	50

Affected Public: Owners of meter provers used to measure liquid hazardous materials flow into bulk packagings such as cargo tanks and portable tanks.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 500.

Total Annual Responses: 500.

Total Annual Burden Hours: 175.

Frequency of Collection: On occasion.

Issued in Washington, DC, on June 29, 2026 under authority delegated in 49 CFR 1.97.

Matthew Nickels,

Acting Director, Standards and Rulemaking Division, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2026-13289 Filed 6-30-26; 8:45 am]

BILLING CODE 4910-60-P

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Licensing, 202-622-2480; Assistant Director for Sanctions Compliance, 202-622-2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

A. On April 13, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is unblocked and they have been removed from the SDN List.

1. MUNOZ PEDROZA, Reinaldo Enrique, C. Gil Fortoul, Centauro A, 5-D, Santa Monica, Caracas, Distrito Capital 1040, Venezuela; DOB 28 Nov 1971; POB Caracas, Venezuela; nationality Venezuela; Gender Male; Cedula No. V-10869426 (Venezuela); Passport 138050232 (Venezuela) expires 25 Jul 2021 (individual) [VENEZUELA].

B. On May 8, 2026, OFAC determined that following vessel is unblocked and has been removed from the SDN List.

1. ASTRA (XVJT7) Chemical/Oil Tanker Vietnam flag; Secondary sanctions risk: See Section 11 of Executive Order 14024.; alt. Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 9273387; MMSI 574005470 (vessel) [UKRAINE-EO13662] [RUSSIA-EO14024] (Linked

To: SAO VIET PETROL TRANSPORTATION COMPANY LIMITED).

C. On May 8, 2026, OFAC updated the SDN List entry for the following person, whose property and interests in property subject to U.S. jurisdiction continue to be blocked.

1. KOVAY GARDENS (a.k.a. VALLARTA GARDENS), La Cruz de Huanacaxtle, Nayarit, Mexico; website <https://kovaygardens.com>; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2002; Organization Type: Short term accommodation activities [SDGT] [ILLICIT-DRUGS-EO14059] (Linked To: CARTEL DE JALISCO NUEVA GENERACION).—TO—KOVAY GARDENS (a.k.a. MARINA OASIS BEACHFRONT RESORT; a.k.a. NAVIRA VILLAS & RESIDENCES; a.k.a. NAVIRA VILLAS AND RESIDENCES; a.k.a. VALLARTA GARDENS), La Cruz de Huanacaxtle, Nayarit, Mexico; website <https://kovaygardens.com>; alt. Website <https://navira.com.mx>; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 2002; Organization Type: Short term accommodation activities [SDGT] [ILLICIT-DRUGS-EO14059] (Linked To: CARTEL DE JALISCO NUEVA GENERACION).

(Authority: 31 CFR chapter V.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2026-13303 Filed 6-30-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of one or more persons currently included in OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). OFAC is also publishing the names of one or more properties or persons who have been removed from the SDN List.

DATES: See **SUPPLEMENTARY INFORMATION** for relevant dates.

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Actions**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on June 26, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; the Assistant Director for Sanctions Compliance, 202-622-2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On June 26, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals:

1. CHOUDHARI, Alok, Raipur, Chhattisgarh, India; DOB 15 Sep 1970;

POB Raipur, Chhattisgarh, India; nationality India; Gender Male; Passport R6656526 (India) expires 26 Dec 2027; alt. Passport Z7551463 (India) expires 22 Feb 2034 (individual) [SUDAN-EO14098] (Linked To: SBL ENERGY LIMITED).

Designated pursuant to section 1(a)(ii)(B) of Executive Order 14098 of May 4, 2023, "Imposing Sanctions on Certain Persons Destabilizing Sudan and Undermining the Goal of a Democratic Transition" (E.O. 14098), for being a foreign person who is or has been a leader, official, senior executive officer, or member of the board of directors of, SBL Energy Limited, an entity whose property and interests in property are blocked pursuant to E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

2. DERMAN GUZMAN, Jack Peter, Panama City, Panama; DOB 23 Jun 1988; POB Panama; nationality Panama; Gender Male; Cedula No. 882169 (Panama); Passport PA1410518 (Panama) expires 06 Oct 2030 (individual) [SUDAN-EO14098] (Linked To: TALENT BRIDGE, S.A.).

Designated pursuant to section 1(a)(ii)(B) of E.O. 14098 for being a foreign person who is or has been a leader, official, senior executive officer, or member of the board of directors of, Talent Bridge, S.A., an entity whose property and interests in property are blocked pursuant to E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

3. LOPEZ OCAMPO, Fredy Alejandro, Panama City, Panama; DOB 01 Jun 1994; POB Colombia; nationality Colombia; Gender Male; Passport AY858853 (Colombia) (individual) [SUDAN-EO14098] (Linked To: TALENT BRIDGE, S.A.).

Designated pursuant to section 1(a)(ii)(B) of E.O. 14098 for being a foreign person who is or has been a

leader, official, senior executive officer, or member of the board of directors of, Talent Bridge, S.A., an entity whose property and interests in property are blocked pursuant to E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

4. MADANI, Tariq Hussain Muhammad, Sudan; DOB 15 May 1971; nationality Sudan; Gender Male (individual) [SUDAN-EO14098] (Linked To: TARGET MULTIACTIVITIES COMPANY LTD).

Designated pursuant to section 1(a)(ii)(B) of E.O. 14098 for being a foreign person who is or has been a leader, official, senior executive officer, or member of the board of directors of, Target Multiactivities Company Ltd, an entity whose property and interests in property are blocked pursuant to E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

5. PALACIOS QUINTANILLA, Enrique Daniel, Panama City, Panama; DOB 15 Oct 1985; POB Panama; nationality Panama; Gender Male; Cedula No. 87891056 (Panama); Passport PA0803127 (Panama) expires 01 Oct 2026 (individual) [SUDAN-EO14098] (Linked To: TALENT BRIDGE, S.A.).

Designated pursuant to section 1(a)(ii)(B) of E.O. 14098 for being a foreign person who is or has been a leader, official, senior executive officer, or member of the board of directors of Talent Bridge, S.A., an entity whose property and interests in property are blocked pursuant to the E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors.

Entities:

1. PORTS ENGINEERING COMPANY LTD (Arabic: شركة الموانئ الهندسية المحدودة), Port Sudan, Sudan; Organization Established Date 01 Jan 1998; Organization Type: Construction of other civil engineering projects; Target Type State-Owned Enterprise; Company Number 6596 (Sudan) [SUDAN-EO14098] (Linked To: SUDAN MASTER TECHNOLOGY).

Designated pursuant to section 1(a)(v) of E.O. 14098 for being a foreign person who is owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, Sudan Master Technology, a person whose property and interests in property are blocked pursuant to E.O. 14098.

2. SBL ENERGY LIMITED (a.k.a. AMIN EXPLOSIVES PRIVATE LIMITED; a.k.a. SBL ENERGY PRIVATE LIMITED), Raipur, Chhattisgarh, India; Website www.sblenergy.com; Organization Established Date 08 Feb 2002; C.I.N. U24292CT2002PLC015581 (India); Tax ID No. 27AADCA3124B1ZE (India); Legal Entity Number 3358008I6IEH1VUCXE19 (India) [SUDAN-EO14098] (Linked To: TARGET MULTIACTIVITIES COMPANY LTD).

Designated pursuant to section 1(a)(iv) of E.O. 14098 for being a foreign person who has materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, Target Multiactivities Company Ltd, a person whose property and interests in property are blocked pursuant to E.O. 14098.

3. TARGET MULTIACTIVITIES COMPANY LTD (Arabic: تارغيت للنشطة المتعددة المحدودة), Khartoum, Sudan; Organization Established Date 05 May 2009; Organization Type: Chemicals and allied products wholesale; Registration Number 34777 (Sudan) [SUDAN-EO14098].

Designated pursuant to section 1(a)(v) of E.O. 14098 for being a foreign person who is owned or controlled by, or has acted or purported to act for or on behalf of, directly or indirectly, Defense Industries Systems, a person whose property and interests in property are blocked pursuant to E.O. 14098.

(Authority: E.O. 14098)

Bradley T. Smith,
Director, Office of Foreign Assets Control.
[FR Doc. 2026-13279 Filed 6-30-26; 8:45 am]
BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been

placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: This action was issued on June 25, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, 202-622-2420; Assistant Director for Licensing, 202-622-2480; Assistant Director for Sanctions Compliance, 202-622-2490 or <https://ofac.treasury.gov/contact-ofac>.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: <https://ofac.treasury.gov>.

Notice of OFAC Actions

On June 25, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. KALIMA KAREKEZI, Jean Malic, Kigali, Rwanda; DOB 25 May 1963; POB Uvira, Democratic Republic of the Congo; nationality Rwanda; Gender

Male; Passport PC638680 (Rwanda) expires 06 May 2031; National ID No. 1196380005387371 (Rwanda) (individual) [DRCONGO] (Linked To: GASABO GOLD REFINERY LTD).

Designated pursuant to section 1(a)(ii)(G) of Executive Order 13413 of October 27, 2006, "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo," as amended by Executive Order 13671 of July 8, 2014, "Taking Additional Steps To Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo" ("E.O. 13413, as amended"), for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Gasabo Gold Refinery LTD, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

2. KAYOBOTSI, Bosco, Kigali, Rwanda; DOB 25 Aug 1985; POB Masisi, Democratic Republic of the Congo; nationality Rwanda; Gender Male; Passport PC648741 (Rwanda) expires 01 Aug 2031; National ID No. 1198580022378192 (Rwanda) (individual) [DRCONGO] (Linked To: GASABO GOLD REFINERY LTD).

Designated pursuant to section 1(a)(ii)(G) of E.O. 13413, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Gasabo Gold Refinery LTD, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

Entities

1. BUGAMBIRA MINES LTD (a.k.a. MULTISERVE CONSULTS LTD), Kigali, Rwanda; website www.bugambiramines.rw; Organization Established Date 20 Jun 2006; Organization Type: Mining and Quarrying [DRCONGO] (Linked To: KALIMA KAREKEZI, Jean Malic).

Designated pursuant to section 1(a)(ii)(G) of E.O. 13413, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Jean Malic Kalima Karekezi, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

2. GASABO GOLD REFINERY LTD, Kigali, Rwanda; website ggr.co.rw; Organization Established Date 26 May 2022; Organization Type: Mining of other non-ferrous metal ores; Company Number 120323055 (Rwanda) [DRCONGO] (Linked To: M23).

Designated pursuant to section 1(a)(ii)(F)(ii) of E.O. 13413, as amended,

for having materially assisted, sponsored, or provided financial, material, logistical, or technological support for, or goods or services in support of M23, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

Designated pursuant to section 1(a)(ii)(C)(7) of E.O. 13413, as amended, for being responsible for or complicit in, or having engaged in, directly or indirectly, any of the following in or relation to the Democratic Republic of Congo: support to persons, including armed groups, involved in activities that threaten the peace, security, or stability of the Democratic Republic of the Congo or that undermine democratic processes or institutions in the Democratic Republic of the Congo, through the illicit trade in natural resources of the Democratic Republic of the Congo.

3. RWINKWAVU MINING CORPORATION LTD, Rwinkwavu, Rwanda; Organization Type: Mining and Quarrying [DRCONGO] (Linked To: KALIMA KAREKEZI, Jean Malic).

Designated pursuant to section 1(a)(ii)(G) of E.O. 13413, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Jean Malic Kalima Karekezi, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

4. WOLFRAM MINING AND PROCESSING LTD, Kigali, Rwanda; website www.wmprwanda.rw; Organization Established Date 22 Dec 2006; Organization Type: Mining and Quarrying [DRCONGO] (Linked To: KALIMA KAREKEZI, Jean Malic).

Designated pursuant to section 1(a)(ii)(G) of E.O. 13413, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Jean Malic Kalima Karekezi, a person whose property and interests in property are blocked pursuant to E.O. 13413, as amended.

(Authority: E.O. 13413, as amended.)

Bradley T. Smith,

Director, Office of Foreign Assets Control.
[FR Doc. 2026-13278 Filed 6-30-26; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Relief for Certain Spouses of Military Personnel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before August 31, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include "OMB Control No. 1545-2169" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, 202-317-6009.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess its impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up

costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Relief for Certain Spouses of Military Personnel.

OMB Control Number: 1545–2169.

Document Number(s): TD 9194, 9391 and Notices: 2010–30, 2011–16, and 2012–41.

Abstract: The Military Spouses Residency Relief Act (“MSRRA”) was signed into law on November 11, 2009 (Pub. L. 111–97). MSRRA applies to the 2009 and subsequent tax years. This collection provides guidance to taxpayers who claim the benefits of the tax provisions under MSRRA for the 2009 and subsequent tax years. These documents provide civilian spouses working in a U.S. territory but claiming a tax residence in one of the 50 States or the District of Columbia (“U.S. mainland”) under MSRRA with an extension of time for paying the tax due the Internal Revenue Service (“IRS”) (Internal Revenue Code § 6161). Additionally, these documents provide civilian spouses working on the U.S. mainland but claiming a tax residence in a U.S. territory under MSRRA with guidance on filing claims for refund of federal income taxes that their employers withheld and remitted to the IRS or estimated tax payments the taxpayers paid to the IRS.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 6,200.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 6,200.

Dated: June 25, 2026.

LaNita Van Dyke,

Tax Analyst.

[FR Doc. 2026–13292 Filed 6–30–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Statement of Payments Received

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Information Collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the

IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before August 31, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include “OMB Control No. 1545–0364” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Marcus W. McCrary, 470–769–2001.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and be viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Statement of Payments Received.

OMB Control Number: 1545–0364.

Form Number: 4669.

Abstract: Form 4669, Statement of Payments Received, is used by payors in specific situations to request relief from payment of certain required taxes. A payor who fails to withhold certain required taxes from a payee may be entitled to relief, under sections 3402(d), 3102(f)(3), 1463 or Regulations

section 1.1474–4. To apply for relief, a payor must show that the payee reported the payments and paid the corresponding tax. To secure relief as described above, a payor must obtain a separate, completed Form 4669 from each payee for each year relief is requested. The data is used to verify that the income tax on the wages was paid in full. The collection of data affects business, individuals, and households.

Current Actions: There is no change to the previously approved information collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals and households, etc.

Estimated Number of Responses: 85,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 21,250.

Dated: June 29, 2026.

Marcus W. McCrary,

Tax Analyst.

[FR Doc. 2026–13338 Filed 6–30–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Agency Information Collection Activities; Comment Request on Probable or Prospective Reserves Safe Harbor

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Information Collection; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

DATES: Written comments should be received on or before August 31, 2026 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include “OMB Control No. 1545–1861” in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Marcus W. McCrary, 470–769–2001.

SUPPLEMENTARY INFORMATION: The IRS, in accordance with the Paperwork

Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Title: Probable or Prospective Reserves Safe Harbor.

OMB Control Number: 1545–1861.

Regulation Project Number: Rev Proc 2004–19.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under Sec. 611 of the Internal Revenue Code.

Current Actions: There is no change to the existing collection previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 100.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 50 hours.

Dated: June 29, 2026.

Marcus W. McCrary,

Tax Analyst.

[FR Doc. 2026–13339 Filed 6–30–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0820]

Agency Information Collection Activity Under OMB Review: Adaptive Sports Grant Application

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 July 31, 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. 2900–0820.”

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, VAPRA@va.gov

SUPPLEMENTARY INFORMATION:

Title: Adaptive Sports Grant Application (VA Form 10096).

OMB Control Number: 2900–0820.
<https://www.reginfo.gov/public/do/PRASearch>.

Type of Review: Reinstatement with change of a previously approved collection.

Abstract: Legal authority for this data collection is found under 38 U.S.C. 521A, which authorizes and mandates the collection of data to apply for a VA adaptive sports program grant. The mandated collection of data allows for evaluation of eligibility for an adaptive sports program grant, the goal of which is providing adaptive sports opportunities for disabled veterans and members of the Armed Forces. The information will be used by VA to evaluate multiple criteria to confirm grantee eligibility, to score grantee proposals according to application criteria, and to ensure program efficacy and appropriate use of grant funds. The application information will indicate whether and to what extent a grant program is likely to be successful in meeting the program's intent for providing adaptive sports opportunities for disabled veterans and members of the Armed Forces. There is an increase in the estimated number of annual respondents and burden hours based upon program data since the last PRA clearance.

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 12909, March 17, 2026.

Affected Public: Private sector nonprofit.

Estimated Annual Burden: 83 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 250.

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. 2026–13272 Filed 6–30–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

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Wednesday,

No. 125

July 1, 2026

Part II

Commodity Futures Trading Commission

17 CFR Parts 15, 16, and 17

Data Reporting Requirements for Certain Event Contracts; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16, and 17

RIN 3038-AF73

Data Reporting Requirements for Certain Event Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is proposing revisions to the Commission’s regulations that would set forth an alternate framework for reporting of data for certain fully collateralized event contracts (the “Proposal”). These revisions would require certain reporting markets, futures commission merchants, clearing members, and foreign brokers to report certain event contracts pursuant to the regulations in parts 15 through 18 rather than the reporting regulations contained in certain sections of parts 38, 39, 43 and 45.

DATES: Comments must be received on or before July 31, 2026.

ADDRESSES: You may submit comments, specifically referencing “Data Reporting Requirements For Certain Event Contracts” and RIN 3038-AF73, by any of the following methods:

- *Regulations.gov:* Go to <https://www.regulations.gov> and press the “Search” button, then proceed as follows:
 1. Under Refine Documents Results—check the box to “Only show documents open for comment”;
 2. Under Agency—select “See More” and check the box for “Commodity Futures Trading Commission,” then press the Apply button;
 3. Identify this proposal in the list of CFTC documents open for comment, press the “Comment” button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this proposal on www.federalregister.gov, click the “Submit A Public Comment” button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the

Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission’s consideration, please contact the CFTC personnel listed in this document under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission’s procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act (“APA”) and other applicable laws, and may be accessible under the FOIA.

Pursuant to the APA, 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is available at *Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Stephen Andrews, Deputy General Counsel for Regulation, sdandrews@cftc.gov, 202–308–7563, Office of the General Counsel; Herminio Castro, Associate General Counsel, [\[cftc.gov\]\(mailto:cftc.gov\), 202–418–6705; Owen Kopon, Associate Director, Division of Market Oversight, \[okopon@cftc.gov\]\(mailto:okopon@cftc.gov\), 202–418–5360; Paul Chaffin, Special Counsel, Division of Market Oversight, \[pchaffin@cftc.gov\]\(mailto:pchaffin@cftc.gov\), 202–418–5185, in each case at the Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.](mailto:hcastro@</p>
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List of Subjects

I. Background

A. Introduction

Under the Commodity Exchange Act (“CEA”) and Commission regulations, different data reporting requirements apply to swaps and futures transactions. With respect to swaps transactions, reporting parties must submit certain swap data to swap data repositories (“SDRs”),¹ which in turn publicly

¹ CEA section 2(a)(13)(G), 7 U.S.C. 2(a)(13)(G) (requiring that “[e]ach swap (whether cleared or uncleared) shall be reported to a registered swap data repository.”). Depending on whether the swap is executed on or pursuant to the rules of a swap execution facility (“SEF”) or designated contract market (“DCM”) or is an off-facility swap, the SEF, DCM, swap dealer (“SD”), major swap participant (“MSP”), or a designated reporting counterparty reports swap transaction and pricing data to an SDR as soon as technologically practicable after execution of the swap. Also, reporting counterparties, SDs, MSPs, and derivatives clearing organizations (“DCOs”) report swap continuation, valuation, and collateral data to an SDR. See 17 CFR 43.3; 17 CFR 45.4; 7 U.S.C. 2(a)(13)(G).

disseminate that data.² With respect to futures transactions, certain futures data is reported directly to the Commission and also is publicly disseminated.³

This Proposal addresses the data reporting requirements for certain fully-collateralized event contracts with a binary payout structure or a variable payout structure.⁴ The Commission has generally found that these contracts are covered by the CEA's "swap" definition.⁵ Event contracts may fall under one or more subsections of the "swap" definition set forth in section 1a(47) of the CEA.⁶ For example, CEA section 1a(47)(A)(i) defines the term "swap" to include "any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind."⁷ Section 1a(47)(A)(ii) defines the term "swap" to include "any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."⁸ Depending on their

underlying events, certain event contracts may be security-based swaps or other instruments subject to the jurisdiction of the Securities and Exchange Commission ("SEC"), however, and this Proposal is applicable to only those event contracts solely within the CFTC's jurisdiction.⁹

B. Current Reporting Regimes for Swaps and Futures

The CEA grants the Commission the authority "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of [the CEA]."¹⁰ The CEA provides, in part, that it is the purpose of the CEA to ensure the financial integrity of transactions subject to the CEA, to avoid systemic risk, to protect market participants from fraudulent or other abusive sales practices and misuses of customer assets, and to promote responsible innovation and fair competition.¹¹ The CEA also grants the Commission plenary authority over commodity options.¹² And section 8a(5) of the CEA obligates DCMs to comply with the Core Principles and any

requirements that the Commission may impose by rule or regulation pursuant to section 8a(5) of the CEA.¹³

The Commission promulgated parts 43, 45, and 49 of the Commission's regulations pursuant to its authority to require the reporting of swap data and swap transaction and pricing data to SDRs, and to require that SDRs, in turn, provide swap data to the Commission and disseminate swap transaction and pricing data to the public.¹⁴ Part 43 generally concerns reporting and real-time public dissemination of swap transaction and pricing data. Part 45 concerns reporting of more detailed swap data that is made available only to the Commission, which includes counterparty-identifying information, life-cycle-event data, and valuation, margin, and collateral data.¹⁵

The Commission has long overseen the reporting regime set out in parts 15 through 18, which generally covers futures and options transactions and positions.¹⁶ Whereas swap data is sent to SDRs, which in turn process and provide swap data to the Commission and the public, futures data generally is sent directly to the Commission,¹⁷ while certain price, volume, and other transaction information is separately

² See CEA section 2(a)(13)(D), 7 U.S.C. 2(a)(13)(D). Section 2(a)(13)(B) of the CEA, 7 U.S.C. 2(a)(13)(B), authorizes the Commission to make swap transaction data available to the public in order to enhance price discovery. Typically, under the Commission's real-time swap reporting rules, SDRs perform this dissemination function. See 17 CFR 43.4.

³ See 17 CFR 16.02.

⁴ A contract with a binary payout structure results, at settlement, in the payment of an absolute amount to the holder of one side of the event contract and no payment to the counterparty, while a contract with a variable payout structure can result in a payout to both counterparties based on the final settlement price.

⁵ Event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of "swap." CEA section 1a(47)(B), 7 U.S.C. 1a(47)(B) (providing "exclusions" from the definition of "swap" under the CEA, including futures, options on futures, securities such as options on securities and indexes of securities, security-based swaps, and debt securities). See also CEA section 2a(1)(A) and (H), 7 U.S.C. 2(a)(1)(A) and (H).

⁶ 7 U.S.C. 1a(47).

⁷ 7 U.S.C. 1a(47)(A)(i). CEA section 1a(36), 7 U.S.C. 1a(36), defines "option" to include "an agreement, contract, or transaction that is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty'."

⁸ 7 U.S.C. 1a(47)(A)(ii). See *In re Blockratize, inc. d/b/a Polymarket.com*, CFTC Dkt. No. 22–09, at 2

(Jan. 3, 2022) (certain "event contracts, each of which is composed of a pair of binary options, constitute swaps"). *Commodity Futures Trading Comm'n v. Trade Exch. Network Ltd.*, 117 F. Supp. 3d 29, 36 (D.D.C. 2015) (holding binary option event contracts allowing "customers to make predictions on the occurrence of events by either buying or selling shares" were "options"). An event contract could be a swap under both CEA section 1a(47)(A)(i) and (ii).

⁹ See 7 U.S.C. 1a(47)(B) (providing "exclusions" from the definition of "swap" under the CEA, including for securities such as security based-swaps, certain options, and debt securities); see also, e.g., 15 U.S.C. 78c(a)(68)(A) (defining "security-based swap" under the Securities Exchange Act of 1934).

¹⁰ See CEA section 8a(5), 7 U.S.C. 12a(5).

¹¹ See CEA section 3(b), 7 U.S.C. 5(b).

¹² See CEA section 4c(b), 7 U.S.C. 6c(b) (stating that "[n]o person shall offer to enter into, enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty', contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe. Any such order, rule, or regulation may be made only after notice and opportunity for hearing, and the Commission may set different terms and conditions for different markets.") To the extent that event contracts are structured as commodity options, this is additional plenary rulemaking authority Congress has given the Commission to regulate commodity option transactions, including the authority to require less stringent swap reporting for swaps that are commodity options. See, e.g., Final rule and interim final rule, Commodity Options, 77 FR 25320, 25327 (Apr. 27, 2012) (exempting certain trade options from part 45 reporting based on CEA section 4c(b) authority).

¹³ See CEA section 5(d), 7 U.S.C. 7(d). CEA section 2(e) also requires that any person other than an eligible contract participant ("ECP") may not enter into a swap unless the swap is entered into on, or subject to the rules of, a designated contract market. 7 U.S.C. 2(e).

¹⁴ See 17 CFR part 43; 17 CFR part 45; 17 CFR part 49, implementing CEA sections 2(a)(13)(D) and (G), 7 U.S.C. 2(a)(13)(D) and (G). Section 2(a)(13)(G) of the CEA, 7 U.S.C. 2(a)(13)(G), requires that "[e]ach swap (whether cleared or uncleared) shall be reported to a registered swap data repository." Section 2(a)(13)(B) of the CEA, 7 U.S.C. 2(a)(13)(B), authorizes the Commission to make swap transaction data available to the public in order to enhance price discovery. Typically, under the Commission's real-time swap reporting rules, SDRs perform this dissemination function. See 17 CFR 43.4.

¹⁵ See, e.g., 17 CFR 45.4. Part 49 of the Commission's regulations, 17 CFR part 49, set forth the regulations pertaining to SDRs. Section 49.15, 17 CFR 49.15, addresses the real-time public reporting by SDRs.

¹⁶ See 17 CFR parts 15–18. Such reporting is generally required for "futures by commodity or and by future, and, for options, by underlying futures contract (for options on futures contracts) or by underlying commodity (for other commodity options)." See 17 CFR 16.00(a); see also 17 CFR 17.00(a)(1) (requiring position reporting for "each futures position . . . and each put and call options position . . .").

¹⁷ See, e.g., 17 CFR 16.02 (requiring daily "trade and supporting data reports" consisting of "transaction-level trade data and related order information for each futures or options contract"); 17 CFR 17.00(a) (requiring daily reporting of "each futures position, separately for each reporting market and for each future, and each put and call options position separately for each reporting market . . .").

published by DCMs.¹⁸ The categories of data reports required to be submitted vary for swaps and futures. For swaps, reporting parties predominantly submit transaction and pricing data reports,¹⁹ whereas for futures, the Commission receives both transaction data reports²⁰ and position reports.²¹ The method for public dissemination of data also varies. For swaps, SDRs disseminate data in real-time,²² whereas for futures, DCMs disseminate market data directly to the Commission and the public.²³

C. Staff No-Action Letters Issued for Fully Collateralized Event Contracts

Prior to 2010, event contracts with a binary payout structure were reported to the Commission as options under the futures and options reporting regime.²⁴ In 2011, the Commission subsequently promulgated regulations implementing the Dodd-Frank Act and creating the swaps reporting regime.²⁵ Certain reporting markets²⁶ and DCOs (together, “Registered Entities”) have requested that the Division of Market Oversight (“DMO”) and the Division of Clearing and Risk (“DCR”) (hereinafter the “Divisions”) issue a staff no-action position with respect to the swap reporting requirements applicable to certain fully collateralized event contracts with a binary payout structure or variable payout structure.²⁷

The requesters asked to report the fully collateralized event contracts under a version of the futures and options reporting regime instead of the swaps reporting regime set forth in Commission regulations 38.8(b), 38.10, 38.951 (to the extent that regulation 38.951 requires compliance with part 45 of the Commission’s regulations), 39.20(b)(2), and parts 43 and 45 of the Commission’s regulations (collectively, the “Relevant Regulations”). In making the requests, the requesters indicated

that contracts for which they requested relief are swaps, but share most of the characteristics of exchange-traded futures or options thereon (*i.e.*, fungibility, offset, exchange traded with standardized terms on a single marketplace) and lack the indicia of traditional swaps (*i.e.*, bilateral, traded over-the-counter, and customized). Additionally, requesters generally argued that because the relevant contracts must be fully collateralized, potential market participant exposures associated with trading the contracts were expected to be lower than those associated with traditional swaps and swaps market participants. Such contracts, the requesters argued, have no bearing on systemic risk or potential transmission of risk or contagion to systemically important financial institutions. For that reason, the requesters noted that the policy goals of parts 43 and 45 have little applicability to the relevant contracts.²⁸

The Divisions have granted 16 staff no-action letters to date (the “Staff Event Contract Reporting No-Action Letters” or “Staff No-Action Letters”).²⁹ The Divisions took the no-action position set out in the Staff Event Contract Reporting No-Action Letters based on the requesters complying with the following conditions: (1) the covered contracts must be fully collateralized

positions, as defined by Commission regulation 39.2;³⁰ (2) the covered contracts must be cleared; (3) the DCM will publish on its website the following time and sales data for all covered contract transactions promptly after execution thereof: trade timestamp, contract, quantity, and price (in USD); (4) the DCM will provide the Commission with all transactional information described in Commission regulation 16.02;³¹ (5) the requesters will otherwise comply with all reporting and recordkeeping requirements of the CEA and Commission regulations applicable to them in their capacities as a DCM and a DCO, other than the Relevant Regulations, including, but not limited to, the applicable requirements of parts 38 and 39 of the Commission’s regulations (the “Required Records”); and (6) the requesters will keep the Required Records open to inspection upon request by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Furthermore, copies of all such records must also be provided, at the expense of requesters, to any representative of the Commission upon request. The requesters must also provide copies of the Required Records either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only. One effect of these conditions was that the contracts subject to the no-action positions look and trade similarly to the historical HedgeStreet Contracts addressed in the Commission’s 2006 Market and Large Trader Reporting rulemaking.³²

¹⁸ See, e.g., 17 CFR 16.01(e) (requiring publication of daily volume, price, and other information by DCMs and SEFs); 17 CFR 38.500 (DCM Core Principle 9 requires DCMs to “provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the board of trade”).

¹⁹ See 17 CFR 43.3. Certain reporting parties submit position data for a subset of commodity swaps. See generally 17 CFR part 20.

²⁰ See 17 CFR 16.02.

²¹ See 17 CFR 17.00.

²² See 17 CFR 43.4.

²³ See, e.g., 17 CFR 16.01(d) and (e).

²⁴ See, e.g., Final Rule, Market and Large Trader Reporting, 71 FR 37809 (July 3, 2006) (establishing reporting levels for binary option event contracts listed on HedgeStreet).

²⁵ See 17 CFR part 49.

²⁶ A “reporting market” is a “designated contract market or a registered entity under section 1a(40) of the [CEA].” 17 CFR 15.00(q).

²⁷ See *infra* note 28.

²⁸ See, e.g., CFTC Letter No. 17–31 (June 30, 2017), <https://www.cftc.gov/csl/17-31/download>; CFTC Letter No. 25–44 (Dec. 11, 2025), <https://www.cftc.gov/csl/25-44/download>. Certain DCMs have represented that it would be impractical and uneconomic to report small-notional-size swaps to an SDR. See, e.g., CFTC Letter No. 25–44 (Dec. 11, 2025).

²⁹ See CFTC Letter No. 17–31 (June 30, 2017), <https://www.cftc.gov/csl/17-31/download>; CFTC Letter No. 17–32 (June 30, 2017), <https://www.cftc.gov/csl/17-32/download>; CFTC Letter No. 21–11 (Apr. 22, 2021), <https://www.cftc.gov/csl/21-11/download>; CFTC Letter No. 24–09 (July 12, 2024), <https://www.cftc.gov/csl/24-09/download>; CFTC Letter No. 24–12 (Sept. 3, 2024), <https://www.cftc.gov/csl/24-12/download>; CFTC Letter No. 24–15 (Oct. 4, 2024), <https://www.cftc.gov/csl/24-15/download>; CFTC Letter No. 25–02 (Jan. 31, 2025), <https://www.cftc.gov/csl/25-02/download>; CFTC Letter No. 25–23 (Jul. 22, 2025), <https://www.cftc.gov/csl/25-23/download>; CFTC Letter No. 25–26 (Aug. 7, 2025), <https://www.cftc.gov/csl/25-26/download>; CFTC Letter No. 25–28 (Sept. 3, 2025), <https://www.cftc.gov/csl/25-28/download>; CFTC Letter No. 25–35 (Sept. 30, 2025), <https://www.cftc.gov/csl/25-35/download>; CFTC Letter No. 25–44 (Dec. 11, 2025), <https://www.cftc.gov/csl/25-44/download>; CFTC Letter No. 25–45 (Dec. 11, 2025), <https://www.cftc.gov/csl/25-45/download>; CFTC Letter No. 25–47 (Dec. 11, 2025), <https://www.cftc.gov/csl/25-47/download>; CFTC Letter No. 25–48 (Dec. 11, 2025), <https://www.cftc.gov/csl/25-48/download>; and CFTC Letter No. 26–12 (May 1, 2026), <https://www.cftc.gov/csl/26-12/download>. See also CFTC Letter No. 26–14 (May 13, 2026), available at <https://www.cftc.gov/csl/26-14/download> (providing a no-action position that would allow for more streamlined grants of staff no-action positions effective until a final rule is adopted by the Commission addressing this matter).

³⁰ Commission regulations define “fully collateralized position” as “a contract cleared by a derivatives clearing organization that requires the derivatives clearing organization to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract.” 17 CFR 39.2.

³¹ Section 16.02 requires reporting markets to “provide trade and supporting data reports to the Commission on a daily basis,” which include, among other things, “transaction-level trade data and related order information for each futures or options contract.” 17 CFR 16.02.

³² Final Rule, Market and Large Trader Reporting, 71 FR 37809, 37812 (July 3, 2006). HedgeStreet was the first DCM dedicated to trading event contracts. HedgeStreet listed event contracts on corporate mergers, weather events, and economic indicators. Effective June 21, 2009, HedgeStreet changed its name to North American Derivatives Exchange, Inc. (“NADEX”). Before the promulgation of the Dodd-Frank Act in 2010, HedgeStreet contracts were

More recently, the Commission has received an increasing number of applications for DCM designation from entities with a stated interest in offering event contracts for trading.³³ The Commission's experience is that entities seeking DCM designation and seeking to list event contracts are likely to seek a staff no-action letter similar to the Staff Event Contract Reporting No-Action Letters. The Commission anticipates receiving additional similar requests in the future.

II. Proposed Rules

This Proposal would set forth an alternative reporting regime for a specific category of event contracts based on the futures and options reporting regime and eliminate the need for Registered Entities to seek a staff no-action letter in the manner set forth in the Staff Event Contract Reporting No-Action Letters. The Proposal would codify into regulation certain aspects of the Staff Event Contract Reporting No-Action Letters issued by the Divisions.³⁴

The Proposal would amend part 16, concerning "Reports by Contract Markets and Swap Execution Facilities" to add a new section 16.03, titled "Covered Event Contracts." The Proposal would explicitly provide for reporting pursuant to § 16.00, § 16.01, part 17, and part 18 that were not specifically identified in the Staff Event Contract Reporting No-Action Letters, but are nevertheless currently required for futures and options. The Proposal would also amend part 15, concerning "General Provisions" applicable to "Reports," to add additional sections addressing data reporting requirements applicable to certain event contracts. In particular, proposed § 16.03 would (1) define the group of event contracts to which the alternative reporting regime would apply ("Covered Event

Contracts"),³⁵ (2) enumerate the reporting and recordkeeping requirements—the Relevant Regulations—that, although generally applicable to swaps, shall not apply to Covered Event Contracts, (3) enumerate reporting and recordkeeping requirements that do apply to Covered Event Contracts, (4) establish reporting levels for position reporting for Covered Event Contracts, (5) establish public data dissemination requirements for DCMs listing Covered Event Contracts for trade, (6) establish a requirement that DCMs listing Covered Event Contracts for trade obtain certain customer-identifying data, and (7) establish a requirement that DCMs and DCOs comply with recordkeeping requirements applicable to futures and options.

Continuing to address these requests serially and *ad hoc* raises several concerns. First, the No-Action Letters are not Commission actions carrying the force of law; they are staff actions providing a no-action position that beneficiaries of the letters may rely on. Second, reliance on the *ad hoc* no-action letter process is an inefficient approach to a recurrent issue that is best addressed through rulemaking. A regulatory regime that specifically addresses Covered Event Contracts reporting would provide a uniform and consistent approach while ensuring the Commission obtains the necessary information to address the CEA's objectives of reducing systemic risk, increasing transparency, and promoting market integrity. Third, continuing to address Covered Event Contracts reporting through no-action letters may create uncertainty and unnecessary burdens on potential registrants during the application process. Reliance on Staff Event Contract Reporting No-Action Letters without a codified reporting and recordkeeping regime for event contracts is a tenuous basis to devote resources and may cause reporting parties to proceed cautiously in launching new products, thereby inhibiting innovation.³⁶ Fourth, the Commission benefits when data for similar contracts are reported in a

standardized and consistent manner, as this allows aggregation of data for similar contracts in a single database for purposes of market monitoring, analysis, or surveillance.

The Commission has found the reporting regime applicable to futures and options is better-suited for reporting transaction data for the event contracts reported pursuant to the Staff Event Contract Reporting No-Action Letters. While event contracts generally meet the "swap" definition, the Covered Event Contracts have characteristics in common with futures and options on futures, including highly-standardized terms, exchange-trading protocols, and fungibility.³⁷ Additionally, because Covered Event Contracts must be fully collateralized and cleared through a DCO, the Commission preliminarily believes that certain risks associated with trading Covered Event Contracts—including systemic risk and counterparty credit risk—are lower than those associated with traditional swaps and swaps market participants.³⁸

The Proposal would nevertheless require Registered Entities to provide the Commission and the public with essential data based on the futures and options regulatory regime, similar to the conditions set forth in the Staff Event Contract Reporting No-Action Letters. Proposed § 16.03(b) would apply the futures and options reporting requirements of §§ 16.00, 16.01, and 16.02 to DCMs listing the Covered Event Contracts.³⁹ The market and transaction data reported pursuant to these provisions would provide the Commission with information similar to the information required to be reported by part 43 and part 45. This data would enable the Commission to monitor the Covered Event Contracts markets to ensure their financial integrity and that market participants are protected from fraudulent or other abusive sales practices.

The Commission would further require Registered Entities to publish on their website time and sales data, specifically trade timestamp, contract ticker symbol, trade quantity, and price (in USD) for all Covered Event Contract transactions as soon as technologically practicable after execution thereof. Requiring Registered Entities to publicly disseminate this information on their website would allow market participants and the public to analyze

reported under the futures and options reporting regime.

³³ As of May 1, 2026, Commission staff are reviewing several pending applications for DCM designation from entities with a stated interest in operating prediction markets. Commission staff have received multiple additional inquiries from other entities indicating an interest in applying for DCM registration in order to operate prediction markets. From 2006 through 2020, DCMs listed for trading an average of approximately five event contracts per year. In 2021, this number increased to 131, and the number of newly listed event contracts per year remained at a similar level until 2025, when DCMs certified approximately 1,600 event contracts for listing for trading.

³⁴ If the Proposal is finalized, the Commission expects the Divisions to withdraw the Staff Event Contract Reporting No-Action Letters upon the compliance date of a final rule, as a final rule based on the Proposal would supersede those no-action letters and render them moot.

³⁵ The proposed "Covered Event Contract" definition is not intended to and should not be construed to define "event contract" for any other purpose.

³⁶ A no-action letter is based on the specific facts and circumstances addressed by the letter and only the beneficiary of the no-action letter may rely on it. See § 140.99(a)(2), 17 CFR 140.99(a)(2). Also, simply requesting a no-action letter from staff pursuant to § 140.99 results in some additional burden. See, e.g., Final rule, Requests for Exemptive, No-Action and Interpretive Letters, 63 FR 68175, 68180 (Dec. 10, 1998) (estimating paperwork burden associated with § 140.99).

³⁷ See *supra* notes 5–6 and accompanying text.

³⁸ Market risk may nevertheless increase depending on the given potential volatility involving the underlier at issue for a given contract and due to absolute nature of payouts.

³⁹ See proposed § 16.03(b), applying the provisions of 17 CFR 16.00, 16.01 and 16.02.

Covered Event Contract transaction and pricing data, ensuring equal access to the information similar to the goals of the real-time swap disclosure requirements.⁴⁰ It would also harmonize the timeframe to make public the reports with the current standard generally applicable to dissemination of swap data. Accordingly, the Commission believes that requiring the publication of the Covered Event Contracts information advances the purposes of the Dodd-Frank Act of price discovery and transparency.⁴¹

The Commission believes that codifying the use of the futures and options reporting framework for the Covered Event Contracts provides for a more cost effective method to address the concerns raised by these requests while still providing the Commission access to the trading data for these instruments, which it can compile and aggregate, allowing it greater monitoring ability at a micro and macro level. By requiring reporting of Covered Event Contracts under the futures and options regulatory regime, the Proposal provides the right balance of allowing the Commission to obtain the necessary information to ensure the CEA's regulatory oversight goals are met, advancing innovation, rationalizing costs to market participants, and establishing a reporting framework that accommodates the reporting parties' abilities to provide Covered Event Contract information.

A. § 16.03(a): Covered Event Contracts

In order to implement the alternate reporting framework set out in the Proposal, the Commission proposes a new section "Covered Event Contracts." The proposed section is not intended to and should not be construed to define "event contract" for any other purpose. The proposed section is intended only to set forth parameters for determining the applicable data reporting requirements for Covered Event Contracts and apply them to the types of event contracts that are subject to the Staff Event Contract Reporting No-Action Letters. Covered Event Contracts that meet the four prongs set forth in proposed § 16.03(a) would be subject to

the reporting regime of proposed § 16.03.

The first prong requires the contract to meet the definition of swap set forth in section 1a(47)(A)(i) or (ii) of the Act. The Commission preliminarily believes that requiring a contract to be a swap under these parts of the swap definition will ensure that only those contracts that are subject to the Staff Event Contract Reporting No-Action Letters would be subject to the reporting regime of proposed § 16.03.⁴²

Second, a contract must be listed for trade on a DCM and cleared through a DCO. This requirement is consistent with the Staff Event Contract Reporting No-Action Letters, which require the covered contracts to trade on a DCM and, therefore, be cleared through a DCO. Central clearing mitigates both system risk and risk to individual market participants.⁴³ This requirement also ensures that the key protections provided through the DCM and DCO Core Principles apply to Covered Event Contract transactions.⁴⁴

Third, a contract must trade as a fully collateralized position, as defined in § 39.2 of the Commission's regulations.⁴⁵ Full collateralization mitigates the systemic risk issues that arise with margined contracts. In this regard, full collateralization prevents a DCO from being exposed to credit risk stemming from the inability of a clearing member or customer of a clearing member to meet a margin call or a call for additional capital.⁴⁶

Finally, a Covered Event Contract, which may be referred to as a binary option, must either have (1) a binary payout structure, meaning that the

contract results, at settlement, in the payment of an absolute amount to the holder of one side of the contract and no payment to the counterparty; or (2) a variable payout structure, meaning that the contract results, at settlement, in payment to both counterparties to the contract based on the final settlement price, though only one counterparty ultimately profits. The intent of this prong is to apply the Proposal's alternate data reporting regime to only those swaps that are structured like those covered by the Staff Event Contract Reporting No-Action Letters and to ensure that all other swaps—those that currently comply with Part 43 and Part 45—continue to report data to SDRs.

Proposed § 16.03(a) also enumerates the Relevant Regulations that would not apply to a Covered Event Contract. Specifically, reporting parties for a Covered Event Contract would not be required to comply with §§ 38.8, 38.10, 38.951 (to the extent regulation 38.951 requires compliance with part 45 of the Commission's regulations), 39.20(b)(2), and parts 43 and part 45 of the Commission's regulations, or the requirements of the relevant CEA provisions pursuant to which those regulations were promulgated. Proposed § 16.03(a) is consistent with the Relevant Regulations addressed in the Staff Event Contract Reporting No-Action Letters.

Covered Event Contracts have a simpler pricing and payout structure than those the Relevant Regulations were designed to capture.⁴⁷ Furthermore, part 45 includes many fields that may be applicable to more traditional swaps, such as CDS index attachment point, Exchange rate, Exchange Rate Basis, Floating rate payment frequency period multiplier, Original swap USI, Original swap USI, Physical delivery location, and many others, but are not applicable to Covered Event Contracts. Requiring Registered Entities to report under the swaps reporting regime Registered Entities would require investment in reporting infrastructure that would not lead to the reporting of any useful information, particularly when a suitable alternative reporting regime is available. As such, requiring the Registered Entities to comply with the Relevant Regulations for Covered Event Contracts would not be economically feasible. And the Commission can obtain the necessary information pursuant to the futures and options regime to conduct its regulatory oversight of the Covered Event Contracts. As discussed above, reporting

⁴⁰ See Notice of Proposal, Real-Time Public Reporting of Swap Transaction Data, 75 FR 76140, 76148 (Dec. 7, 2010).

⁴¹ See Final Rule, Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1186 note 30 and accompanying text (Jan. 9, 2012) (noting that CEA section 2(a)(13)(B) provides that the purpose of section 727 of the Dodd-Frank Act is "to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.").

⁴² In this regard, the Commission preliminarily believes that a contract that meets the definition of swap set forth in section 1a(47)(A)(iii), for example, is and should remain subject to the SDR reporting regime. Additionally, as stated in section I.A above, depending on their underlying events, certain event contracts may be options on securities or security-based swaps or other instruments subject to the jurisdiction of the SEC, and this Proposal does not apply to such event contracts.

⁴³ See, e.g., Final Rule "Clearing Requirement Determination Under Section 2(h) of the CEA for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates," 87 FR 52182, 52206 (Aug. 24, 2022).

⁴⁴ See DCM Core Principle 11 ("Financial Integrity of Contracts"), CEA section 5(d)(11), 7 U.S.C. 7(d)(11); CEA section 2(h)(1), 7 U.S.C. 2(h)(1) (requiring all swaps that are required to be cleared be cleared by a Commission-registered DCO); 17 CFR 38.601(a). As a practical matter, Covered Event Contract markets typically include non-ECP participants, and non-ECP retail participants can only transact in swaps on a DCM. See CEA section 2(e), 7 U.S.C. 2(e).

⁴⁵ See *supra* note 30.

⁴⁶ See Final Rule, Derivatives Clearing Organization General Provisions and Core Principles, 85 FR 4800, 4803–4804 (Jan. 27, 2020).

⁴⁷ See *supra* note 4 and accompanying text.

the Covered Event Contracts, through Part 16 and maintaining records pursuant to the general recordkeeping requirements in § 1.31, would enable the Commission to monitor the Covered Event Contracts to ensure their financial integrity and that market participants are protected from fraudulent or other abusive sales practices. Public dissemination of the Covered Event Contract information on the Registered Entities' website would allow market participants and the public to analyze the swap transaction and pricing data, ensuring equal access to the information similar to the goals of the real-time swap disclosure requirements.

Subsequent sections of proposed § 16.03, discussed below, specify the alternate reporting requirements for Covered Event Contracts. These requirements are intended to ensure that the Commission receives sufficient data to fulfill its market monitoring, analysis, and surveillance objectives, and to otherwise satisfy the relevant purposes of the CEA. In particular, the framework set out in this Proposal would continue to ensure that swap transaction and pricing data is made available to the public in a manner that enhances price discovery and continues to improve reporting and transparency.⁴⁸

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(a). The Commission requests specific comment on the following:

(1) Whether the proposed definition of Covered Event Contracts in § 16.03(a) effectively limits the alternate reporting regime set out in proposed § 16.03 to the types of contracts covered by the Staff Event Contract Reporting No-Action Letters such that swaps that have traditionally been reported under the part 43 and part 45 regime continue to be reported under that regime.

(2) Whether an alternative approach whereby a DCM that lists Covered Event Contracts registers with the Commission as an SDR and reports Covered Event Contract data under the part 43 and part 45 regime would be a feasible alternative. What would be the costs and benefits of a DCM registering as an SDR?

(3) Whether an alternative approach whereby Covered Event Contract data is reported to an SDR, based on the futures and options reporting regime and through a different form and manner of reporting than currently exists for

swaps, would be more practical and economically feasible for reporting parties. What would that form and manner of reporting be? What would be the costs and benefits of such alternative reporting to an SDR?

(4) Whether the Proposal undermines, or on the other hand, enhances transparency, competition, and market integrity. If so, please explain in detail and provide any examples.

B. § 16.03(b)(2) and § 16.03(b)(3): Market Data and Transaction Data Reporting Requirements for DCMs

The Proposal would require DCMs to report Covered Event Contracts in a manner largely consistent with the futures and options reporting regime for exclusively self-cleared contracts, rather than the SDR reporting regime applicable to swaps. Specifically, proposed § 16.03(b) would require DCMs to submit to the Commission daily market data required to be reported pursuant to § 16.01⁴⁹ and daily transaction and supplemental data required to be reported pursuant to § 16.02.

With respect to market data reported pursuant to § 16.01, Commission regulations require all DCMs to report daily information concerning trading volume, open contracts, prices, and critical dates. Because § 16.01 applies to all DCM-listed contracts regardless of whether those contracts are swaps or futures, it is not specified as a condition in the Staff Event Contract Reporting No-Action Letters.⁵⁰ The Proposal would now make explicit that daily reporting pursuant to § 16.01 is required for Covered Event Contracts.⁵¹ The Proposal would also specify that § 16.01 reports must include certain settlement information, including whether the event that is the subject of each Covered

Event Contract occurred and, if so, the event that occurred, the time and date the event occurred, and the source used to determine whether the event occurred. Such information is a necessary component of the settlement price reported by DCMs pursuant to § 16.01(b)(2)(ii).⁵² With respect to § 16.02, the proposal would require that DCMs provide trade and supporting data reports to the Commission. These reports were specifically included as one of the conditions of the Staff No-Action Letters and the Commission is continuing to require these reports of transaction-level trade data and related order information for the Covered Event Contracts. As it noted when adopting the § 16.02 final rules, the Commission uses market, transaction, and large trader reporting collectively to effectuate its surveillance programs.⁵³

Although submitted in a different form and manner than the swap data required to be reported pursuant to part 45, reporting of Covered Event Contracts pursuant to §§ 16.01 and 16.02 would provide granular market and transaction data more suitable for Covered Event Contracts that, based on the Commission's experience receiving futures and options reporting for the past nine years for the Covered Event Contracts, the Commission believes would meet similar goals of the swaps reporting regime. Reporting pursuant to part 16 would be sufficient to support the CEA's objectives of reducing systemic risk, increasing transparency, and promoting market integrity.⁵⁴ This data would enable the Commission to monitor Covered Event Contract markets to ensure their financial integrity and that market participants are protected from fraudulent or other abusive sales practices. Therefore, the Commission believes that receiving §§ 16.01 and 16.02 data in lieu of part 45 swap data will not diminish the quality or granularity of data needed to carry out the Commission's market and financial surveillance programs. Additionally, given § 16.02 data was required as part of the Staff Event Contract Reporting

⁴⁹ Regulation 16.01 requires daily reporting and public dissemination of market data for both (a) swaps and (b) futures and options. See 17 CFR 16.01. As such, § 16.01 was required with respect to contracts subject to the Staff Event Contract Reporting No-Action Letters and the parties who received the Staff No-Action Letters have submitted such data to the Commission. Commission staff have developed separate data transmission standards and guidebooks detailing those standards for swaps and for futures and options. For purposes of proposed § 16.03(b)(2), DCMs should report § 16.01 data pursuant to the data transmission standard applicable to futures and options. This will facilitate linking data reported pursuant to § 16.01 with data reported pursuant to § 16.02 and part 17.

⁵⁰ Regulation 16.00 was also not specifically included in the Staff Event Contract Reporting No-Action Letters, but it is generally applicable to DCMs. Regulation 16.00 is addressed in section II.C. below as part of the large trader discussion.

⁵¹ Regulation 16.02 was specifically included as one of the conditions of the Staff Event Contract Reporting No-Action Letters.

⁵² 17 CFR 16.01(b)(2)(ii). The Commission currently receives such settlement information from DCMs listing contracts that would meet the Proposal's definition of Covered Event Contracts in a separate "settlement file."

⁵³ See Final Rule "Significant Price Discovery Contracts on Exempt Commercial Markets," 74 FR 12178, 12179 (Mar. 23, 2009).

⁵⁴ Cf., e.g., Final Rule, Significant Price Discovery Contracts on Exempt Commercial Markets, 74 FR 12178, 12179 (Mar. 23, 2009) (describing use of § 16.01 and § 16.02 data to effectuate the Commission's market and financial surveillance programs, including to detect and prevent market manipulation and to measure the financial and systemic risks that large contract positions may pose).

⁴⁸ See 7 U.S.C. 2(a)(13)(B), see also Public Law 111–203, 124 Stat. 1376 (2010).

No-Action Letters, the Commission preliminarily believes that the costs of including this data reporting requirement in the Proposal will be minimal.

C. § 16.03(b)(1), § 16.03(c), § 17.00(j) and § 17.01(f): Large Trader Reporting Requirements for DCMs, Futures Commission Merchants, Clearing Members, and Foreign Brokers

The Commission's large trader reporting scheme requires reporting of information by DCMs, futures commission Merchants ("FCMs"), clearing members, and foreign brokers with respect to positions in open contracts in futures and options, including the size of daily positions of "special accounts"⁵⁵ that exceed certain reporting thresholds,⁵⁶ information identifying the owners and controllers of special accounts,⁵⁷ information identifying the owners and controllers of volume threshold accounts reported on Form 102,⁵⁸ information concerning omnibus accounts reported on Form 71,⁵⁹ and information necessary to identify the traders of such accounts reported on Form 40.⁶⁰ Position data reporting has historically served as a cornerstone of the Commission's market surveillance program.⁶¹

For futures and options,⁶² Commission staff uses such data to, among other things, assess individual traders' activities and potential market power, enforce speculative position limits, monitor for disruptions to market integrity, and calculate statistics that the Commission publishes to enhance market transparency.⁶³ Obtaining

ownership and control information pursuant to § 17.01 for accounts with large positions is particularly important for identifying customers of omnibus accounts or natural person owners of legal entity accounts, as the transaction-level data the Commission receives pursuant to § 16.02 may not always contain such information.⁶⁴

The Staff Event Contract Reporting No-Action Letters do not address part 17 reporting requirements for either daily position data or ownership and control information. However, Commission regulations generally require such reports for options traded on DCMs.⁶⁵ The Proposal would make explicit that part 17 position reporting is required for Covered Event Contracts. Specifically, proposed § 16.03(c) would identify part 17 as applicable to the relevant reporting party.

For futures and options, large trader position data reporting is conducted by either the DCM or the intermediary, depending on whether a given contract is "exclusively self-cleared."⁶⁶ In the case of exclusively self-cleared contracts, DCMs would be required to submit position data reports required to be reported pursuant to § 17.00⁶⁷ and ownership and control information required to be reported pursuant to § 17.01.⁶⁸ Because part 17 provides for

69178, 69181 (Nov. 18, 2013). Obtaining ownership and control information for special accounts through part 17 reporting can enable the Commission to link special accounts across DCMs and to aggregate special accounts by trader, among other purposes.

⁶⁴ See, e.g., 78 FR at 69187 ("Form 71 is designed to permit [omnibus originators] to report the required [identifying information] directly to the Commission without requiring such firms to disclose information regarding customers to potential competitors.").

⁶⁵ Regulation 17.00(a) applies to "put and call options" traded on DCMs. 17 CFR 17.00(a). The definition of "Reportable position" explicitly contemplates that a special account would consist of "long or short put or call commodity options that have identical expirations and exercise into the same commodity, on any one reporting market." 17 CFR 15.00(p)(1)(ii). Regulation 16.00 requires DCMs to provide clearing member reports. 17 CFR 16.00.

⁶⁶ 17 CFR 15.00(h) ("Exclusively self-cleared contract means a cleared contract for which no persons, other than a reporting market and its clearing organization, are permitted to accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade.").

⁶⁷ See 17 CFR 17.00(i) ("Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts shall meet the requirements of paragraphs (a) through (h) of this section, as they apply to trading in such contracts by all clearing members, on behalf of all clearing members.").

⁶⁸ See 17 CFR 17.01(d) ("Unless determined otherwise by the Commission, reporting markets that list exclusively self-cleared contracts shall meet the requirements of paragraphs (a) and (b) of this section, as they apply to trading in such contracts by all clearing members, on behalf of all clearing members.").

DCMs reporting of exclusively self-cleared contracts, DCMs would not be required to submit clearing member reports pursuant to § 16.00(c),⁶⁹ as such reporting would be redundant. For contracts that are not exclusively self-cleared, the intermediaries—FCMs, clearing members, and foreign brokers—would be required to report position data and ownership and control information under part 17,⁷⁰ and DCMs would be required to submit clearing member reports pursuant to § 16.00.⁷¹

Currently, some DCMs listing Covered Event Contracts permit participation of intermediaries, and some do not. For DCMs that do not permit intermediaries to participate, the Commission expects the DCM to provide part 17 reporting, consistent with the original design of the rule establishing the definition of "exclusively self-cleared contracts."⁷² For DCMs that rely on clearing intermediation, the Commission expects the "exclusively self-cleared contracts" definition would not apply, and that therefore clearing members—whether FCMs, foreign brokers, or direct clearing members—would provide part 17 reporting as required.

The Commission recognizes that some DCMs listing Covered Event Contracts for trade may permit both intermediated and non-intermediated retail participants in the same contract market. In this mixed intermediation scenario, contracts would not qualify as "exclusively self-cleared" because some persons "other than a reporting market and its clearing organization, are permitted to accept . . . money, securities, or property . . . to margin, guarantee, or secure any trade."⁷³ But requiring direct clearing members who are also retail traders to report in this context would conflict with the Commission's expressed intention in promulgating the "exclusively self-

⁶⁹ See 17 CFR 16.00(c) ("Unless determined otherwise by the Commission, paragraph (a) of this section shall not apply to transactions involving exclusively self-cleared contracts.").

⁷⁰ See generally 17 CFR 17.00, 17.01.

⁷¹ See generally 17 CFR 16.00.

⁷² The 2006 rulemaking establishing the definition of "exclusively self-cleared contracts" and the alternate reporting structure was issued to address reporting by HedgeStreet, Inc., a DCM that, at the time, listed "small sized and fully collateralized European style binary options on various commodities in a market structure that permits no intermediary to handle the orders or funds of traders." Final Rule, Market and Large Trader Reporting, 71 FR 37809, 37812 (July 3, 2006).

⁷³ 17 CFR 15.00(h); see also 71 FR at 37813 n.53 ("The reporting framework for exclusively self-cleared contracts is narrowly tailored to be contract specific. In other words, a reporting market may list both exclusively self-cleared and other contracts. The alternative reporting approach, however, would only apply to exclusively self-cleared contracts.").

⁵⁵ 17 CFR 15.00(r) (defining "special account" as any commodity futures or option account in which there is a "reportable position"). See also § 15.01, 17 CFR 15.01 (setting forth persons required to report).

⁵⁶ See generally 17 CFR 17.00.

⁵⁷ See generally 17 CFR 17.01(a).

⁵⁸ See generally 17 CFR 17.01(b).

⁵⁹ See generally 17 CFR 17.01(c).

⁶⁰ See generally 17 CFR part 18.

⁶¹ See, e.g., Final Rule, Extension of Large-Trader Reporting Requirements to Newly Regulation Commodities, 40 FR 23994, 23994–23995 (June 4, 1975) ("The large-trader reporting system is an important part of the Commission's regulatory program. It serves as a basic tool for market surveillance in the detection and prevention of market congestion, price manipulation, and distortion."); see also generally William E. McDonnell, Jr. & Susan K. Freund, "The CFTC's Large Trader Reporting System: History and Development," 38 Bus. Law. 917, 917 (1983) ("Since 1922, the CFTC and its predecessors have been fashioning the basic tool of market surveillance, the large trader reporting system.").

⁶² The Commission maintains separate regulations for obtaining similar types of position data for swaps. See, e.g., 17 CFR part 20; 17 CFR 49.12(e).

⁶³ See Final Rule, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, 78 FR

cleared contract” definition. Specifically, the regulations concerning exclusively self-cleared contracts are designed to place large trader reporting obligations on sophisticated firms and not on retail traders.⁷⁴ Regulations 16.00(c), 17.00(i), and 17.01(d), apply “[un]less determined otherwise by the Commission.”⁷⁵ In order to ensure that retail traders are not burdened with daily large trader reporting obligations in this scenario, the Proposal would add provisions to § 17.00 and § 17.01 specifying that, for Covered Event Contracts, DCMs will provide large trader reporting and ownership and control reporting for special accounts carried by clearing members trading in their own name and not on behalf of any customer.

The Commission also notes the format for submitting large trader position reports required under § 17.00 is subject to change due to rule amendments published in 2024.⁷⁶ The compliance date for those amendments is June 3, 2026.⁷⁷ However, DMO has published a no-action letter stating that DMO will not recommend an enforcement action against any DCM, FCM, clearing member, or foreign broker for failure to comply with those rule amendments until certain conditions are met, in order to facilitate time for testing and implementation.⁷⁸ It is expected that this no-action position will expire on July 26, 2027,⁷⁹ at which point market participants will comply with the revised part 17 reporting requirements. Because the 2024 rulemaking

modernizes the data reporting format and submission standard, and to the extent reporting parties require more time for testing and implementation, the Commission is proposing that the implementation date for proposed § 16.03(b)(1) and § 16.03(c) be the later of either (a) six months following publication of a final rule stemming from this notice in the **Federal Register** or (b) July 26, 2027.

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed §§ 16.03(b)(1), 16.03(c), 17.00(j), and 17.01(f). The Commission requests specific comment on the following:

(5) Whether adopting proposed § 17.00(j) and § 17.01(f) to require DCMs to provide part 17 reporting for direct clearing members, and intermediaries to provide part 17 reporting for their customers would create operational challenges for DCMs or intermediaries participating in those contract markets where there exists both direct and intermediated clearing.

(6) Whether proposed § 17.00(j) and § 17.01(f) are sufficiently narrow to capture only retail traders and not institutional or other traders that may be better equipped to submit routine large trader reporting on their own behalf.

D. § 16.03(d): Reports By Traders

Proposed § 16.03(d) would specifically require traders to file reports pursuant to part 18 for Covered Event Contracts, upon receiving a special call from the Commission.⁸⁰ Such reporting would be consistent with the reporting structure applicable to futures and options contracts. Regulation 18.04 requires, after a special call of the Commission, each trader holding or controlling a reportable position file with the Commission a “Statement of Reporting Trader” on Form 40, at such time and place as directed in the call.⁸¹ Form 40 information supports the Commission’s ability to perform effective surveillance by providing the Commission with more detailed data concerning large traders, including such traders’ relationships with other entities and relationships with other persons that influence or exercise control over their trading. Additionally, Form 40 provides the Commission with information about the business activities of the reporting

trader. Form 40 also enables the Commission to compare the trading goals that a reporting trader reports with its subsequent market activity.

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(d).

E. § 16.03(e): Reporting Levels

As discussed above, the Commission’s large trader reporting scheme requires reporting of information by DCMs, FCMs, clearing members and foreign brokers with respect to positions in open contracts in futures and options, including the size of daily positions of special accounts.⁸² Whether large trader position reporting requirements apply to a particular account depends on whether that account equals or exceeds the relevant reporting level set out in § 15.03 of the Commission’s regulations.⁸³ Section 15.03(b) enumerates specific reporting levels applicable to specific contracts and applies a default reporting level of 25 contracts to all other contracts.⁸⁴

With respect to liquid contracts, the Commission typically calibrates § 15.03 reporting levels with the goal of ensuring that the aggregate of positions reported to the Commission represents approximately 70 to 90 percent of the open interest in any given contract.⁸⁵ The Commission also analyzes factors such as the terms and conditions of a contract, its trading volume, its level of open interest, its typical open position size, and the Commission’s regulatory experience with similar contracts prior to revising or codifying new contract reporting levels in § 15.03(b).⁸⁶

The reporting level applicable to event contracts would generally be the default 25-contract threshold applicable to “Other Commodities.”⁸⁷ The Commission is proposing a different reporting level for Covered Event Contracts. Covered Event Contracts commonly pay a maximum of \$1 per contract. Accordingly, the Commission proposes a reporting level based on contracts that pay a maximum of \$1. Proposed changes to § 15.03(b) would add a reporting level of 125,000

⁷⁴ See *id.* (stating that “[w]ith respect to exclusively self-cleared contracts, traders in general may not have the requisite resources or regulatory experience to comply with Part 17” and therefore, “[i]n order to not place any daily reporting burden on traders, the Commission is . . . adopting final rules that place reporting markets in the regulatory position of market participants that trade in exclusively self-cleared contracts”).

⁷⁵ 17 CFR 16.00(c), 17.00(i), 17.01(d).

⁷⁶ See Final Rule, Large Trader Reporting Requirements, 89 FR 47439 (June 3, 2024).

⁷⁷ See 89 FR at 47439.

⁷⁸ CFTC Letter No. 26–02 (Jan. 27, 2026), available at <https://www.cftc.gov/csl/26-02/download>. Specifically, CFTC Letter No. 26–02 states that DMO “will not recommend the Commission initiate an enforcement action against an FCM, clearing member, foreign broker, or DCM for failure to comply with the Final Rule until eighteen months after Commission staff has (1) publicly announced the commencement of calls with market participants regarding implementation; (2) announced the availability of the CFTC Portal for testing for a period; and (3) published a revised Part 17 Guidebook,” on the condition that market participants continue to submit part 17 reporting pursuant to the regulations in effect on June 2, 2024. *Id.* at 2.

⁷⁹ Press Release, CFTC Staff Issues No-Action Letter, Announces Implementation Updates to 2024 Large Trader Reporting Rule, CFTC Release No. 9174–26 (Jan. 27, 2026), available at <https://www.cftc.gov/PressRoom/PressReleases/9174-26>.

⁸⁰ Part 18 was not specifically included in the Staff Event Contract Reporting No-Action Letters, but it was still required to be followed under the Staff Event Contract Reporting No-Action Letters.

⁸¹ 17 CFR 18.04.

⁸² See *supra* notes 55–59 and accompanying text.

⁸³ See 17 CFR 15.00, 15.03. The firms that carry accounts that become reportable are required to identify those accounts on Form 102 and report positions in the accounts to the Commission. See 17 CFR 17.00, 17.01.

⁸⁴ 17 CFR 15.03(b).

⁸⁵ See 71 FR at 37810 n.12; Final Rule, Reporting Levels and Recordkeeping, 69 FR 76392, 76393 (Dec. 21, 2004).

⁸⁶ See *id.*

⁸⁷ 17 CFR 15.03.

contracts for “Covered Event Contracts (1 USD)” (or the equivalent notional value with a contract size other than 1 USD), as further explained below.⁸⁸ As the Commission has previously noted, “[s]ince the default contract reporting level is strict and set at 25, its application to some newly listed contracts is (on occasion) inefficient from a regulatory surveillance perspective.”⁸⁹ In proposing to establish a separate reporting level applicable to Covered Event Contracts, the Commission is mindful of the burden associated with reporting requirements and reviews them with an eye to streamlining that burden to the extent compatible with its responsibilities for rigorous surveillance applicable to the commodity options markets.⁹⁰

Given the variety of currently-listed contracts that may be covered by proposed § 16.03(a), the Commission believes it is impractical to establish a common reporting level intended to capture 70 to 90 percent of open interest on any given business day. Moreover, given the significant retail participation in trading of event contracts, including the Covered Event Contracts and the relatively low contract size of such contracts, a reporting level set to capture 70 to 90 percent of open interest on any given business day could capture retail traders that would not typically be considered large traders.⁹¹ This could impose an undue reporting burden on DCMs listing Covered Event Contracts and on retail traders participating on such trading. To avoid imposing such a burden, the Commission proposes a flat reporting level of 125,000 contracts with an equivalent contract size of \$1.⁹²

⁸⁸ The Commission also proposed to remove the “Hedge Street Products” reporting level, as no DCM currently does business under that name.

⁸⁹ See 71 FR at 78710.

⁹⁰ 69 FR at 76393.

⁹¹ See also Final rules, Reporting Levels and Recordkeeping, 69 FR at 76394 (“Because of the relatively low notional value of [HedgeStreet’s European-style commodity options that paid a fixed \$10.00 when in the money upon expiration], the reporting levels otherwise applicable to such contracts, including the default reporting level of 25 contracts, may place an undue reporting burden on HedgeStreet and its members without substantially facilitating the Commission’s objective of, and responsibility for, meaningful market surveillance.”).

⁹² For Covered Event Contracts with contract sizes other than 1 USD, the applicable reporting level would be based on the notional value equivalent to 125,000 USD. For example, for a contract with 100 USD contract size, a reporting level of 1,250 contracts would apply. Establishing a notional-equivalent reporting level will allow DCMs to list contracts in contract sizes other than 1 USD without necessitating separate rulemakings to establish appropriate reporting levels based on different contract sizes.

Based on the Commission’s experience and analysis of transaction data, a reporting level representing an end-of-day position with a \$125,000 notional value will exclude the vast majority of retail traders from large trader reporting for most markets and will generally capture a relatively small number of significant traders in more liquid markets, such as market makers and institutional traders.⁹³ The proposed 125,000 reporting level could result in a 97 to 99 percent reduction in the number of potentially reportable special accounts.⁹⁴ Based on the Commission’s analysis of certain event contract markets, the Commission expects such a reporting level would still result in DCMs reporting the most liquid event contracts. For less liquid event contract markets, the Commission would expect to receive no large trader reporting.

The Commission believes that a reporting level of 125,000 contracts is appropriate for Covered Event Contracts (1 USD), as that level will enable the Commission to receive daily position information and detailed trader-identifying information for the largest participants in Covered Event Contract markets. At the same time, that level will ensure that retail participants with relatively low notional value positions are not swept into a reporting system typically used to analyze positions of significant institutional traders and subjected to burdens to which they are not well-suited, as well as to overwhelm the Commission with less useful data.

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(e). The Commission requests specific comment on the following:

(7) Whether the reporting levels in proposed § 16.03(e) are appropriate for Covered Event Contracts or, if not, what reporting levels would be appropriate.

(8) Whether the Commission should publish reporting levels that vary by

⁹³ The Commission has regulatory experience setting reporting levels for retail-focused, small-notional-value European-style options with a binary payout structure. In 2004, the Commission set a reporting level of 125,000 contracts for Hedge Street Products, which consisted of contracts that paid a maximum of \$10. 69 FR at 76394. A comparable reporting level for Event Contracts (1 USD) would be 1,250,000 contracts. Based on current volumes of trade for event contracts that may be covered by proposed § 16.03(a), the Commission believes that setting a reporting level at the equivalent of \$1.25 million would, for many contract markets, obviate all position reporting.

⁹⁴ See *infra* section IV.6 (Cost-Benefits Considerations) for further discussion of the reporting levels impact.

sub-category of Covered Event Contracts contract (for example, “Weather,” “Government Statistics,” “Economic Indicators”) rather than the uniform reporting level in proposed § 16.03(e).

F. § 16.03(e): Reportable Trading Volume Level

Section 17.01(b) of the Commission’s regulations requires ownership and control reporting for accounts for which trading volume exceeds a reportable trading volume level.⁹⁵ Specifically, § 15.04 sets out a broadly applicable reportable trading volume level of 50 contracts,⁹⁶ during a single trading day, on a single reporting market that is a board of trade designated under § 5h of the CEA, in all instruments that such reporting market designates with the same product identifier (including purchases and sales, and inclusive of all expiration months).⁹⁷

The purpose of volume-based reporting, as opposed to the position-based reporting required by § 17.00(a), is to identify trading accounts based solely on their trading volume, independently of such accounts’ contribution to open interest.⁹⁸ When establishing the 50-contract reportable trading volume level, the Commission determined such level would identify “approximately 85 percent of the trading volume in approximately 90 percent of the products sampled by the Commission” over a six-month sample period and identified “approximately one-third of the trading accounts in the sample set.”⁹⁹ Thus, the Commission determined the 50-contract reportable trading volume level would capture accounts responsible for the large majority of trading volume and a meaningful absolute number of trading accounts active in Commission-regulated markets.¹⁰⁰ The Commission concluded that identifying both accounts responsible for the majority of trading volume and a meaningful

⁹⁵ 17 CFR 17.01(b).

⁹⁶ Since 2014, DMO has taken a series of no-action positions with respect to ownership and control reporting requirements. See generally CFTC Letter No. 24–14, at 1 (Sept. 25, 2024), available at <https://www.cftc.gov/csl/24-14/download> (discussing history of no-action letters). Among other things, those no-action positions provide that DMO will not recommend an enforcement action against a reporting party for failure to report a CM volume threshold account based on a reportable trading volume level of 50 contracts, provided that such reporting party reports instead based on a reportable trading volume level of 250 or more contracts per day. See *id.* at 6.

⁹⁷ 17 CFR 15.04.

⁹⁸ See Final Rule, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, 78 FR 69178, 69192 (Nov. 18, 2013).

⁹⁹ *Id.*

¹⁰⁰ *Id.*

absolute number of active trading accounts was “important in improving the Commission’s ability to perform robust and comprehensive market surveillance.”¹⁰¹

The Commission believes that applying a 50-contract reportable trading volume level to Covered Event Contracts would impose a disproportionate burden on market participants vis-à-vis the benefit to the Commission.¹⁰² Given that a significant majority of Covered Event Contracts have a contract size of one dollar, a 50-contract reportable trading volume level would require the submission Form 102B for every account with a \$50 trading volume. Obtaining detailed ownership and control information for accounts with \$50 in trading volume is unlikely to enhance the Commission’s surveillance and market monitoring functions and would impose significant burdens on market participants while overwhelming the Commission with less useful data.

Based on analysis of trading volumes in Covered Event Contracts, the Proposal would establish in § 15.04 a new reportable trading volume level applicable solely to Covered Event Contracts and would set that level at 125,000. The Commission estimates a reportable trading volume level of 125,000 would capture approximately 150 accounts with significant trading volume in Covered Event Contracts. This may include accounts that trade in significant volume but maintain relatively low open positions, such that the Commission would not otherwise obtain ownership and control information through large trader position reports required under § 17.00(a).

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(e). The Commission requests specific comment on the following:

(9) Whether the reportable trading volume level in proposed § 15.04(b) is appropriate for Covered Event Contracts or, if not, what reportable trading volume level would be appropriate. Please provide reasoning and data to support comments in response to this request for comment.

G. § 16.03(f): Real-Time Dissemination of Market Data

Reporting requirements for swap data generally require near-real-time dissemination of swap transaction and pricing data.¹⁰³ To address this requirement, the Staff Event Contract Reporting No-Action Letters condition the no-action positions granted therein on the requesting DCMs’ disseminating publishing time and sales data for all transactions “promptly” after execution.¹⁰⁴ Proposed § 16.03(f) would codify in regulation a substantially similar requirement. Specifically, it would require DCMs to publish for each Covered Event Contract the execution timestamp, contract ticker symbol, trade quantity, and price. Rather than requiring such dissemination occur “promptly,” which is not defined in Commission regulations, proposed § 16.03(f) would require such transaction information be published “as soon as technologically practicable,” which is the standard generally applicable to dissemination of swap transaction and pricing data.¹⁰⁵

The Commission believes this will harmonize the reporting of Covered Event Contracts with the current industry standard and otherwise required by the current regulations. It would create parity across DCMs listing Covered Event Contracts for trade and ensure the public has timely and equal access to market data on a consistent basis to allow market participants and

the public to analyze the swap transaction and pricing data. Proposed § 16.03(f) also introduces a requirement that DCMs listing Covered Event Contracts for trade make transaction data publicly available on their website for a period of at least one year, which mirrors requirements imposed on SDRs with respect to swap transaction and pricing data.¹⁰⁶

Additionally, proposed § 16.03(f) provides certain additional clarifications with respect to the form and manner for reporting execution timestamp, contract ticker symbol, trade quantity, and price. First, it would specify that “execution timestamp” should be provided in the form and manner applicable to the “Event Timestamp” data element in appendix A to part 43 of the Commission’s regulations.¹⁰⁷ That format currently is YYYY-MM-DDThh:mm:ssZ, based on UTC (Coordinated Universal Time), the primary time standard globally used, with the time element required to be reported as specific as is technologically practicable. Maintaining formatting for dates in a manner consistent with those applicable to swap transaction and pricing data may facilitate combining data for Covered Event Contracts across DCMs and with other swaps for analysis or surveillance.

Second, “contract ticker symbol” should be populated with a code or symbol assigned by the DCM to identify the contract. This contract ticker symbol should, where practicable, be the symbol used as a unique instrument code (“UIC”) for purposes of part 17 reporting.¹⁰⁸ Use of UICs permits

¹⁰³ See 7 U.S.C. 2(a)(13) (requiring the Commission to promulgate regulations for real-time public reporting of swap transaction and pricing data); 17 CFR 43.3(b) (regarding public dissemination of swap transaction and pricing data by SDRs in real-time).

¹⁰⁴ See, e.g., CFTC Letter No. 17–31, at 3 (June 30, 2017), available at <https://www.cftc.gov/csl/17-31/download> (“... Nadex publishes on its website the following time and sales data for all Nadex Contracts transactions promptly after execution thereof—business date, execution time, instrument type, periodicity, display name, expiration date, price (in USD), and volume”); CFTC Letter No. 17–32, at 4 (June 30, 2017), available at <https://www.cftc.gov/csl/17-31/download> (“CX continues to publish on its website the following information on all CX Binary Options transactions promptly after execution thereof: trade timestamp; contract; quantity; and price”); CFTC Letter No. 21–11, at 4 (Apr. 22, 2021), available at <https://www.cftc.gov/csl/21-11/download> (“Kalshi will publish on its website the following information on all Kalshi Binary Options transactions promptly after execution thereof: trade timestamp, contract, quantity, and price”).

¹⁰⁵ See 17 CFR 43.3(b)(1) (requiring SDRs to “publicly disseminate swap transaction and pricing data as soon as technologically practicable after such data is received . . . unless such swap transaction and pricing data is subject to a time delay described in § 43.5”); see 17 CFR 43.2(a) (defining “as soon as technologically practicable” to mean “as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants”).

¹⁰⁶ See 17 CFR 43.3(c).

¹⁰⁷ The form and manner for reporting data elements set out in appendix A to part 43 of the Commission’s regulations is set out in a technical specification published by the Commission’s Division of Data. See 17 CFR 43.3(d)(1) (“In reporting swap transaction and pricing data to [an SDR], each reporting counterparty, swap execution facility, or designated contract market shall report the swap transaction and pricing data as described in the elements in appendix A of this part in the form and manner provided in the technical specification published by the Commission pursuant to § 43.7.”); 17 CFR 43.7(a)(1) (delegating authority to the Division of Data “[t]o publish the technical specification providing the form and manner for reporting and publicly disseminating the swap transaction pricing data elements in appendix A of this part . . .”). The Division of Data’s current technical specification for swap reporting is available on the Commission’s website. See CFTC Division of Data, CFTC Technical Specification version 3.3 (Dec. 13, 2023), available at <https://www.cftc.gov/media/9921/Part43-45TechnicalSpecification12132023CLEAN/download>.

¹⁰⁸ A unique instrument code is “[a]n exchange assigned code [that] serves as a primary key for the product reference file and uniquely identifies the derivatives contract at the instrument level.” See

Continued

¹⁰¹ *Id.*

¹⁰² The Commission received a comment letter to this effect in 2012. See generally 78 FR at 69192 (discussing commenter’s recommendation that the Commission apply a reportable trading volume level of 5,000 to contracts with a notional value of one thousand dollars or less).

linking contracts to Product Reference File data, which may reduce reporting burdens by allowing reporting parties to remove certain “static data” elements from reports.¹⁰⁹

Third, “trade quantity” should be populated with a number greater than or equal to zero. This requirement will ensure data disseminated by different DCMs will be interoperable.

Fourth, “price” should be populated with a numeric value expressed as a decimal. This requirement will likewise ensure data disseminated by different DCMs will be interoperable.

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(f). The Commission requests specific comment on the following:

(10) Whether DCMs listing Covered Event Contracts for trade should be required to publish any additional transaction data elements beyond execution timestamp, contract ticker symbol, trade quantity, and price.

H. § 16.03(g): Requirement That DCMs Obtain Trader-Identifying Information

Proposed § 16.03(g) would introduce an explicit requirement that DCMs must obtain trader-identifying data for all traders. Specifically, proposed § 16.03 would require that the DCM listing a Covered Event Contract obtain from all customers data that identifies each trader, by name, physical address, email address, phone number, occupation, and employer. Also, if persons guarantee the trading accounts of the trader or have a financial interest of 10 percent or more in the reporting trader or the trading accounts of the reporting trader, they would be required to obtain the names of such persons, for each transaction or order for the Covered Event Contract. And the DCM shall maintain such data throughout the life of the Covered Event Contract and for a period of at least five years following the final termination of the Covered Event Contract. This requirement is intended to ensure the Commission obtains trader-identifying information that would otherwise not be obtained pursuant to part 17 and § 16.02.¹¹⁰ As further explained below, § 16.02 does

not require submission of trader-identifying information by a DCM.

Section 16.02 requires reporting markets to submit to the Commission daily trade and supporting data reports, which include “transaction-level trade data and related order information for each futures or options contract,” “time and sales data,” “reference files,” and “other information as the Commission or its designee may require.”¹¹¹ Importantly, § 16.02 requires DCMs to provide “data that identifies or facilitates identification of each trader for each transaction or order” “if the [DCM] maintains such data,”¹¹² and does not require DCMs to obtain such trader-identifying data. The Commission declined to require DCMs to obtain such information when promulgating § 16.02 because it determined that “DCMs do not, as a matter of routine practice, collect detailed trader-identifying data.”¹¹³ In making that determination, the Commission relied on the fact that “all contracts on DCMs are funneled through clearing members that also are subject to the large trader reporting rules,” such that data provided pursuant to § 16.02 was not the Commission’s only source of trader-identifying information.¹¹⁴

When the Commission declined to expressly require DCMs to collect trader-identifying information in 2009, it did so due to the presence of intermediation and large trader reporting requirements.¹¹⁵

Today’s event contract markets present different circumstances. In contrast to the DCMs registered in 2009, many of the DCMs listing contracts that would be considered Covered Event Contracts, offer non-intermediated trading or a combination of intermediated and non-intermediated trading. Moreover, the large trader reporting level the Proposal would apply is not intended to capture the vast majority of retail traders who make up a significant number of event contract traders. The effect of the proposed reporting level is to limit the ownership and control reporting for retail traders. As the Commission would not have a steady stream of trader information, the Commission’s only source of trader-identifying information for these markets is § 16.02. For Covered Event Contracts, the source of information would commonly be the DCM, in particular given the large number of

direct participants. The DCM’s Core Principles require that the DCM have rules that provide the DCM the ability and authority to obtain any information to perform the DCM’s functions.¹¹⁶ Thus, DCMs are responsible for obtaining accurate information from traders. The Commission understands that DCMs listing Covered Event Contracts generally already collect trader-identifying information for both intermediated and non-intermediated customers.

Accordingly, the Commission intends proposed § 16.03(g) to set forth what trader-identifying information must be collected by both current DCMs and prospective DCMs. Proposed § 16.03(g) would explicitly require DCMs listing Covered Event Contracts to obtain data for all customers that identifies each trader, by name, physical address, email address, and phone number. Additionally, proposed § 16.03(g) would require DCMs to obtain occupation and employer information. Finally, if any other persons guarantee the trading accounts of the trader or has a financial interest of 10 percent or more in the trader or the trading accounts of the trader, proposed § 16.03(g) would require DCMs to obtain the names of such persons. This mirrors the information the Commission ordinarily receives through the ownership and control reporting.¹¹⁷

Trader-identifying information is particularly important to monitoring and surveilling the Covered Event Contracts markets. Trader-identifying information is necessary to detect insider trading and prevent wash trading.¹¹⁸ Additionally, given that multiple DCMs often list economically similar contracts, obtaining trader-identifying information is necessary to conduct cross-market surveillance.¹¹⁹

¹¹⁶ DCM Core Principle 2, 7 U.S.C. 7(d)(2).

¹¹⁷ In traditional futures markets, the Commission obtains such information through ownership and control reporting via the large trader reporting regime. See generally 17 CFR 17.01.

¹¹⁸ For example, absent obtaining trader-identifying information for all trading accounts, a DCM may have difficulty identifying instances where a trader with accounts carried at multiple intermediaries matches against itself.

¹¹⁹ Historically, liquidity for futures contracts on a particular commodity has often aggregated on a single DCM. See, e.g., Final rules, Large Trader Reporting for Physical Commodity Swaps, 76 FR 43851, 43854 (July 22, 2011) (discussing enumeration of “linked contracts” by commodity and exchange); Final rule, Position Limits for Derivatives, 86 FR 3236, 3236–3237 n.2 (Jan. 14, 2021) (discussing legacy agricultural products specific to particular DCMs that “have been subject to Federal position limits for decades”). For event contracts that would be considered Covered Event Contracts under proposed § 16.03(a), multiple DCMs may list contracts on the same underlying event. For example, at least three DCMs have self-

Final Rule, Large Trader Reporting, 89 FR 47439, 47447 n.98 (June 3, 2024).

¹⁰⁹ See 89 FR at 47446–47447.

¹¹⁰ As noted above, in section I.E., the Commission’s large trader reporting pursuant to part 17 requires reporting of information mainly by FCMs, clearing members, and foreign brokers.

¹¹¹ 17 CFR 16.02.

¹¹² *Id.*

¹¹³ Final Rule, Significant Price Discovery Contracts on Exempt Commercial Markets, 74 FR 12178, 12185 (Mar. 23, 2009).

¹¹⁴ See 74 FR at 12185 n.64.

¹¹⁵ See *id.*

Request for Comment

The Commission requests comments on all aspects of the proposed changes to regulations in part 16, including proposed § 16.03(g). The Commission requests specific comment on the following:

(11) What burdens, if any, would be imposed on DCMs, intermediaries, traders, or others by proposed § 16.03(g)?

(12) What additional trader-identifying information, if any, should DCMs collect to support surveillance programs?

I. § 16.03(h): Recordkeeping Obligations

Proposed § 16.03(h) would require that DCMs and DCOs reporting Covered Event Contracts comply with the recordkeeping requirements applicable to futures and options¹²⁰ rather than the recordkeeping requirements applicable to swaps, as it would allow the Commission to conduct an efficient review of the Covered Event Contracts markets, if necessary. Specifically, proposed § 16.03(h)(1) would require that, in connection with any Covered Event Contract, the listing DCM and the DCO clearing the Covered Event Contract shall comply with all applicable swap reporting and recordkeeping requirements of the CEA and Commission regulations, other than recordkeeping requirements contained in Regulation 38.8, Regulation 38.10, Regulation 38.951 (only to the extent Regulation 38.951 requires compliance with part 45), Regulation 39.20(b)(2), part 43, and part 45. Proposed § 16.03(h)(2) would also require DCMs and DCOs to keep required records open to inspection upon request by the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Such records are essential to carrying out the regulatory functions of not only the Commission but also the Department of Justice and other financial regulators. Furthermore, the records would form the basis for conducting appropriate risk management by Registered Entities themselves.

Request for Comment

The Commission requests comments on all aspects of the proposed changes

certified event contracts that settle based on United States Gross Domestic Product growth as reported by the Bureau of Economic Analysis. Cross-platform surveillance is important with respect to such contracts in order to holistically understand traders' positions and trading with respect to a commodity traded on multiple DCMs.

¹²⁰ See generally 17 CFR part 38; 17 CFR 1.31.

to regulations in Part 16, including proposed § 16.03(h).

III. Compliance Date

Given that the Proposal largely codifies an alternative reporting regime that closely follows the Staff Event Contract Reporting No-Action Letters, the Commission believes that DCMs and DCOs already have in place the mechanisms to comply with most of these proposed requirements, therefore, the Proposal should require little to no time to implement. As a result, the Commission is setting a compliance date for the proposed rules to be 60 days following publication of a final rule in the **Federal Register**. The Commission also proposes to direct staff to withdraw the Staff Event Contract Reporting No-Action Letters on the compliance date of any final rule, as they will become superfluous at that time.

However, the Commission understands that DCMs and DCOs may require some additional time to revise systems and processes to comply with large trader reporting for the Covered Event Contracts pursuant to part 17. In addition, as discussed in section II.C above, the Commission separately amended part 17 in a rulemaking published on June 3, 2024 with a compliance date of June 3, 2026,¹²¹ and DMO has separately published a no-action letter stating that DMO will not recommend an enforcement action against any DCM, FCM, clearing member, or foreign broker for failure to comply with those rule amendments until, effectively, July 26, 2027, in order to facilitate time for testing and implementation.¹²² Because the 2024 rulemaking introduces data elements that would facilitate reporting of position data for the Covered Event Contracts, the Commission is proposing that the implementation date for proposed § 16.03(b)(1) and § 16.03(c)—or an alternative requiring that all Covered Event Contracts be reported in the manner applicable to exclusively self-cleared contracts—be the later of either (a) sixty days following publication of a final rule stemming from this notice in the **Federal Register** or (b) July 26, 2027.

General Request for Comment

The Commission requests comments on all aspects of the proposed changes

¹²¹ Final Rule, 89 FR at 47439.

¹²² CFTC Letter No. 26–02 (Jan. 27, 2026), available at <https://www.cftc.gov/csl/26-02/download>; Press Release, CFTC Staff Issues No-Action Letter, Announces Implementation Updates to 2024 Large Trader Reporting Rule, CFTC Release No. 9174–26 (Jan. 27, 2026), available at <https://www.cftc.gov/PressRoom/PressReleases/9174-26>.

to regulations in part 16, part 17, and part 15, including the proposed Compliance Date.¹²³

IV. Related Matters

A. Cost-Benefits Considerations

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA.¹²⁴ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations (collectively, the “section 15(a) factors”). In conducting its analysis, the Commission may, in its discretion, give greater weight to any one of the five enumerated areas of concern and may determine that, notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the CEA. Although the Commission believes these rules will create meaningful benefits for market participants and the public, the Commission also recognizes associated costs. The Commission has endeavored to enumerate these costs and, when possible, assign a quantitative value to the costs reporting firms might face given the changes. Where it is not possible to reasonably quantify costs and benefits, those costs and benefits are discussed qualitatively.

¹²³ The Commission published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** on March 16, 2026, requesting comments related to prediction markets the Commission. Among other comment, the ANPRM requested comment on the reporting of event contract swaps reporting to an SDR. The Commission received comments requesting that the Commission require reporting to identify insider trading and fraud, scaled position reporting thresholds, and mandatory reporting by market participants deploying AI-driven trading strategies. Another commenter supported a regulator-mandated per-contract identifier at listing (following the CUSIP/LEI/UPI operating model). This Proposal would provide an alternative reporting under the futures and options regime with adjusted reporting level and trading volume thresholds for Covered Event Contracts. The commenters' requests are otherwise outside the scope of this Proposal. See Prediction Markets; Advance Notice of Proposed Rulemaking, 91 FR 12516, 12520 (Mar. 16, 2026).

¹²⁴ 7 U.S.C. 19(a).

2. Background

The CEA requires that swaps be reported to an SDR.¹²⁵ Part 43 and part 45 of the Commission's regulations, among other regulations, implement that requirement.¹²⁶ Additionally, the Commission's regulations require DCMs, FCMs, clearing members, foreign brokers, and traders to report various data concerning commodity options transactions and positions directly to the CFTC.¹²⁷ Covered Event Contracts as defined in proposed § 16.03(a) may fall under one or more subsections of the "swap" definition of section 1a(47)(A)(i) and/or (ii) of the CEA, and are therefore subject to being reported to SDRs pursuant to part 43 and part 45 of the Commission's regulations.

As discussed above, beginning in 2017, the Divisions have issued Staff Event Contract Reporting No-Action Letters to DCMs listing certain event contracts from certain swap reporting and recordkeeping requirements.¹²⁸ Specifically, these staff no-action letters inform registrants that the Divisions will not recommend the Commission enforce SDR reporting requirements for specific contracts. Currently, consistent with conditions enumerated in the Staff Event Contract Reporting No-Action Letters, DCMs listing event contracts provide reports pursuant to §§ 16.01 and 16.02 of the Commission's regulations, which provides the Commission with market-level data on volume and open interest, and detailed information on transactions on a daily basis.¹²⁹

The number of DCMs listing Covered Event Contracts and the volume of trading in such contracts have increased significantly in recent years. Currently twelve DCMs either offer or have stated an intention to offer contracts that would likely be Covered Event Contracts. The Commission notes it has designated seven new DCMs since the beginning of 2025, and that currently more than twenty DCM applications are pending.¹³⁰ Many of these pending DCM applications have the stated

intention of offering contracts that could be considered Covered Event Contracts. In one of the largest DCMs during the calendar month February 2026, the Commission estimated a daily average of approximately 91,000 event contracts with trading volume. The Commission's experience is that entities seeking DCM designation and seeking to list Covered Event Contracts may wish to receive a staff no-action letter similar to the Staff Event Contract Reporting No-Action Letters. The Commission anticipates receiving additional similar requests in the future.

Request letters resulting in the Staff Event Contract Reporting No-Action Letters have generally argued that the contracts for which they seek a no-action position with respect to reporting are economically quite different from the vast majority of the swaps reported under part 43 and part 45. Swaps reported pursuant to part 43 and part 45 typically have large notional values, long tenors, and are typically margined. Traditionally, swaps reported pursuant to Commission regulations are in some instances standardized, but the potential and observed scope of contract customization between a SD and a bilateral counterparty is large. Swaps may or may not be cleared with a central counterparty, may include complex economic terms such as schedules of payments or reference quantities of underlying instruments, and they may contain substantial embedded optionality. Swap market participants often modify their portfolio exposure by initiating new swaps in order to adjust the risk profile of their portfolio, as it is often impractical or impossible to identify and terminate specific swaps that would achieve the desired risk profile.

In contrast, Covered Event Contracts and their associated portfolio transactions are much simpler than the possible range of swaps contemplated in part 43 and part 45 regulations.¹³¹ Covered Event Contracts are cleared, standardized, typically have a \$1 payoff per contract, and are often resolved soon after contract initiation. Because Covered Event Contracts are standardized, market participants can readily offset a position in a given contract by trading again in that same contract. Also, whereas futures and

options on futures typically trade on DCMs that allow for leveraged positions, Covered Event Contracts would be fully collateralized.¹³² Thus, for intermediated trades of Covered Event Contracts, FCMs and brokers do not hold margin, and users are not subject to margin calls. Consequently, Covered Event Contracts carry different risks than traditional futures or options contracts. Specifically, trading in fully collateralized contracts should not generally expose the DCO to credit or default risk.¹³³

As noted earlier, reliance on Staff Event Contract Reporting No-Action Letters without a reporting and recordkeeping regime for the Covered Event Contracts is a tenuous basis to devote resources and may cause reporting parties to proceed cautiously in launching new products, thereby inhibiting innovation. Accordingly, the Commission is proposing an alternative reporting regime for Covered Event Contracts. The Proposal would set forth a separate reporting regime for Covered Event Contracts, which would be exempted from certain swap data reporting and recordkeeping requirements. Rather than being subject to swap data reporting requirements, event contracts that would be considered Covered Event Contracts under proposed § 16.03(a) would be reported pursuant to part 16, part 17, and part 18, in largely the same manner as futures and options contracts are reported.

3. The Baseline

The Commission identifies and considers the benefits and costs of the Proposed Rule relative to the baseline of those generated by the current statutory and regulatory framework applicable to the issues addressed by this Proposal, *i.e.*, the current status quo. The baseline in this Proposal is the existing statutory and regulatory framework applicable to market participants that must comply with the existing swap reporting rules. Covered Event Contracts' treatment as swaps means that Registered Entities are required to report transaction information under parts 43 and 45. Part

¹²⁵ See 7 U.S.C. 2(a)(13)(G) ("Each swap (whether cleared or uncleared) shall be reported to a registered swap data repository.")

¹²⁶ See generally 17 CFR part 43; 17 CFR part 45.

¹²⁷ See generally 17 CFR 16; 17 CFR 17; 17 CFR 18.

¹²⁸ See *supra* note 28.

¹²⁹ Regulations 16.00 and 16.01 were not specifically included in the Staff Event Contract Reporting No-Action Letters, but they were still required to be followed under the Staff Event Contract Reporting No-Action Letters and the Commission has always received information under these provisions.

¹³⁰ See CFTC, Designated Contract Markets, <https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations> (last visited May 22, 2026).

¹³¹ Part 45 reporting was designed to accommodate complex, bespoke, bilateral swaps, not exchanged-traded options. As such, it includes many fields that are not relevant for Covered Event Contracts including items such as CDS index attachment point, Exchange rate, Exchange Rate Basis, Floating rate payment frequency period multiplier, Original swap USI, Physical delivery location, among many others.

¹³² 17 CFR 39.2 ("Fully collateralized position means a contract cleared by a derivatives clearing organization that requires the derivatives clearing organization to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract.")

¹³³ See, *e.g.*, Final Rule, Reporting and Information Requirements for Derivatives Clearing Organizations, 88 FR 53664, 53664 (Aug. 8, 2023) ("[F]ully collateralized positions do not expose the DCO to any credit or default risk stemming from the inability of a clearing member to meet a margin call or a call for additional capital.")

43 implements rules relating to the reporting and public dissemination of certain swap transaction and pricing data in near real time. Part 45 regulations require SEFs, DCMs, and reporting counterparties to report swap data to SDRs. SDRs collect and maintain data related to swap transactions, keeping such data electronically available for regulators or the public.

The Proposal would remove these part 43 and part 45 requirements for the Covered Event Contracts and would set up an alternative reporting regime under part 16, part 17, and part 18 of the Commission's regulations. Part 16 concerns requirements for reporting trade information for futures and options. In particular, § 16.02 requires price and quantity information similar to that required under part 43. Part 17 requires reporting position and ownership and control information for accounts identified as special accounts under Commission regulations, and part 18 requires reporting certain trader-identifying information upon a special call. The Proposal would amend both the reporting level and reportable trading volume level for purposes of part 17 and part 18 to raise both thresholds to 125,000 contracts for Covered Event Contracts.¹³⁴

The Staff Event Contract Reporting No-Action Letters set forth no-action positions by the Divisions that provide for reporting of Covered Event Contracts by Registered Entities under the futures and options regulatory regime. The Staff No-Action Letters are not Commission actions carrying the force of law and thus do not establish any regulations. Although costs and benefits are calculated based on the regulatory baseline, the Commission recognizes a de facto baseline for Registered Entities that have relied on these Staff Event Contract Reporting No-Action Letters and submit Covered Event Contract information to the Commission pursuant to the futures and options reporting regime of part 16 of the Commission regulations. Because the Staff No-Action Letters have effectively lowered the compliance burden relative to the swaps reporting regulatory baseline for many participants, complying with a reversion to the regulatory baseline would result in new costs. For existing Registered Entities submitting information pursuant to a Staff No-Action Letter, the actual costs and benefits of the amendments in this Proposal may net out to little, if any,

change in those cases where the Proposal would establish regulations requiring reporting in a format and timeframe that closely align with the existing Staff Event Contract Reporting No-Action Letters. For New Registered Entities not currently relying on a Staff Event Contract Reporting No-Action Letter, the regulatory and de facto baselines would similarly apply to the extent new entities would avail themselves of a staff no-action letter for their Covered Event Contracts.

When comparing the Proposal to the baseline, where possible the Commission has engaged in a quantitative analysis; however, where data is unavailable or estimates depend on the cost structure and business model of the registrant, the Commission has addressed these costs and benefits on a qualitative basis. In conducting the cost-benefit analysis, the Commission has considered more and less stringent alternatives in addition to the preferred option set forth in the Proposal. As discussed below, the Commission has identified the alternative of proceeding with the current regulations which requires reporting under the swaps reporting and recordkeeping regulations (in addition to the options reporting requirements), the alternative of requiring reporting under current regulations absent no-action relief, reporting under the options regime with the default (25-contract position/50-contract volume) threshold, reporting to an SDR only (*i.e.*, retaining the parts 43 and 45 requirement, but not the parts 16, 17 and 18), and the alternative of a DCM choosing to register as an SDR or registering an affiliated SDR, and the chosen Proposal. Based on our preliminary analysis, the Commission believes the Proposal detailed above is likely to yield the greatest net benefit among these options.

Broadly summarizing the economic analysis described in more detail in the following sections, the Commission preliminarily concludes that there are significant sources of net benefit associated with both the proposed changes that eliminate swap reporting for Covered Event Contracts, as well as proposed changes to the reporting under existing regulations for large trader reporting levels. By eliminating part 43 and part 45 SDR reporting requirements as well as certain parts 38 and 39 recordkeeping and reporting requirements for the Covered Event Contracts, the Proposal would eliminate the costs of swap reporting for Covered Event Contracts. The Proposal would also reduce costs by substantially raising the threshold for special account and volume threshold account status for

accounts held by traders from a position of 25 contracts or a daily volume of 50 contracts to a proposed level of 125,000 contracts of position or volume to meet the reporting threshold, thereby eliminating DCM, FCM, and trader reporting requirements associated with special accounts. Costs associated with the Proposal include those for a DCM to collect and transmit basic identifying information, not previously required, on all traders. For instance, the Proposal would require occupation information that would be relevant for Commission surveillance programs of Covered Event Contracts. However, the Commission preliminarily believes that these costs would be offset by the elimination of the swap data reporting and the increase in the reporting level thresholds.

4. Proposed Codification of the No-Action Position With Respect to SDR Reporting and Recordkeeping Requirements

Proposed § 16.03(a) would exempt Covered Event Contracts from regulations requiring reporting to the SDRs for the DCMs that list these contracts. Although the transaction-level reporting requirements found under these rules are typically required for swaps, the Commission notes that Covered Event Contracts differ from many other swaps in that Covered Event Contracts (a) are standardized and listed on DCMs; (b) are fully collateralized; (c) have significant retail participation and typically trade as one-dollar contracts. In requests for no-action positions, certain DCMs represented that it would be impractical and uneconomic to report small-notional-size swaps to an SDR.

In lieu of receiving transaction data via SDR reporting, pursuant to the Proposal, the Commission would receive transaction data directly pursuant to §§ 16.00, 16.01 and 16.02, which apply to futures and options transactions. The Commission believes that the transaction-level reporting under these sections would provide a suitable record for the Commission's purposes for most transactions when combined with additional reporting for large traders. The Commission has extensive experience with the part 16 data format as a tool for market monitoring, market analysis, and surveillance. Given the economic similarities between event contracts that would be considered Covered Event Contracts and options for which the Commission typically receives transaction data, and given the Commission's nearly nine years of experience receiving transaction data for event contracts in the part 16 format, the

¹³⁴ The proposed reporting level is 125,000 contracts for Covered Event Contracts with a \$1 maximum payout. For those that have a higher payout, the threshold is \$125,000 notional.

Commission believes this format is sufficient to obtain the transaction information necessary to support the Commission's mission.

a. Benefits

Under the Proposal, § 16.03(a) defines the "Covered Event Contracts" which will not be subject to reporting and recordkeeping requirements under §§ 38.8, 38.10, 38.951, 39.20(b)(2), and part 43 and part 45. By reducing reporting and recordkeeping requirements from the regulatory baseline, the Proposal would benefit the reporting parties by enabling them to avoid certain reporting costs. The Commission believes the costs avoided by not subjecting DCMs to the above-cited swap reporting and recordkeeping requirements fall into at least three categories: (1) costs associated with registering with and connecting to an SDR, (2) costs associated with modifying reporting party systems, and (3) costs associated with SDR reporting fees. Under the regulatory baseline, DCMs currently trading other event contracts and swaps in addition to Covered Event Contracts would have already connected to an SDR and hence would not incur costs in the first two categories. In addition, those Registered Entities that are already connected to an SDR to report data on their traditional swap business but choose to start listing Covered Event Contracts would also not incur costs in these categories.

First, with respect to costs associated with registering with and connecting to an SDR, the Commission estimates avoided costs would vary across SDRs. Costs to DCMs and other market participants may include legal costs associated with completing user agreements and registration fees associated with receiving an LEI. Such costs may also include the cost of building a connection to an SDR. The Commission acknowledges that these costs might change over time. A DCM listing contracts that would be considered Covered Event Contracts, or a DCO clearing the same, might make a business decision to register as an SDR or open an affiliate SDR. In the short term, any such cost reduction might be offset by costs associated with registering with the Commission as an SDR and setting up reporting systems. This is discussed in more detail below.

Second, with respect to the costs associated with modifying reporting systems to submit data in the form and manner required by an SDR, the Commission previously estimated the cost for a reporting entity to design, test, and implement an updated data system based on the part 45 data elements, the

Commission's technical specification, and applicable validation requirements would range between \$24,000 and \$73,225 per reporting party to modify systems, plus an hourly burden of 0.01 hours per report submitted.¹³⁵

Third, with respect to costs associated with SDR reporting fees, avoided costs would vary across SDRs and may depend upon trading volume and average notional sizes of trades. SDRs charge fees for the services they provide. Some SDRs require an annual account management fee, and some SDRs require per transaction reporting fees that may vary by notional size, product, or asset class. Where fees vary based on the number of reported swap transactions, an exact estimate of the total avoided costs depends on the number of trades and other characteristics. For example, assuming reporting fees of \$0.005 per swap transaction, total annual reporting costs could exceed \$5 million for a large DCM that offers Covered Event Contracts.¹³⁶

In addition to avoided costs, proposed § 16.03(a) would also enable DCMs and DCOs listing and clearing event contracts to avoid continual ad hoc adjustments to Staff Event Contract Reporting No-Action Letters to account for new developments, innovation, or competitive adjustments not contemplated at the time of the original request for a no-action position.¹³⁷ As discussed above in section II, a regulatory regime that specifically addresses the reporting of event contracts would provide a uniform and consistent approach to event contracts reporting while at the same ensuring the Commission obtains the necessary information to address the CEA's objectives of reducing systemic risk,

¹³⁵ See Final Rule, Swap Data Recordkeeping and Reporting Requirements, 85 FR 75503, 75553 (Nov. 25, 2020). See also discussion of costs related to sending information to an SDR in section 8 below.

¹³⁶ The largest DCM with Covered Event Contracts had 24.3 million weekly transactions in the week ending May 15, 2026. Assuming a swap reporting fee of \$0.005, the annual reporting cost would be approximately = \$0.005 × 24.3 million swaps × 50 weeks = \$ 5,850,000. Event contract volume source: <https://defirate.com/prediction-markets/volume/>.

¹³⁷ As noted earlier, in some instances, Registered Entities have received no-action positions concerning SDR reporting that include contracts with slightly different payout structures, such as variable payout contracts. Whereas an event contract typically results, at settlement, in the payment of an absolute amount to the holder of one side of the event contract and no payment to the other, a variable payout structure can result to a payout to both parties based on the amplitude by which the price at expiration exceeds the strike or strike price. The Proposal would accommodate both binary and variable payout structures and obviate the need for Registered Entities to seek modified no-action positions to address technical changes.

increasing transparency, and promoting market integrity.

b. Costs

Removing the requirement that DCMs provide parts 43 and 45 information to the Commission changes the information available to conduct surveillance of Covered Event Contracts relative to the information available with respect to other swaps. The Commission nevertheless believes that for Covered Event Contracts, the information provided in parts 16, 17 and 18 would serve similar purposes to relevant provisions in parts 38, 39, 43 and 45, and does not anticipate any impact on oversight. The information provided under the traditional futures and options reporting regime would ensure parallel treatment that the Commission believes is appropriate for Covered Event Contracts. Because the transaction data reported pursuant to the § 16.02 reporting format overlaps in large part with the transaction data reported pursuant to the part 45 reporting format, the Commission does not anticipate material loss of data would result from receiving transaction data in the § 16.02 reporting format rather than the part 45 reporting format. For example, the Commission receives information concerning uncleared swaps through specific part 45 data elements¹³⁸ that it would not expect to receive in the § 16.02 reporting format. However, given all Covered Event Contracts are fully collateralized and traded on-exchange, the absence of such information in a transaction data report is unlikely to impact data quality.

To the extent that information not captured under § 16.02 reporting is necessary for Commission activity, a special call pursuant to part 21¹³⁹ may be required to receive such information. But, as detailed above, because these event contracts trade on a DCM with publicly available contract information, the Commission does not anticipate such special calls. As such, the Commission anticipates little change in its ability to monitor these markets.

c. Request for Comment

The Commission requests comment on its consideration of the costs and benefits of the Proposal, including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(1) How, if at all, would event contract markets change if the Staff

¹³⁸ See generally 17 CFR part 45, appendix 1.

¹³⁹ See generally 17 CFR part 21.

Event Contract Reporting No-Action Letters were withdrawn, such that DCMs listing event contracts for trade would be required to submit part 43 and part 45 reporting for such contracts? For instance, would the minimum size of a tradeable contract increase in notional value to reduce the burden of per-dollar SDR fees?

(2) Whether and how the SDR data for Covered Event Contracts is used by interested parties.

5. Reporting Requirements for DCMs

Proposed § 16.03(b) would require DCMs to report pursuant to § 16.00¹⁴⁰ (clearing member reports), § 16.01¹⁴¹ (market-level data), and § 16.02¹⁴² (trade and supporting data). The Proposal would codify the conditions set forth in the Staff Event Contract Reporting No-Action Letters for the Covered Event Contracts. However, the Proposal contains modifications to the de facto baseline of the reporting set forth in the Staff Event Contract Reporting No-Action Letters. Generally, the reporting conducted under §§ 16.00–16.02 would apply to Covered Event Contracts to the same extent that such provisions would apply to a DCM in connection with any futures or option contract, except that, with regards to reporting pursuant to § 16.01, the Proposal would in addition require the DCM to record information related to the settlement of the contract, including whether the event that is the subject of each contract occurred and, if so, the event that occurred, the time and date the event occurred, and the source used to determine whether the event occurred.¹⁴³

Proposed §§ 16.03(c) and (d) would apply parts 17 and 18 to Covered Event Contracts. Proposed § 16.03(e) would amend the reporting level for purposes of part 17 and part 18. Currently, under part 15, an account is in special account status or volume threshold account status if, respectively, either its end-of-day position in a contract market (§ 15.03) exceeds 25 contracts, or its daily number of trades (§ 15.04), exceeds 50 contracts. The Proposal would raise both thresholds to 125,000 contracts for Covered Event Contracts. Proposed § 16.03(f) would require DCMs to disseminate transaction data “as soon

as technologically practicable,” a standard that better aligns reporting with what is required of SDRs. Under proposed § 16.03(g), DCMs would be required to obtain from direct participants, FCMs, foreign brokers, and any other clearing members certain ownership information of traders. And, under Proposed § 16.03(h), the Registered Entities trading and clearing Covered Event Contracts would be required to comply with all swap reporting and recordkeeping requirements of the CEA other than the recordkeeping requirements of the Relevant Regulations and to keep all record pursuant to § 1.31 of the Commission regulations. Sections 16.03(c) through (e) are further discussed in section 6 below.

a. Benefits

As discussed, proposed § 16.03(a) through (b) would, in large part, codify into regulation the Staff Event Contract Reporting No-Action Letters. Based on the Commission’s experience receiving data reported pursuant to the Staff No-Action Letters, the Commission believes additional specificity would ensure a uniform approach across DCMs in the reporting of trader-identifying information to the Commission and in publicly disseminating transaction data in real time. Codification of the reporting rules creates a known regulatory environment for current and future DCMs, without necessitating ongoing and ad hoc no-action positions or other staff intervention.¹⁴⁴ Taken together, the reporting framework under parts 16, 17 and 18 is a well-established and effective mechanism for collecting trader level information of contracts under DCMs. This framework is already integral to futures and options markets and relies on a consistent set of reporting elements—including daily trade level data and ownership and control information—that are familiar to registrants and well-integrated into the Commission’s surveillance systems. In addition, given the high degree of standardization of Covered Event Contracts, certain granular fields required by parts 43 and 45 that are

designed to capture detailed contract specific attributes might create reporting costs without providing meaningful incremental value to the Commission. The Commission believes that these existing reports, including those identifying persons with more than 10 percent ownership interest in an account, offer a sufficiently robust foundation for surveillance, monitoring, and enforcement, while avoiding unnecessary additional burdens.

The requirement in proposed § 16.03(b) to include settlement file information along with other market data as required in § 16.01 would provide the Commission with information already required by DCMs under part 16. As noted earlier, such information is a necessary component of the settlement price reported by DCMs pursuant to § 16.01(b)(2)(ii).¹⁴⁵ The daily collection of this information, of which most or all is typically published online, in a standardized format integrated with other reporting, would allow the Commission to respond in a timely way to trading irregularities and would assist the Commission in identifying how the contract was determined. This in turn could benefit market participants by ensuring the financial integrity of event contracts markets, in particular, by ensuring that the contract determination process would be auditable.

Proposed § 16.03(f) would require DCMs to provide real-time dissemination of market data. The Staff Event Contract Reporting No-Action Letters contain a similar requirement. Whereas the Staff No-Action Letters typically require such data to be disseminated “promptly,” the Proposal clarifies that this information shall be published “as soon as technologically practicable,” the same standard required for public dissemination of swap transaction and pricing data reported pursuant to part 43.¹⁴⁶ This would ensure that the public may access trade data in near real-time. Benefits of public dissemination on an “as soon as technologically practicable” timeline include enhanced price discovery and

¹⁴⁵ The Commission currently receives such settlement information from DCMs listing contracts that would meet the Proposal’s definition of Covered Event Contracts in a separate “settlement file.”

¹⁴⁶ See 17 CFR 43.3(b)(1) (requiring SDRs to “publicly disseminate swap transaction and pricing data as soon as technologically practicable after such data is received . . . unless such swap transaction and pricing data is subject to a time delay described in § 43.5”); see 17 CFR 43.2(a) (defining “as soon as technologically practicable” to mean “as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants”).

¹⁴⁰ 17 CFR 16.00.

¹⁴¹ 17 CFR 16.01.

¹⁴² 17 CFR 16.02.

¹⁴³ As noted earlier, Regulations 16.00 and 16.01 were not specifically included in the Staff Event Contract Reporting No-Action Letters, but they were still required to be followed under the Staff Event Contract Reporting No-Action Letters and the Commission has always received information under these provisions.

¹⁴⁴ For example, when a DCM reporting pursuant to the Staff Event Contract Reporting No-Action Letters arranges to clear through a new DCO, that DCM and that new DCO have generally amended the no-action position to include the new DCO. *But see* CFTC Letter No. 26–14 (May 13, 2026), available at <https://www.cftc.gov/csl/26-14/download> (providing a no-action position intended to obviate the need for such amendments). The Proposal would eliminate the need to modify no-action letters to reflect business changes, as long as the contracts at issue fell within the proposed “Covered Event Contracts” parameters set forth in § 16.03(a).

enhanced price competition, among other transparency-related benefits.¹⁴⁷ The Proposal would also harmonize the reporting of Covered Event Contracts with the current industry standard and otherwise required by the current regulations. It would create parity across DCMs listing Covered Event Contracts for trade and ensure the public has timely and equal access to market data on a consistent basis to allow market participants and the public to analyze the swap transaction and pricing data.

Proposed § 16.03(g) would require DCMs to obtain data for all customers that identifies each trader by name, physical address, email address, and phone number, as well as occupation and employer information and the names of any other persons guaranteeing the trading account or with a financial interest of 10 percent or more in the trading account. Although § 16.02 does not expressly require DCMs to obtain trader-identifying information for intermediated accounts,¹⁴⁸ DCMs generally do collect identifying information for each customer in the ordinary course of business, and in turn report such information to the Commission pursuant to § 16.02. By specifying trader-identifying information that DCMs collect, proposed § 16.03(g) would create a level playing field for intermediaries, which, currently, may not all communicate trader-identifying information to DCMs in a consistent form and manner. The minimum trader-identifying information to be collected under proposed § 16.03(g) would ensure uniform reporting across DCMs, FCMs, foreign brokers, and clearing members, which allows the Commission to aggregate this data for more efficient and effective monitoring and analysis. Proposed § 16.03(g) would also ensure that DCMs and the Commission together with other provisions of proposed § 16.03 have access to trader-identifying information critical for identifying insider trading and other potential violations of the CEA, the Commission's regulations, or a DCM's rules.¹⁴⁹ Given that the

frequency and volume of intermediated clearing and execution of trades on DCMs offering event contracts may continue to increase, collection of trader-identifying information and ownership and control information is critical to the Commission's market monitoring and surveillance programs.

b. Costs

Under the regulatory and de facto baselines, DCMs are responsible for reporting clearing member reports under § 16.00, market data under § 16.01 and transaction data pursuant to § 16.02. The Proposal would establish additional requirements for the Covered Event Contracts, including requirements to record contract settlement information, to obtain certain trader-identifying information, and to publicly disseminate trade data on an "as soon as technologically practicable" basis, as well as recordkeeping requirements. As enumerated below, these additional requirements could result in some costs for registrants compared to the de facto baseline, as they would have to build out current systems to obtain this data. The Commission is of the view that this information is generally required to be collected under the regulatory baseline, and, in practice, such costs would be marginal, to the extent DCMs already have the infrastructure to collect and report futures and options data pursuant to part 16.

(i) Transmission of Settlement File Under § 16.01

Proposed § 16.03(b) would specify that § 16.01 reports must include certain settlement information, including whether the event that is the subject of each contract occurred and, if so, the event that occurred, the time and date the event occurred, and the source used to determine whether the event occurred. Such information is a necessary component of the settlement price reported by DCMs pursuant to § 16.01(b)(2)(ii). This information is currently transmitted to the Commission generally on a monthly basis by DCMs. While DCMs currently have this information available for contract determination, dispute, and settlement, the Commission acknowledges that there may be minor modifications to current internal systems to send the information on a daily basis, and

ongoing costs associated with daily transmissions that adhere to the correct fields and formats requested. The Commission preliminarily believes that DCMs would incur a one-time cost of 50 hours to update electronic systems to transmit settlement file information along with market data, and an ongoing cost of 2 hours per month to ensure the smooth transmission of this information and to resolve any errors or inconsistencies in said transmission. At an hourly rate of \$235 per hour, this equates to a one-time cost of \$11,750 and an ongoing annual cost of \$5,640.¹⁵⁰ Across the 12 DCMs that are currently registered and have started trading or stated an intent to trade Covered Event Contracts, that amounts to a one-time cost of \$141,000 and an ongoing cost of \$67,680 per year.

(ii) Requirement of Real-Time Reporting

Under proposed § 16.03(f), DCMs are required to publish for each transaction certain information, including the quantity and price, "as soon as technologically practicable."¹⁵¹ This standard differs from "promptly," which was the standard established in the Staff Event Contract Reporting No-Action Letters. The Proposal would be adopting the current publication standard and the costs of the Proposal should not increase as compared to the current practice. Furthermore, the Commission does not believe the Proposed Rule would impose additional burdens on DCMs to disseminate data "as soon as technologically practicable" rather than "promptly." In either standard, the reporting party would need to publish the information in such a way that it should be readily available. In addition, the Proposal would establish the fields that must be

¹⁵⁰ The wage estimate of \$235/hour is based on the occupational categories that are most likely to be involved in the implementation of this Proposed Rulemaking. The Commission is using a composite wage based on the following BLS categories: Software and Web Developers, Programmers, and Testers (50%), Database and Network Administrators and Architects (25%), Lawyers (25%), with wage estimates taken from the BLS' Occupational Employment and Wage Statistics (located online at <https://data.bls.gov/oes/#/industry/523000>); adjusted for inflation to May 2026 using the BLS CPI inflation calculator (located online at https://www.bls.gov/data/inflation_calculator.htm); and further adjusted with a multiple of 2.5 to account for benefits and overhead costs.

¹⁵¹ See 17 CFR 43.3(b)(1) (requiring SDRs to "publicly disseminate swap transaction and pricing data as soon as technologically practicable after such data is received . . . unless such swap transaction and pricing data is subject to a time delay described in § 43.5"); see 17 CFR 43.2(a) (defining "as soon as technologically practicable" to mean "as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants").

¹⁴⁷ See generally, Final Rule, Real-Time Public Reporting of Swap Transaction Data, 77 FR 1182, 1234 (Jan. 9, 2012) (discussing benefits of reporting and public dissemination requirements for part 43).

¹⁴⁸ See 17 CFR 16.02 ("Upon request, [trade and supporting data reports] . . . shall be accompanied by data that identifies or facilitates the identification of each trader for each transaction or order included in a submitted data report if the reporting market maintains such data.") (emphasis added); see also Final Rule, Significant Price Discovery Contracts on Exempt Commercial Markets, 74 FR 12178, 12185 (Mar. 23, 2009).

¹⁴⁹ As discussed in section II.H above, trader-identifying information is valuable to both the Commission and to DCMs for market monitoring and surveillance purposes. See, e.g., CFTC Press

Release, "CFTC Enforcement Division Issues Prediction Markets Advisory," Release No. 9185-26 (Feb. 25, 2026), available at <https://www.cftc.gov/PressRoom/PressReleases/9185-26> (discussing "[m]isappropriation of confidential information in breach of a pre-existing duty of trust and confidence to the source of the information (commonly known as 'insider trading')," among other potential "illegal trading practices occurring on any DCM").

reported and for how long they must be made publicly available,¹⁵² which would create parity among DCMs and standardize the information received by the Commission and the public. In general, the Commission believes that most DCMs would not have to make any changes to the way that this information is currently disseminated, and any changes would be relatively minor. As a result, the Commission estimates that the burden required to fulfill this requirement would be *de minimis* for most reporting parties.

(iii) Collection of Ownership Information by Intermediaries

Proposed § 16.03(g) would require DCMs to obtain trader-identifying information for all traders, including occupation and employer information. This would allow for transaction information reported pursuant to § 16.02 to contain trade ownership information. Currently, for non-intermediated contracts that would be considered Covered Event Contracts, DCMs obtain most of such information directly from their customers. In those instances, the Proposal would standardize the minimum information required to be collected. For intermediated contracts, DCMs must generally obtain trader-identifying information as well as any other account information from the intermediary that carries the account, and as noted above, the Commission understands that DCMs generally collect such information from FCMs. However, proposed § 16.03(g) would require DCMs that do not collect trader-identifying information or collect only some of the trader-identifying information to collect the enumerated information set forth in proposed § 16.03(g). For these DCMs, there may be some costs associated with the collection and transmission of this information. But this information is required to be reported in connection with the Commission's large trader reporting scheme,¹⁵³ intermediaries collect this information about certain traders, and the electronic systems maintained by FCMs and foreign brokers to place trades may accommodate any additional information requested. As a result, as in

the case of real-time reporting, the Commission estimates that the cost to update information flows to fulfill requirements under proposed § 16.03(g) will be *de minimis* for most reporting parties. Similarly, proposed § 16.03(h), Registered Entities trading and clearing Covered Event Contracts would be required to comply with all recordkeeping requirements of the CEA pursuant to § 1.31 of the Commission regulations that these entities are already required to comply. The Staff Event Contract Reporting No-Action Letters and the Proposal do not remove the general recordkeeping requirements that apply to DCMs under § 1.31. As a result, DCMs offering event contracts would continue to be subject to the requirements under § 1.31 that apply to all DCMs. Because DCMs already comply with this requirement, the Commission preliminarily believes that the Proposal would not create any additional costs.

6. Large Trader Reporting Requirements

Proposed § 16.03(c) and § 16.03(e) would explicitly require large trader reporting pursuant to part 17 of the Commission's regulation for Covered Event Contract positions. The Staff Event Contract Reporting No-Action Letters do not address part 17 reporting requirements for either daily position data or ownership and control information. Commission regulations nevertheless generally require such reports for futures and options traded on DCMs.¹⁵⁴ The Proposal would make explicit that DCMs, clearing members, and foreign brokers must provide large trader reporting under part 17 and would establish a reporting level and a reportable volume threshold level applicable to Covered Event Contracts.

Section 17.00(a) requires reporting markets, FCMs, clearing members, and foreign brokers to submit large trader position reports for "special accounts,"¹⁵⁵ which are accounts with a daily position that exceeds the applicable reporting level established in § 15.03.¹⁵⁶ Section 17.01(a) requires

submission of Form 102, which provides certain ownership and control information, for such special accounts.¹⁵⁷ Section 17.01(b) requires submission of Form 102 for volume threshold accounts, which are trading accounts that carry reportable trading volume.¹⁵⁸ Reportable trading volume levels are enumerated in § 15.04. Pursuant to § 18.04, the Commission or its designee may, in its discretion, request additional information from traders of special accounts or volume threshold reportable accounts by special call.¹⁵⁹

The Proposal would amend the reportable positions and trading volume applicable solely to Covered Event Contracts. It would establish a § 15.03 reporting level of 125,000 1 USD contracts (or the equivalent notional value with a contract size other than 1 USD) and a § 15.04 reportable volume threshold level of \$125,000 in transactions during a single trading day on a single reporting market. The Commission assesses the benefits and costs of proposed §§ 16.03(c) and 16.03(e) by comparing these proposed levels with the baseline of a currently applicable reporting level of 25 contracts position¹⁶⁰ and a reportable volume threshold level of 50 transactions during a single trading day on a single reporting market.¹⁶¹

In establishing the new reporting threshold, the Commission examined the number of event contracts with open interest or volume large enough to potentially trigger a reportable position under both the current reporting thresholds (25 event contracts for position and 50 event contracts for volume) and the proposed position and volume thresholds of 125,000 event

exceeds the quantity specified in § 15.03 in . . . [l]ong or short put or call commodity options that have identical expirations and exercise into the same commodity, on any one reporting market"; 17 CFR 15.03 (enumerating reporting levels).

¹⁵⁷ 17 CFR 17.01(a).

¹⁵⁸ 17 CFR 17.01(b); 17 CFR 15.00(x) (defining volume threshold account).

¹⁵⁹ 17 CFR 18.00.

¹⁶⁰ 17 CFR 15.03(b) (the "other commodity" reporting level is 25 contracts).

¹⁶¹ 17 CFR 15.04. The Commission notes that, in practice, market participants typically apply a reportable volume threshold level of 250 contracts, consistent with the staff no-action position taken by DMO in CFTC Letter No. 24–14 and preceding no-action letters. See CFTC Letter No. 24–14, at 6 (Sept. 25, 2024), available at <https://www.cftc.gov/csl/24-14/download> (" . . . DMO will not recommend that the Commission commence an enforcement action, during the extended period defined in this letter, against a Reporting Party relying on this no-action position for failure to report a DCM volume threshold account based on a reportable trading volume level of 50 contracts, provided that such Reporting Party reports instead based on a reportable trading volume level of 250 or more contracts per day.").

¹⁵² For instance, proposed § 16.03(f) requires that trade information be publicly available on the DCMs' website for a period of at least one year. Similarly, § 43.3(c)(1) requires SDRs to "make swap transaction and pricing data available on their websites for a period of time that is at least one year after the initial public dissemination of such data and shall make instructions freely available on their websites on how to download, save, and search such data." 17 CFR 43.3(c)(1).

¹⁵³ See, e.g., 17 CFR 17, appendix A (Form 102); 17 CFR 18, appendix A (Form 40).

¹⁵⁴ See Regulation 15.00(o) defines "option" to mean, "unless specifically provided otherwise . . . any contract for the purchase or sale of a commodity option that is executed on or subject to the rules of a reporting market, including all agreements, contracts and transactions that are treated by a clearing organization as fungible with such contracts." 17 CFR 15.00(o). Regulation 17.00(a) applies to "put and call options" traded on DCMs. 17 CFR 17.00(a).

¹⁵⁵ 17 CFR 17.00(a).

¹⁵⁶ See 17 CFR 15.00(f) (defining "special account" as "any commodity futures or option account in which there is a reportable position"); 17 CFR 15.00(p)(1)(ii) (defining a "reportable position" as "any open contract position that at the close of the market on any business day equals or

contracts. In the analysis that follows, an “event contract” refers to a specific individual contract, and unlike

traditional futures—where reportable positions are determined by aggregating traders’ positions on a DCM across all

expiry months for a given underlying asset and contract size—each event contract is considered on its own.

EXHIBIT 1—NUMBER OF CONTRACT MARKETS ABOVE CERTAIN VOLUME AND OPEN INTEREST THRESHOLDS FOR DCM A

Date	Number of covered event contracts			
	Above 125,000 (OI)	Above 125,000 (vol)	Above 25 (OI) or 50 (volume)	Positive volume or open interest
2/4/2026	514	370	70,224	90,249
2/8/2026	442	600	199,141	226,738
2/11/2026	440	383	79,970	102,718
2/15/2026	473	455	44,563	57,596

Exhibit 1 reflects open interest and transaction data reported by a DCM (“DCM A”) listing event contracts. Exhibit 1 demonstrates that, at one large DCM, the overwhelming majority of event contracts lack sufficient open interest to contain any reportable positions under the proposed § 16.03(e) reporting threshold. In total, no more

than roughly 1,000 event contracts have either open interest or volume exceeding the proposed reporting levels, and only a subset of those markets would, in practice, have participants with positions or trading activity above those thresholds. In contrast, under the current effective 25-contract position reporting level, there would be tens of

thousands of contract markets with reportable positions. The proposed \$125,000 reporting level could result in a 97 to 99 percent reduction in the number of potentially reportable special accounts, based on the dates examined in Exhibit 1. Further discussion of the effect of the increase in reporting thresholds follows below.

EXHIBIT 2—RETAIL MARKET COVERAGE IN THE CFTC COMMITMENT OF TRADERS REPORT [February 10, 2026]

Futures contract	Number of reportable traders	Reportable positions as percent of open interest	
		Long	Short
MICRO E-MINI DJIA	20	37.6	55.9
MICRO E-MINI S&P 500 INDEX	36	64.5	31.2
MICRO E-MINI NASDAQ-100 INDEX	61	62.5	66.3
MICRO E-MINI RUSSELL 2000 INDEX	29	72.5	10.8
MICRO BITCOIN	236	77.2	90.9
MICRO ETHER	302	97.2	99.5
MICRO SOL	26	78.4	87.3
MICRO GOLD	38	43.0	60.3
MICRO COPPER	20	29.7	87.3

Although each derivatives market is different and the Commission receives varying information based on the size of the market, the reporting levels, the number of traders, and trader behavior, a comparison with other retail futures

contract markets is instructive for analysis of markets for event contracts that would be considered Covered Event Contracts. Exhibit 2 shows several active event contracts by a significant number of retail traders. Reportable

positions in these contracts cover between 10.8 and 99.5 percent of the short side, and 29.7 to 97.2 percent of the long side.

EXHIBIT 3—EFFECT OF REPORTING THRESHOLDS ON DCMs A–D ON FEBRUARY 8, 2026

Threshold	Number of participants above threshold		
	Position	Volume	Either
25	1,143,270	857,002	1,184,165
50,000	1,103	739	1,362
125,000	312	227	402
250,000	152	117	197

The Commission currently receives transaction data on Covered Event Contracts under § 16.02, which it used to construct Exhibit 3. Exhibit 3 presents the Commission’s estimate of

the number of unique traders at DCM A whose positions or daily trading volume exceeded various reporting thresholds on February 8, 2026. A trader is counted once even if they exceed a threshold in

multiple markets. February 8 is a high-volume trading day, making it a useful reference point for assessing the potential scope of reporting activity.

The estimates include all event contracts expected to be active on February 8, 2026. The analysis is conducted at the event contract level—the most granular level at which contracts are listed and traded on DCM A. For event contracts that continue trading beyond that date, positions are measured as of the end of the calendar day; for those that expired earlier on February 8, positions are measured as of their last trading time.

As shown in Exhibit 3, higher reporting thresholds substantially reduce the number of traders who would trigger reporting. Increasing the threshold from 50,000 to 250,000 event contracts lowers the number of traders above the position- or volume-based threshold—from roughly 1,360 to about 200—for whom DCMs would be required to submit Form 102s.

Although the number of reportable traders decreases significantly at higher thresholds, the Commission would still obtain substantial information about large traders, comparable to what it receives in other derivatives markets. For instance, on February 8, the 125,000 contract position threshold would cover approximately 14 percent of the long side, and 72 percent of the short side of the top 50 Covered Event Contract markets on the largest DCM, ranked by open interest. Lowering the reporting threshold to 50,000 contracts would increase coverage to 22 and 81 percent, respectively, increasing the number of reportable positions for a relatively small increase in coverage. While a low threshold would increase the coverage to at least 99 percent of open positions, as shown in Exhibit 3 above, this would substantially increase the reporting burden on DCMs, FCMs, brokers, and traders through increased numbers of forms 102 and 40.

a. Benefits

The Commission believes that, in general, the DCMs, FCMs, clearing members, foreign brokers, and traders responsible for large trader reporting under part 17 and part 18 would see a decreased burden relative to baseline due to the significantly higher reporting level and reportable volume threshold level the Proposal would establish, which would result in a corresponding lower level of large traders. Moreover, the reporting level and reportable volume threshold level the Proposal would establish are designed to be sufficiently high to exclude the vast majority of retail traders from large trader reporting regime.¹⁶²

Under the existing regulations, the threshold for determining when a trader is considered large is either a position of 25 contracts¹⁶³ or 50 daily trades.¹⁶⁴ The Proposal would raise the reporting level for § 17.00(a) reporting to 125,000 contracts (or the \$125,000 notional value equivalent for contracts with contract sizes other than 1 USD). It would also raise the § 17.01(b) reportable trading volume for a given contract market to daily trading volume of 125,000 contracts. Accordingly, under the Proposal, far fewer traders would qualify as large traders and therefore be subject to part 17 reporting. Based on data analysis of Exhibit 3, applying the proposed § 16.03(e) reporting levels would reduce the number of accounts with reportable positions by more than 1 million. Applying the estimate of 0.33 burden hours per form, this equates to at least 330,000 hours in cost savings.¹⁶⁵ This reduced burden may encourage additional traders to participate in event contract markets (or, put differently, would not discourage such additional participants), and hence the change could make some event contracts viable. Additionally, applying an elevated reporting level would ensure that limited, if any, retail traders are required to submit Form 40 in response to a special call issued pursuant to § 18.00.¹⁶⁶

DCMs, FCMs, clearing members, and foreign brokers incur costs related to collecting information on large traders and transmitting that information to the Commission. The Commission has previously estimated the average burden hours per respondent for reporting large trader position information pursuant to § 17.00(a) as 52 hours per respondent.¹⁶⁷ The Commission has previously estimated the average burden hours per respondent for submitting ownership and control information required by § 17.01(a) and trader information required by § 18.04 to be approximately 104 hours per reporting party.¹⁶⁸ Although the Commission believes that much of this information collection will be automated, raising the applicable reporting levels will result in market participants submitting fewer large trader reports, Forms 102, and Forms 40

to the Commission. Hence, the Proposal would result in a reduced burden relative to baseline for DCMs, FCMs, and foreign brokers. Additionally, the Proposal would require the Commission to process fewer Form 102s than the baseline, which would consequently decrease the amount of time spent by registrants and traders waiting for clarification and error resolution.

b. Costs

As a general matter, raising the threshold to eliminate the reporting requirement for retail traders is unlikely to reduce the Commission's ability to detect manipulation and similar behavior. The Commission recognizes that while DCMs are required to collect information on the employment and occupation of all traders under the Proposed Rule, there is not an automatic mechanism similar to Forms 102A and 102B to transmit this information to the Commission. Consequently, while the Commission will receive information on the natural persons who own or control each of the trading accounts below the revised reporting level, the information received will be less complete than under the regulatory baseline. But, as detailed above, the Commission preliminarily believes that it will be sufficient for monitoring and surveillance purposes.

Proposed § 17.00(j) and § 17.02(f) would also set forth which entities are responsible for submitting large trader position reports pursuant to § 17.00(a) and ownership and control reporting pursuant to § 17.01(f). Specifically, the Proposal would require that DCMs must provide large trader reporting on behalf of non-intermediated clearing members for contracts for which both intermediated and non-intermediated participants may trade. This is a new burden on DCMs relative to de facto baseline.¹⁶⁹ However, the Commission does not believe this new burden will impose significant costs on DCMs, given that DCMs are independently required to maintain position information on large traders for monitoring and surveillance purposes.¹⁷⁰

¹⁶⁹ Pursuant to current regulations, DCMs must submit large trader reporting on behalf of clearing members for exclusively self-cleared contracts, defined as “cleared contract[s] for which no persons, other than a reporting market and its clearing organization, are permitted to accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trade.” 17 CFR 15.00(h).

¹⁷⁰ See, e.g., 17 CFR 38.254(b) (“A designated contract market with participants trading through intermediaries must either use a comprehensive large-trader reporting system (LTRS) or be able to demonstrate that it can obtain position data from

Continued

¹⁶² See *supra* Exhibit 2.

¹⁶³ 17 CFR 15.03(b) (reporting level of 25 contracts applicable to “All Other Commodities”).

¹⁶⁴ 17 CFR 15.04. The nominal value of contracts varies widely. For instance, on CME, a micro bitcoin contract is one-tenth the value of one bitcoin or \$7,700 on May 18th, 2026. A WTI contract is 1,000 barrels of oil, or \$102,000.

¹⁶⁵ See *infra* note 224, section IV. C.

¹⁶⁶ 17 CFR 18.00.

¹⁶⁷ See ICR Ref. No. 202402–3038–002 (concluded July 24, 2024).

¹⁶⁸ See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023).

c. Request for Comment

The Commission requests comment on its consideration of the costs and benefits of the Proposal, including regarding issues and questions specifically identified below. Please provide data, statistics, or other supporting information for positions asserted.

(1) Some event contracts markets, although listed as separate contracts, may be closely related. For example, a contract that settles based on whether the average gas price in the US will be above \$3.70 in a given month may in many cases resolve to the same outcome as a contract that settles based on whether the average gas prices in the US will be above \$3.80 in the same month. How should the Commission measure the size of an account's position for the determination of whether a trader exceeds the applicable reporting level when the trader has positions in closely related markets?

(2) The Commission's data analysis suggests that under the \$125,000 contract reporting level, the percentage of open interest accounted for by large traders is roughly consistent with the percentage in other retailer-oriented regulated markets. Are there characteristics of event contract markets (relative to the other markets) that suggest the threshold should be set to capture a smaller or larger share of open interest? That is, should the threshold be larger or smaller than \$125,000, or should it differ across different types of event contracts depending on some observable characteristics? Please provide evidence to support any alternative.

7. Trader Reports

Each reportable account may be subject to individual trader reports. Proposed § 16.03(d) would specifically require traders to file reports pursuant to part 18 for Covered Event Contracts, upon receiving a special call from the Commission.¹⁷¹ Regulation 18.04 requires, after a special call of the Commission, each trader holding or controlling a reportable position to complete a Form 40. Form 40 provides the Commission with information about the ownership and control structure of each account, as well as the business interests reporting entity. In a similar manner, omnibus accounts containing

reportable positions may be subject to a special call for a Form 71.¹⁷²

a. Benefits

Proposed § 16.03(d) has two distinct benefits. It supports the Commission's surveillance and enforcement divisions and contributes to market integrity while also decreasing the potential burden on traders by raising the threshold for a reportable account. Part 18 collections support the Commission's market surveillance program, including detecting patterns of trading that may indicate manipulation, attempted manipulation, fraud, or other abusive practices prohibited under the CEA. These collections allow the Commission to identify the persons who ultimately control or benefit from large positions and improve the Commission's understanding of market participants' ownership and control structures. This furthers the public's confidence that the markets operate without fraud and manipulation.

In addition, increasing the applicable reportable trading volume level under proposed § 15.04(b) from the regulatory baseline of 50 contracts would decrease the number of potential Form 40 requests originated by the Commission. Similarly, increasing the applicable reporting level from baseline would likely decrease the number of potential Form 71 requests originated by the Commission, as special calls to originators of omnibus accounts are issued to accounts for which a Form 102 has been submitted, avoiding a costs on traders that might otherwise be incurred.¹⁷³ Because the Commission preliminarily believes that Forms 40 and 71 requests would be limited to large traders captured under the higher threshold, it does not foresee a reduction in reporting burden for the raising of the reporting threshold.

b. Costs

Sections 18.04 and 18.05 require traders who hold or control reportable positions and persons who carry omnibus accounts to furnish to the Commission, upon special call, information relating to the ownership, control, and composition of such accounts. Traders submit this information using Form 40 (Statement of Reporting Trader). The Commission may also issue a special call to owners of omnibus accounts using Form 71. Form 71 enables the Commission to "look through" omnibus accounts to identify the beneficial owners or sub-accounts that may hold or control

reportable positions. However, the Commission is not currently aware of any omnibus accounts that hold positions in Covered Event Contract and therefore believes that there will be no costs incurred absent changes to the market.

While the Commission retains the discretion to issue Form 40 and Form 71 requests to traders, the Commission preliminarily believes that Form 102 information will be sufficient for many large traders. Using the number of reportable positions noted in Exhibit 3 above, we find that 402 traders had reportable positions in February of 2026. While the Commission retains the right to ask for these reports under current regulation, the Commission acknowledges that traders have not been requested for this information as of this Proposal. The Commission is making explicit in proposed § 16.03(d) that traders are subject to part 18. However, traders of Covered Event Contracts are currently subject to this requirement, and they would not incur new cost vis-a-vis the regulatory baseline.

8. Alternatives

In this section, we present several alternatives considered and discuss their benefits and costs relative to the Proposal. The Commission recognizes that under the regulatory baseline, participants are required to report under both the swaps regime (parts 43 and 45) as well as under the regulations for futures and options (parts 16, 17, and 18). In addition to the chosen Proposal, which requires reporting under parts 16, 17 and 18, but not the Relevant Regulations, alternatives discussed below includes (a) reporting under current regulations absent no-action relief; (b) reporting under the options regime with the default (25-contract position/50-contract volume) threshold; (c) reporting to an SDR only (*i.e.*, retaining the parts 43 and 45 requirement, but not the parts 16, 17 and 18); and, (d) a DCM choosing to register as an SDR or registering an affiliated SDR.

Alternative (a) is the regulatory baseline, and comparing the costs and benefits of the baseline compared to the Proposal is the basis of the foregoing analysis. As noted above, under Option (b), holding trading volume at current levels, a threshold of 25-contract position or 50-contract daily trades, would result in over one million traders being subject to part 17 reporting, based on Commission analysis of the market in February 2026. The Commission believes this would entail substantial costs, with little benefit in terms of

other sources in order to conduct an effective surveillance program.").

¹⁷¹ As noted in section II.D, part 18 was not specifically included in the Staff Event Contract Reporting No-Action Letters, but it was still required to be followed under the Staff Event Contract Reporting No-Action Letters.

¹⁷² See generally 17 CFR 18.00; 17 CFR 17.01(c).

¹⁷³ See 17 CFR 17.01(c).

enhanced enforcement. It also may discourage trading in these markets.

Option (c) would allow DCMs to avoid the costs of providing trade and position information under parts 16 and 17 but require them to provide trade information to SDRs under parts 43 and 45. The Commission preliminarily estimates that the annual costs to DCMs of providing information under parts 16 and 17 would involve about 1,100 hours per DCM. This work will primarily be conducted by surveillance analysts, although other professionals will also be involved. The Commission estimates the blended hourly total compensation for these individuals to be roughly \$235/hour. In addition, we estimate some additional infrastructure will be required for storage, monitoring, etc., which adds about \$25,000/year to the operating costs. Hence, the total per year would be approximately \$300,000 per DCM. Against these savings, the Commission needs to consider the costs of requiring DCMs to provide information to SDRs under parts 43 and 45. A major component of these costs are the SDR reporting fees. While there is considerable uncertainty regarding how these fees will evolve over time, on the basis of current fees, these fees may amount to \$5 million per DCM annually. Hence, the Commission's preliminary conclusion is that this alternative would be substantially more expensive to DCMs than the Proposal and provide little additional useful information to the Commission. This conclusion regarding costs is supported by the observation that DCMs requested relief from the reporting requirements of parts 43 and 45 in favor of requirements that closely resemble those in the proposal.

Under option (d), The Commission recognizes that a DCM listing and trading Covered Event Contracts might choose to register itself or use an affiliated entity as an SDR and report Covered Event Contract DCM transactions in its capacity as an SDR or use the affiliated SDR, rather than submit transactions to an unaffiliated SDR. An entity might optimally choose this strategy if the setup and ongoing costs were low enough to justify the choice, or if the firm strategically chose to enter this new line of business. In either case, the SDR would have to comply with CFTC regulations regarding the operation of an SDR and offer reporting and related regulatory services to other market participants.

SDRs are required to register with the CFTC and comply with part 49 rules promulgated by the CFTC, including real-time reporting of swap transaction and pricing data. In order to maintain its

registration, an SDR must comply with the three core principles established in section 21(f) of the CEA, and part 49 of the CFTC regulations. These core principles cover areas such as antitrust considerations, governance arrangements, and conflicts of interest. Additionally, an SDR must disclose financial resources, meet other disclosure requirements, and have non-discriminatory access and fees.

In 2011, the Commission estimated the initial start-up cost for the estimated 15 SDR registrants to be between \$105.5 and \$135.5 million, or between \$7.03 and \$9.03 million per SDR.¹⁷⁴ Adjusted to 2026 dollars,¹⁷⁵ the total costs come to between \$10.34 ($1.47 \times \7.03) and \$13.28 ($1.47 \times \9.03) million per SDR. The Commission has previously estimated annual ongoing costs for SDRs to be between \$47.07 and \$77.07 million for all SDRs, or between \$3.14 and \$5.14 million per SDR. This includes technological costs. Adjusted to 2026 dollars, these ongoing technological costs come to between \$4.61 ($1.47 \times \3.14) and \$7.55 ($1.47 \times \5.14) million per SDR annually. The Commission preliminarily finds these figures to be plausible estimates for the start-up and ongoing costs of launching an SDR.

Separately, the Commission has estimated burden hours for SDRs in the PRA section for multiple part 49 rulemakings.¹⁷⁶ SDR annual hour burden estimates have been established for recordkeeping requirements (§ 49.12), compliance and rulebook maintenance (§ 49.26 and § 49.29), chief compliance officer annual report (§ 49.22), system safeguards (cybersecurity) (§ 49.24), real-time public reporting (§ 49.15), non-public reporting/regulatory access (§ 49.17), SDR-participant connectivity and testing, and disclosure and confidentiality requirements (§ 49.16 and § 49.21). Together, the total monetized burden hours for an SDR to remain in compliance with CFTC part 49 rules are between \$472,350 and \$766,100 annually.

As noted above, choosing to register as an SDR would require significant capital investment to start a new line of business, and would incur ongoing annual expenses to maintain. As detailed above, these costs are estimated at between \$10.34 and \$13.28 million to become an SDR and between \$4.61 and

\$7.55 million annually for technological costs and an additional \$472,350 to \$766,100 annually for compliance costs. As such (and based DCM requests for no-action letters), the Commission does not believe that most DCMs would choose this option.

9. Section 15(a) Considerations

CEA § 15(a) requires the Commission to consider the costs and benefits of the changes by the Proposal with respect to the following factors: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.¹⁷⁷ A discussion of the Proposal in light of the CEA section 15(a) factors is set out below.

a. Protection of Market Participants and the Public

Relative to the status quo, the Proposal would amend part 16 to set forth an alternative reporting regime for Covered Event Contracts by Registered Entities similar to the current regime for futures and options reporting, rather than both this reporting regime and the swaps reporting requirements. The futures and options reporting requirements capture data elements that are more tailored to the event contracts price and payout structure than are the swap reporting requirements. The futures reporting requirement of part 16, for example, allows reporting to the Commission, by product type and by expiry of the contract that captures the information inherent in Covered Event Contracts,¹⁷⁸ and daily trade and supporting data.¹⁷⁹ This data would enable the Commission to monitor the event contracts to ensure their financial integrity and that market participants are protected from fraudulent or other abusive sales practices.

Proposed § 16.03(g) would ensure the Commission receives identifying trader information even when traded through brokers or clearing members and allow the Commission to conduct an efficient review of the Covered Event Contracts markets, if necessary. Proposed § 16.03(f) would ensure that transaction data for event contracts is publicly disseminated in real time. That latter requirement would harmonize the

¹⁷⁴ Final rule, Swap Data Repositories: Registration Standards, Duties and Core Principles, 76 FR 54538, 54573 (Sept. 1, 2011).

¹⁷⁵ Using a CPI adjustment of 1.47, based on BLS inflation estimates of a 47% increase in the CPI since 2011, using the BLS Inflation Calculator.

¹⁷⁶ These include PRA analysis used in 76 FR 54538, 85 FR 75503, 85 FR 74438, and 85 FR 75601.

¹⁷⁷ 7 U.S.C. 19(a).

¹⁷⁸ See 17 CFR 16.01.

¹⁷⁹ See 17 CFR 16.02, (requiring trade and supporting data reports to the Commission on a daily basis, including transaction-level trade data and related order information, time and sales data, reference files and other information as the Commission or its designee may require).

reporting of Covered Event Contracts with the current industry standard and is otherwise required by the current regulations. It would create parity across DCMs listing Covered Event Contracts for trade and ensure the public has timely and equal access to market data on a consistent basis to allow market participants and the public to analyze the Covered Event Contract transaction and pricing data.

Furthermore, the Commission expects that the revised reporting level and reportable volume threshold level of proposed § 15.03 and § 15.04 and amendments to part 17 reporting will result in large trader reporting that would improve the Commission's ability to collect and analyze data on large traders, including the ownership and control structure of large accounts, and to identify individuals or entities that trade through omnibus accounts.

Covered Event Contract markets could potentially be subject to manipulation, fraud, and insider trading.¹⁸⁰ To conduct robust surveillance and enforcement, the Commission needs consistent information on traders, especially large traders across markets. The Proposal would allow DCMs and the Commission to continue their surveillance and enforcement activities, as the threshold is calibrated to ensure the collection of relevant data for these purposes.

The Proposal would also improve the Commission's ability to analyze and/or respond to market disruptions. Such disruptions could result in costs to the investing and general public, in the form of reduced price discovery and ability to hedge risk.

b. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

The Commission believes the Proposal would improve the accuracy and completeness of event contract information available to the Commission by standardizing reporting requirements and providing Commission staff with necessary information based on the futures and options regulatory regime, and requiring public dissemination of the information, thereby enabling price discovery and competition. Further, the Proposal would require DCMs to obtain and to report trader-identifying information for transactions in a standardized manner, including intermediated trades. The Proposal would also establish rules for reporting ownership and control

information for special accounts and reportable volume threshold accounts necessary for ensuring the financial integrity of these markets.

Codification of the Staff Event Contract Reporting No-Action Letters would reduce both Commission time spent on individual requests and also increase competition among Registered Entities and potential new entrants and incumbent entrants seeking to list new contracts. Furthermore, these changes may encourage small traders to use these markets, as they would not be subject to reporting requirements under the current part 17 thresholds. The Proposal may also improve the financial stability of DCMs offering Covered Event Contracts by reducing their reporting costs.

c. Price Discovery

The Commission believes that to the extent the Proposal would result in more event contracts becoming economically viable, this may increase the number and frequency of trades, resulting in additional price discovery for these markets.

Additionally, the Commission expects that proposed § 16.03(f), which would require real-time dissemination of transaction information for Covered Event Contracts would also support public price transparency, as the market is able to absorb real time data for more accurate pricing.

d. Sound Risk Management Practices

The Proposal would allow the Commission to more effectively identify disruptive or manipulative trading activity through the collection of more detailed information on large traders, as necessary. These improvements in the reporting regime would allow the Commission to evaluate risk throughout existing Covered Event Contract markets as well as related markets because this detailed information would allow the Commission to link trading across these markets. The Commission does not believe that the costs arising from the Proposal would threaten the ability of market participants to manage risks. Conversely, to the extent that small traders incur a lower cost to access event contract markets, additional traders would be able to hedge their existing risk using these markets.

e. Other Public Interest Considerations

The Commission believes that the increased reliability and detail resulting from improvements to data reporting would further other public interest considerations, including transparency to the public concerning event contract

markets and detection of fraud or manipulation.

The reduction in the costs of trading event contracts that would result from the Proposal would lower the costs to traders, both through reductions in the amount of time required to fill out Form 40s and through lower trading fees, due to lessened reporting compliance costs to DCMs under the futures and options reporting regime. The Commission also expects that the lower cost of trading would encourage the development of these markets.

10. General Request for Comment

The Commission generally requests comments on all aspects of its consideration of costs and benefits, including the baseline; the identification and assessment of any costs and benefits not discussed herein; data and any other information to assist or otherwise inform the Commission's ability to quantify or qualitatively describe the costs and benefits of the proposed amendments; and substantiating data, statistics, and any other information to support positions posited by commenters with respect to the Commission's discussion. The Commission welcomes comment on such costs and benefits, particularly from Registered Entities that can provide quantitative cost and benefit data based on their respective experiences. The Commission also welcomes comments on alternatives to the proposed amendments that may be preferable on cost-benefit grounds, and why.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act¹⁸¹ ("RFA") requires federal agencies, in proposing rules, to consider the impact of those rules on small entities, and to provide a regulatory flexibility analysis with respect to such impact.¹⁸² The regulations proposed herein would directly affect DCMs, DCOs, FCMs, large traders, and other similar entities. The Commission has previously determined that that DCMs, large traders, and FCMs are not considered "small entities" for purposes of the RFA.¹⁸³ Similarly, clearing members, foreign brokers, and traders would be subject to the Proposal only if clearing, carrying, or holding large positions. For these reasons, under

¹⁸⁰ See, e.g., CFTC Press Release, "CFTC Enforcement Division Issues Prediction Markets Advisory," Release No. 9185-26 (Feb. 25, 2026), available at <https://www.cftc.gov/PressRoom/PressReleases/9185-26>.

¹⁸¹ 5 U.S.C. 601 *et seq.*

¹⁸² See 5 U.S.C. 603. The RFA applies to rules subject to notice and comment rulemakings issued pursuant to section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), or any other law. *Id.*

¹⁸³ See Policy Statement and Final Establishment of Definitions, 47 FR 18618 (Apr. 30, 1982).

section 3(a) of the RFA,¹⁸⁴ the Chairman, on behalf of the Commission, certifies that this Proposal will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comment on this determination.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”)¹⁸⁵ imposes certain requirements on federal agencies, including the Commission, in connection with conducting or sponsoring any “collection of information,” as defined by the PRA. Under the PRA, 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 control number from the Office of Management and Budget (“OMB”).¹⁸⁶ The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal Government.¹⁸⁷ The PRA applies to all information, regardless of form or format, whenever the Federal Government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.¹⁸⁸

The Proposal affects collections of information for which the Commission has previously received control numbers from the Office of Management and Budget (“OMB”). The titles for these existing collections of information are: OMB control number 3038–0009, Large Trader Reports (“OMB Collection 3038–0009”),¹⁸⁹ OMB control number 3038–0061, Daily Trade and Supporting Data Reports (“OMB Collection 3038–0061”), OMB control number 3038–0012, Futures Volume, Open Interest, Price, Deliveries and Purchases/Sales of Futures for Commodities or for Derivatives Positions (“OMB Collection

3038–112”), and OMB control number 3038–0103, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71 (Trader and Account Identification Reports) (“OMB Collection 3038–0103”). The Commission therefore is submitting this proposal to the OMB for its review in accordance with the PRA.¹⁹⁰

If the proposed regulations are adopted, responses to this collection of information would be mandatory. The Commission will protect any proprietary information according to the Freedom of Information Act and part 145 of the Commission’s regulations.¹⁹¹ In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public any “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”¹⁹² Finally, the Commission is also required to protect certain information contained in a government system of records according to the Privacy Act of 1974.¹⁹³

1. Information Collection Requirements

The Proposal would amend existing regulations and create new regulations concerning reporting certain event contracts. Among other amendments, the Proposal would: (1) codify a requirement that DCMs listing Covered Event Contracts report pursuant to § 16.02; (2) codify a requirement that DCMs listing Covered Event Contracts report and publish market data pursuant to § 16.01; (3) codify large trader reporting requirements specified in §§ 15.03, 16.00, 17.00, and 18.03; (4) codify ownership and control reporting requirements in § 17.02; and (5) codify real-time public dissemination requirements.

For purposes of the PRA, the term “burden” means the “time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal Agency.”¹⁹⁴ This total includes the anticipated burden associated with the reporting and recordkeeping obligations contained in the Proposal.

As of February 8, 2026, the Commission estimates that there are 470 covered entities that would become subject to the Proposal (12 DCMs,¹⁹⁵ 8

FCMs, and approximately 450 large traders). The Commission notes that these DCMs, FCMs, and traders represent a subset of the DCMs, FCMs, and traders subject to the regulations addressed in OMB Collections 3038–0009, 3038–0012, 3038–0061, and 3038–0103. The estimated burden associated with the proposed information collections is calculated as follows:

OMB Collection 3038–0009, Large Trader Reports (§§ 16.00, 17.00, Part 21)

OMB Collection 3038–0009 reflects burdens resulting from clearing member reporting under § 16.00,¹⁹⁶ large trader position reporting for special accounts required under § 17.00,¹⁹⁷ and the burdens associated with the special call authority under part 21.¹⁹⁸ Section 16.00 requires DCMs to submit a report for each business day showing position information by account for each clearing member.¹⁹⁹ With respect to § 16.00, DCMs are generally required to submit daily clearing member reports concerning clearing members’ open positions and contracts bought and sold.²⁰⁰ The Proposal would not require any reporting market that is not currently required to submit such reports to begin doing so. Accordingly, the Commission is retaining its existing burden associates associated with § 16.00 of the Commission’s rules.²⁰¹

Section 17.00 requires that FCMs, clearing members, foreign brokers, and, in certain circumstances, DCMs submit a report for each business day showing position information for each special account.²⁰² Generally, the Proposal would not require any firm that is not currently required to submit such reports to begin doing so. Additionally, the Proposal would not affect the content of such reports or the form and manner in which such reports are submitted. However, the Commission is revising its PRA estimates to account for some DCMs submitting additional § 17.00 reports for non-intermediated accounts. The Proposal would provide that such DCMs are required to submit § 17.00 large trader position reporting for positions of clearing members for “exclusively self-cleared contracts” and would add requirements that, in markets featuring a mix of

¹⁹⁶ 17 CFR 16.00.

¹⁹⁷ 17 CFR 17.00.

¹⁹⁸ 17 CFR part 21.

¹⁹⁹ 17 CFR 16.00.

²⁰⁰ 17 CFR 16.00.

²⁰¹ The Commission has estimated that the burden associated with reporting under this section totaled 1,332 burden hours and \$123,876 in associated labor costs. See ICR Ref. No. 202402–3038–002 (concluded July 24, 2024).

²⁰² 17 CFR 17.00.

¹⁸⁴ 5 U.S.C. 605(b).

¹⁸⁵ 44 U.S.C. 3501 *et seq.*

¹⁸⁶ See 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

¹⁸⁷ See 44 U.S.C. 3501.

¹⁸⁸ See 44 U.S.C. 3502(3).

¹⁸⁹ For the previously approved estimates, see ICR Reference No. 202303–3038–002, available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202303-3038-002.

¹⁹⁰ See 44 U.S.C. 3507(d) and 5 CFR 1320.11.

¹⁹¹ See 5 U.S.C. 552; see also 17 CFR part 145 (Commission Records and Information).

¹⁹² 7 U.S.C. 12(a)(1).

¹⁹³ 5 U.S.C. 552a.

¹⁹⁴ 44 U.S.C. 3502(2).

¹⁹⁵ As of May 1, 2026, the Divisions have issued 16 Staff Event Contract Reporting No-Action Letters. See *supra* note 29.

intermediated and non-intermediated trading, DCMs must submit, for contracts that trade as fully collateralized positions, special accounts carried by clearing members trading in their own name and not on behalf of any customer.

Accordingly, the Commission proposes to update its burden estimates for § 17.00. These updated burden estimates are based on anticipated reporting from an estimated 322 respondents (an increase from the Commission's previous estimate of 310 respondents). This reflects the Commission's expectation that each of the twelve DCMs that currently offer contracts that may be considered Covered Event Contracts may be required to submit § 17.00 reports from time to time.

Accordingly, the Commission estimates the updated annual burden associated with the proposed regulation, if adopted, as follows:²⁰³

Estimated number of respondents: 322.

Estimated frequency/timing of responses: Daily.

Estimated number of annual responses per respondent: 208.

Estimated number of annual responses for all respondents: 66,976.

Estimated annual burden hours per response: 0.25.

Estimated total annual burden hours per respondent: 52.

²⁰³ Previously, the Commission estimated that the burden associated with reporting under this section totaled 16,120 burden hours and \$1,499,160 in associated labor costs. See ICR Ref. No. 202402–3038–002 (concluded July 24, 2024). Accordingly, the revised estimates reflect an estimated increase in burden of 624 burden hours and \$141,752 in associated labor costs. The Commission is adopting these updated estimates to ensure its PRA estimates reflect the potential increase in reporting volume that is likely to occur under the revised regulatory structure proposed here as DCMs begin to undertake reporting for the specified event contracts at volume. As the Commission notes in its analysis of cost-benefit considerations, however, the Commission's proposal has increased reporting thresholds in a manner that will ultimately offset the potential burden associated with reporting for specified event contracts. As noted in the analysis of cost-benefit considerations, based on an analysis of transaction data for contracts that would be considered Covered Event Contracts, the Commission estimates the existing 25-contract reporting level in § 15.03 would result in more than one million trading accounts meeting the definition of "special account." The Commission estimates that raising the applicable reporting level for Covered Event Contracts to 125,000 contracts would reduce the number of special accounts for Covered Event Contracts to between 300 and 400. This estimated reduction in special accounts would result in an estimated 250,000 burden hours in cost savings (1 million × 0.25 burden hours per § 17.00(a) large trader position report = 250,000 burden hours). Based on average wage rate of \$98 per hour, the Commission estimates these cost savings could amount to approximately \$2,450,000 over time (250,000 estimated burden hours × \$98 per hour = \$2,450,000).

Estimated total annual burden hours for all respondents: 16,744.

Estimated total annual labor cost: \$1,640,912.²⁰⁴

The Commission does not anticipate that the Proposal would result in additional capital costs or operating and maintenance costs associated with this collection. DCMs are independently required to maintain position information on large traders for monitoring and surveillance purposes.²⁰⁵ Also, reporting parties of large trader position information are reporting markets or well-capitalized intermediaries, and to the extent reporting parties of large trader position information for Covered Event Contracts have not previously reported such information, such firms generally already have systems in place for reporting such information for accounts trading futures.

OMB Collection 3038–0012, Futures Volume, Open Interest, Price, Deliveries and Purchases/Sales of Futures for Commodities or for Derivatives Positions (§ 16.01)

OMB Collection 3038–0012 reflects burdens resulting from § 16.01's requirement that DCMs submit a daily market data report reflecting trading volume and open interest.²⁰⁶

Previously, the Commission estimated a total annual time-burden for reporting markets of 9,500 hours for compliance with § 16.01. The estimate was based on an estimate that 38 reporting markets would provide an average of 250 market

²⁰⁴ The annualized costs per affected registrant and in the aggregate were determined using an average salary of \$98 per hour. Commission staff arrived at this hourly rate using figures from a weighted average of salaries and bonuses across different professions contained in the most recent BLS Occupation Employment and Wages Report (May 2024). See U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics (May 2024), <https://www.bls.gov/oes/tables.htm>. The Commission estimated wage rate is a weighted national average of mean hourly wages for the following occupations: (1) "General and Operations Managers" in the "Securities, Commodity Contracts, and Other Financial Investments and Related Activities Industry," which is \$114.88 (33% weight) (2) "Lawyers" in the same industry, which is \$128.34 (33% weight), and (3) "Compliance Officers" in the same industry, which is \$49.34 (33% weight). See *id.* Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information. The estimated total annual labor cost of \$1,712,256 is calculated as 17,472 total annual burden hours × estimated average burden hour cost of \$98.

²⁰⁵ See, e.g., 17 CFR 38.254(b) ("A designated contract market with participants trading through intermediaries must either use a comprehensive large-trader reporting system (LTRS) or be able to demonstrate that it can obtain position data from other sources in order to conduct an effective surveillance program.").

²⁰⁶ 17 CFR 16.01.

data reports to the Commission per year, and would incur a burden of approximately two hours to compile and submit each report. All DCMs are required to submit market data reports pursuant to § 16.01 and the Proposal would not require any reporting market that is not currently submitting such reports to begin doing so. Accordingly, the Commission is retaining its existing burden estimates for OMB Collection 3038–0012.²⁰⁷

The Commission anticipates, however, that the requirement in proposed § 16.03(b) that DCMs include certain settlement information in daily market data reports may require minor modifications to the systems that DCMs use to submit such reports. The Commission estimates DCMs would incur a one-time burden of \$11,750 in capital/start-up costs to update electronic systems to transmit the settlement information specified in proposed § 16.03(b).²⁰⁸ This yields a total of \$141,000 in capital start-up costs for the 12 DCMs that list event contracts to update their systems to ensure accurate reporting of certain settlement information (12 DCMs × \$11,750).

The Commission also estimates that these DCMs will incur ongoing annual operational and maintenance costs to maintain required systems. The Commission estimates that these capital costs will total \$5,640²⁰⁹ annually for a total cost to all DCMs of \$67,680 (12 DCMs × \$5,640). Together these capital

²⁰⁷ The Commission has estimated that the burden associated with reporting under this section totaled 9,500 burden hours and \$524,210 in associated labor costs. See ICR Ref. No. 202506–3038–001 (concluded Sept. 5, 2025).

²⁰⁸ The Commission estimates these capital costs by estimating that each DCM will contract for system upgrades that will require approximately 50 hours at an hourly rate of \$235 per hour, yielding a total cost of \$11,750. The wage estimate of \$235 per hour is based on the occupational categories that are most likely to be involved in the implementation of this Proposed Rulemaking. The Commission is using a composite wage, based on the following BLS categories: Software and Web Developers, Programmers, and Testers (50%), Database and Network Administrators and Architects (25%), and Lawyers (25%), with wage estimates taken from the Bureau of Labor Statistics' Occupational Employment and Wage Statistics. See U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics (May 2024), available at <https://www.bls.gov/oes/tables.htm>. The Commission has adjusted that composite rate for inflation to May 2026 using the BLS CPI inflation calculator. See U.S. Bureau of Labor Statistics, CPI Inflation Calculator, available at https://www.bls.gov/data/inflation_calculator.htm. The Commission has further adjusted the composite wage with a multiple of 2.5 to account for benefits and overhead costs.

²⁰⁹ The Commission estimates that covered DCMs will be required to contract for an estimated 24 hours of ongoing operational and maintenance systems support at a cost of \$235 per hour, yielding a total annual cost of \$5,640 per DCM (24 hours × \$235 = \$5,640).

costs total \$208,680 in capital startup and ongoing operational and maintenance costs for 38 DCMs. The Commission does not anticipate that the Proposal would result in other additional capital costs or operating and maintenance costs associated with this collection. DCMs are already required to submit reports required by § 16.01 and will continue to do so even absent the amendments proposed as part of the Proposal.

OMB Collection 3038–0061, Daily Trade and Supporting Data Reports (§ 16.02)

OMB Collection 3038–0061 reflects burdens resulting from daily transaction data reporting. Section 16.02 requires that reporting markets submit daily trade and supporting data reports to the Commission.²¹⁰ Previously, the Commission estimated a total annual time-burden for reporting markets of 10,000 hours for compliance with § 16.02.²¹¹ The estimate was based on an estimate that 20 reporting markets would provide an average of 250 daily trade and supporting data reports to the Commission per year, and would incur a burden of approximately two hours to compile and submit each report. The Commission understands that all DCMs currently submit trade and supporting data reports pursuant to § 16.02. The Proposal would not require any reporting market that is not currently submitting such reports to begin doing so. The Commission also does not anticipate that the Proposal would alter the content of required reports or the form and manner for submitting § 16.02 trade and supporting data reports.

Proposed § 16.03(g) would formally require DCMs to obtain trader-identifying information for accounts trading on the DCM. Because DCMs generally currently obtain such information for their own surveillance purposes, the Commission does not expect proposed § 16.03(g) to impose new information collection burdens. Accordingly, the Commission is retaining its existing burden estimates associated with OMB Collection 3038–0061.²¹²

The Commission anticipates that the Proposal would not result in additional capital costs or operating and maintenance costs associated with this collection. DCMs must submit reports required by § 16.02 and will continue to

do so even absent the proposed amendments.

OMB Collection 3038–0103, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71 (Trader and Account Identification Reports) (§ 17.01, § 18.04(a), § 18.05)

OMB Collection 3038–0103 reflects information collection burdens associated with the filing of ownership and control reports. Section 17.01(a) requires FCMs, clearing members, foreign brokers, and certain reporting markets to submit Form 102As concerning special accounts for futures and options.²¹³ Section 17.01(b)'s requires clearing members to submit Form 102Bs concerning volume threshold accounts.²¹⁴ Section 17.01(c) requires FCMs, clearing members, and foreign brokers to submit Form 71 for certain omnibus accounts.²¹⁵ Section 18.04(a) requires certain traders to submit Form 40 for special accounts.²¹⁶ Section 18.04(b) requires certain traders to submit Form 40 for volume threshold accounts.²¹⁷ Section 18.05 contains books and records requirements for traders.²¹⁸ The proposed amendments provide for event contracts that may be Covered Event Contracts of proposed § 16.03(a) to be largely treated as futures for reporting purposes. Accordingly, the Proposal does not impact burdens associated with the Form 102S or Part 20 requirements addressed in OMB Control Number 3038–0103, as such requirements concern swaps.

As described below, the Commission provides estimates based on an anticipated increase in trading of Covered Event Contracts that will result in the submission of additional forms. These estimates reflect the substantial growth in the market for event contracts from the last time the collection was submitted for approval by OIRA. These factors would yield anticipated increases in the volume of reporting based largely on the estimated size of the market subject to the proposed reporting regime, but as described further in the Commission's analysis of cost-benefit considerations and summarized below, the Commission is proposing steps to limit the burden associated with filing requirements under the proposed regime.

Whether an account or trader is subject to reporting requirements under part 17 and part 18 depends on whether

a given account is a "special account"—namely, a "commodity futures or option account in which there is a reportable position"²¹⁹—or a "volume threshold account"—namely, a "trading account that carries reportable trading volume."²²⁰ For Covered Event Contracts, the Proposal would increase the reporting level that determines whether an account is a "special account" from 25 contracts to 125,000 contracts, and would increase the reportable volume threshold that determines whether an account is a "volume threshold account" from a trading volume of 50 or more contracts to a trading volume of 125,000 or more contracts. The Commission expects increasing these thresholds for Covered Event Contracts would result in the filing of substantially fewer Form 102As, Form 102Bs, Form 71s, and Form 40s than the Commission would otherwise receive. While the Commission is updating below its PRA burden estimate for the collection to adjust the number of respondents subject to this collection to account for the increase in the anticipated number of Covered Event Contract the Commission expects to receive, the proposed increase in reportable volume thresholds is designed to reduce the reporting burden for covered entities.

Form 102A: The Commission has previously estimated that it receives Form 102As, which identify special accounts, from approximately 312 reporting parties per year, and estimates each of those reporting parties will spend 106 annual burden hours on average on that reporting.²²¹ Based on an analysis of transaction data, the Commission anticipates the Proposal would result in DCMs, FCMs, clearing members, and foreign brokers submitting Form 102As for approximately 800 additional special accounts on an average business day.²²² Accordingly, the Commission anticipates that the estimated total of annual responses will increase by 200,000 (800 responses × 250 days), resulting in a revised estimate of 303,430 (the previous estimate of 103,430²²³ + 200,000 estimated additional responses) total annual responses.

Accordingly, the Commission estimates the updated annual burden

²¹⁰ 17 CFR 16.02.

²¹¹ See ICR Ref. No. 202504–3038–001 (concluded Sept. 10, 2025).

²¹² The Commission has estimated that the burden associated with reporting under this section totaled 10,000 burden hours and \$1,026,200 in associated labor costs. See ICR Ref. No. 202504–3038–001 (concluded Sept. 10, 2025).

²¹³ 17 CFR 17.01(a).

²¹⁴ 17 CFR 17.01(b).

²¹⁵ 17 CFR 17.01(c).

²¹⁶ 17 CFR 18.04(a).

²¹⁷ 17 CFR 18.04(b).

²¹⁸ 17 CFR 18.05.

²¹⁹ 17 CFR 15.00(r).

²²⁰ 17 CFR 15.00(x).

²²¹ See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023).

²²² See *supra* Exhibit 3.

²²³ See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023).

associated with the proposed regulation, if adopted, as follows:²²⁴

Estimated number of respondents: 324.

Estimated frequency/timing of responses: On occasion.

Estimated number of annual responses per respondent: 937.

Estimated number of annual responses for all respondents: 303,430.

Estimated annual burden hours per response: 0.32.

Estimated total annual burden hours per respondent: 300.

Estimated total annual burden hours for all respondents: 97,200.

Estimated total annual labor cost: \$12,052,800.²²⁵

Form 102B: The Commission has previously estimated that it receives Form 102Bs, through which clearing

members of DCMs identify volume threshold accounts, from approximately 114 reporting parties per year, and estimates each of those reporting parties will spend 163 annual burden hours on average on that reporting.²²⁶ Based on an analysis of transaction data, the Commission anticipates that, under the proposed reporting regime, clearing members would submit Form 102Bs for approximately 150 additional reportable volume threshold accounts on an average business day. Accordingly, the Commission is increasing its estimate of total annual responses by 37,500 (150 responses × 250 days), resulting in a revised estimate of 566,500 (the previous estimate of 529,000²²⁷ + 37,500 estimated additional responses) total annual responses.

Accordingly, the Commission estimates the updated annual burden associated with the proposed regulation, if adopted, as follows:²²⁸

Estimated number of respondents: 114.

Estimated frequency/timing of responses: On occasion.

Estimated number of annual responses per respondent: 4,969.

Estimated number of annual responses for all respondents: 566,500.

Estimated annual burden hours per response: 0.04.

Estimated total annual burden hours per respondent: 199.

Estimated total annual burden hours for all respondents: 22,686.

²²⁶ See *id.*

²²⁷ See *id.* The Commission notes that, in practice, it receives fewer Form 102Bs than this estimate as a result of a no-action position taken by DMO in CFTC Letter No. 24–14. See CFTC Letter No. 24–14, at 1 (Sept. 25, 2024), available at <https://www.cftc.gov/csl/24-14/download>.

²²⁸ Previously, the Commission estimated that the burden associated with reporting under this section totaled 18,550 burden hours and \$2,059,050 in associated labor costs. See ICR Ref. No. 202308–3038–002 (concluded Dec. 13, 2023). Accordingly, the revised estimates reflect an estimated increase in burden of 4,136 burden hours and \$754,014 in associated labor costs. As described in the analysis of cost-benefit considerations, absent the Commission's proposed change in reporting thresholds, the Commission estimates the existing reportable contract volume of 50 in § 15.04 would result in more than 800,000 trading accounts meeting the definition of "volume threshold account." Section 17.01(b) requires clearing members to submit Form 102B for each volume threshold account. The Commission estimates that raising the applicable reportable trading volume level to trading volume of 125,000 contracts would result in clearing members submitting Form 102Bs for between 200 and 300 volume threshold accounts on an average business day. This estimated reduction in volume threshold accounts would result in an estimated 32,000 burden hours in cost savings (800,000 × 0.04 burden hours per Form 102B = 32,000 burden hours). Based on average wage rate of \$124 per hour, the Commission estimates these cost savings could amount to approximately \$3,968,000 (32,000 estimated burden hours × \$124 per hour = \$3,968,000).

Estimated total annual labor cost: \$2,813,064.²²⁹

Form 71: The Commission does not anticipate the Proposal will result in any change in the number of Form 71s submitted. Form 71 is submitted in response to a special call from the Commission or its designee.²³⁰ The Commission believes its previous estimate that 762 respondents on average will be required to submit Form 71s annually sufficiently accounts for any Form 71s that may be submitted by omnibus account originators with positions in Covered Event Contracts. Accordingly, the Commission is retaining its existing burden estimates for this collection.

Form 40 (Special Accounts): Sending a special call for Form 40 to a trader who owns, holds or controls, or has held, owned or controlled, a special account is within the Commission's discretion.²³¹ Based on an analysis of transaction data for contracts that would fit the proposed Covered Event Contracts definition, under the existing 50-contract reporting level in § 15.03, the Commission estimates that in excess of one million special accounts would be eligible to receive a special call in connection with positions in Covered Event Contracts.²³² The Commission has previously estimated that the CFTC receives approximately 3,000 Form 40 records filings per year arising from required Form 102A filings, and estimated that each such filing will require five hours to complete.²³³ Based on analysis of transaction data and the Commission's experience with Form 40, the Commission estimates the Proposal would result in as many as 210 additional respondents submitting Form 40 for special accounts.²³⁴ Accordingly, the Commission is increasing its estimate for total annual responses by 2,100 (210 additional respondents × 10 estimated reports per respondent annually).

Accordingly, the Commission estimates the updated annual burden associated with the proposed regulation, if adopted, as follows:²³⁵

²²⁹ The estimated total annual labor cost of \$2,813,064 is calculated as 22,686 total annual burden hours × estimated average burden hour cost of \$124.

²³⁰ 17 CFR 17.01(c).

²³¹ 17 CFR 18.04(a).

²³² See *supra* Exhibit 3.

²³³ See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023).

²³⁴ Issuing a special call for Form 40 pursuant to § 18.04(a) is discretionary. 17 CFR 18.04(a). The Commission does not anticipate the number of respondents submitting Form 40s will be coterminous with the number of entities identified in Form 102s.

²³⁵ Previously, the Commission estimated that the burden associated with reporting under this section

²²⁴ Previously, the Commission estimated that the burden associated with reporting under this section totaled 33,072 burden hours and \$3,670,992 in associated labor costs. See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023). Accordingly, the revised estimates reflect an estimated increase in burden of 64,026 burden hours and \$8,381,808 in associated labor costs. As described in the analysis of cost-benefit considerations, absent the Commission's proposed change in reporting thresholds, the Commission estimates the existing 25-contract reporting level in § 15.03 would result in more than one million trading accounts meeting the definition of "special account." Section 17.01(a) requires FCMs, clearing members, foreign brokers, and certain DCMs to submit Form 102A for each special account. The Commission estimates that raising the applicable reporting level for Covered Event Contracts to 125,000 contracts would reduce the number of special accounts for Covered Event Contracts to between 300 and 400. This estimated reduction in special accounts would result in an estimated 330,000 burden hours in cost savings (1 million × 0.33 burden hours per Form 102A = 330,000 burden hours). Based on average wage rate of \$124 per hour, the Commission estimates these cost savings could amount to approximately \$40,920,000 (330,000 estimated burden hours × \$124 per hour = \$40,920,000).

²²⁵ The annualized costs per affected registrant and in the aggregate were determined using an average salary of \$124 per hour. Commission staff arrived at this hourly rate using figures from a weighted average of salaries and bonuses across different professions contained in the most recent BLS Occupation Employment and Wages Report (May 2024) multiplied by 1.3 to account for overhead and other benefits. See U.S. Bureau of Labor Statistics, Occupational Employment and Wage Statistics (May 2024), <https://www.bls.gov/oes/tables.htm>. The Commission estimated wage rate is a weighted national average of mean hourly wages for the following occupations (and their relative weight): "Lawyers" in the "Securities, Commodity Contracts, and Other Financial Investments and Related Activities Industry," which is \$128.34 (25% weight); "Financial Managers" in the same industry, which is \$126.19 (25% weight); "Compliance Officers" in the same industry, which is \$49.34 (25% weight); "Software and Web Developers, Programmers, and Testers" in the same industry, which is \$78.14 (25% weight). Commission staff chose this methodology to account for the variance in skill sets that may be used to accomplish the collection of information. The estimated total annual labor cost of \$12,052,800 is calculated as 97,200 total annual burden hours × estimated average burden hour cost of \$124.

Estimated number of respondents: 510.

Estimated frequency/timing of responses: On occasion.

Estimated number of annual responses per respondent: 10.

Estimated number of annual responses for all respondents: 5,100.

Estimated annual burden hours per response: 5.

Estimated total annual burden hours per respondent: 50.

Estimated total annual burden hours for all respondents: 25,500.

Estimated total annual labor cost: \$3,162,000.²³⁶

Form 40 (Reportable Volume Threshold Accounts and Reportable Sub-Accounts): Sending a special call for Form 40 to a trader who owns, holds or controls, or has held, owned or controlled, a volume threshold account is within the Commission's discretion.²³⁷ Based on analysis of transaction data and the Commission's experience with Form 40, the Commission estimates the Proposal would result in as many as 100 additional respondents submitting Form 40 for reportable volume threshold accounts. Previously, the Commission estimated it receives approximately

totaled 15,000 burden hours and \$1,665,000 in associated labor costs. See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023). Accordingly, the revised estimates reflect an estimated increase in burden of 10,500 burden hours and \$1,487,000 in associated labor costs. As described in the analysis of cost-benefit considerations, absent the Commission's proposed change in reporting thresholds, the Commission estimates that in excess of one million special accounts would be eligible to receive a special call in connection with positions in Covered Event Contracts. Based on analysis of transaction data and the Commission's experience with Form 40, the Commission estimates the Proposal's reporting level of 125,000 would instead result in 300 to 400 respondents submitting Form 40 for special accounts. The Commission therefore estimates that if the Proposal were finalized, it would avoid greater increases in reporting burden than those included here to recognize the size of the market under the proposed reporting regime. This estimated reduction in Form 40 special calls based on the proposed reporting would result in an estimated 5,000,000 burden hours in cost savings (1,000,000 × 5 burden hours per Form 40 = 5,000,000 burden hours). Based on average wage rate of \$124 per hour, the Commission estimates these cost savings could amount to approximately \$620,000,000 (5,000,000 estimated burden hours × \$124 per hour = \$620,000,000). The Commission notes that these estimated cost savings would likely be, to some extent, duplicative of cost savings estimated below related to submission of Form 40s for volume threshold accounts, as under the currently applicable reporting level and reportable trading volume level, many respondents would be eligible for special calls based on both special account status and volume threshold account status.

²³⁶ The estimated total annual labor cost of \$3,162,000 is calculated as 25,500 total annual burden hours × estimated average burden hour cost of \$124.

²³⁷ 17 CFR 18.04(a).

18,920 total annual responses for reportable volume threshold accounts and reportable sub-accounts. Based on an analysis of transaction data, the Commission anticipates the Proposal would result in clearing members submitting Form 40s for approximately 112 volume threshold accounts on an average business day. Accordingly, the Commission is increasing its estimate of total annual responses by 2,000, resulting in a revised estimate of 20,920 responses (the previous estimate of 18,920²³⁸ + 2,000 estimated additional responses) total annual responses.

Accordingly, the Commission estimates the updated annual burden associated with the proposed regulation, if adopted, as follows:²³⁹

²³⁸ This estimate is based on an estimated average of 166 annual reports per respondent. Based on analysis of transaction data for event contracts that would be considered a Covered Event Contract under proposed § 16.03(a), the Commission estimates that the Proposal, if adopted, would result in an average of 112 annual reports per respondent. Form 40s are submitted in response to special calls, which are made at the discretion of the Commission or Commission staff. Because a substantial portion of trading volume for Covered Event Contracts is non-intermediated, the Commission expects to obtain sufficient ownership and control information from DCMs in many instances. See, e.g., Final Rule, Market and Large Trader Reporting, 71 FR 37809, 37813 (July 3, 2006) (discussing the ability of reporting markets to provide “identifying data” for traders in markets where retail traders are direct clearing members). Accordingly, the addition of these new respondents may reduce the overall average number of special calls per respondent.

²³⁹ Previously, the Commission estimated that the burden associated with reporting under this section totaled 94,600 burden hours and \$10,500,600 in associated labor costs. See ICR Ref. No. 202308–3038–002 (concluded Dec. 21, 2023). Accordingly, the revised estimates reflect an estimated increase in burden of 10,260 burden hours and \$2,502,040 in associated labor costs. As described in the analysis of cost-benefit considerations, absent the Commission's proposed change in reporting thresholds, the Commission estimates that in excess of 800,000 volume threshold accounts with trading volume in Covered Event Contracts would be eligible to receive a special call for a Form 40. Based on analysis of transaction data and the Commission's experience with Form 40, the Commission estimates the Proposal's reportable trading volume level of 125,000 would instead result in approximately 200 respondents submitting Form 40 for volume threshold accounts in Covered Event Contracts. The Commission therefore estimates that if the Proposal were finalized, it would avoid costs. This estimated reduction in Form 40 special calls would result in an estimated 4,000,000 burden hours in cost savings (800,000 × 5 burden hours per Form 40 = 4,000,000 burden hours). Based on average wage rate of \$124 per hour, the Commission estimates these cost savings could amount to approximately \$496,000,000 (4,000,000 estimated burden hours × \$124 per hour = \$496,000,000). The Commission notes that these estimated cost savings would likely be, to some extent, duplicative of cost savings estimated above related to submission of Form 40s for special accounts, as under the currently applicable reporting level and reportable trading volume level, many respondents would be eligible for both special calls based on special account status and volume threshold account status.

Estimated number of respondents: 214.

Estimated frequency/timing of responses: On occasion.

Estimated number of annual responses per respondent: 98.

Estimated number of annual responses for all respondents: 20,920.

Estimated annual burden hours per response: 5.

Estimated total annual burden hours per respondent: 490.

Estimated total annual burden hours for all respondents: 104,860.

Estimated total annual labor cost: \$13,002,640.²⁴⁰

Other Related Collections That Are Not Impacted

Absent the Proposal and the Staff Event Contract Reporting No-Action Letters, certain DCMs and DCOs would be subject to swap data reporting and recordkeeping requirements generally applicable to event contracts.²⁴¹ If finalized, the Proposal would ensure that these DCMs and DCOs are not subject to these reporting requirements and the associated costs entailed with compliance.

With respect to recordkeeping requirements, the Staff Event Contract Reporting No-Action Letters provided a no-action position concerning recordkeeping requirements reflected in § 38.8, § 38.10, § 38.951 (only to the extent § 38.951 requires compliance with part 45), § 39.20(b)(2), part 43, and part 45. Sections 38.8, 38.10, 38.951, and 39.20(b)(2) each contain a requirement that DCMs comply with recordkeeping requirements specifically applicable to swap data.²⁴² Because the Proposed Rulemaking would not require DCMs to report swap data for Covered Event Contracts, the Proposal would similarly exclude DCMs from recordkeeping requirements that would otherwise require maintaining records of data in the part 43 or part 45 reporting format.

The Staff Event Contract Reporting No-Action Letters and the Proposal do

²⁴⁰ The estimated total annual labor cost of \$13,002,640 is calculated as 104,860 total annual burden hours × estimated average burden hour cost of \$124.

²⁴¹ See 17 CFR 43.3; 17 CFR 45.2, 17 CFR 45.3, 17 CFR 45.4.

²⁴² See 17 CFR 38.8 (requiring DCMs to obtain codes for purposes of assigning “unique swap identifiers”); 17 CFR 38.10 (requiring DCMs to “maintain and report specified swap data as provided under parts 43 and 45”); 17 CFR 38.951 (requiring DCMs to “maintain such records, including trade records and investigatory and disciplinary files, in accordance with the requirements of § 1.31 . . . and in accordance with part 45 . . . if applicable”); 17 CFR 39.20(b)(2) (requiring DCOs to “maintain swap data in accordance with the requirements of part 45 of this chapter”).

not remove the general recordkeeping requirements that apply to DCMs under § 1.31. As a result, DCMs offering event contracts would continue to be subject to the requirements under § 1.31 that apply to all DCMs. The burden associated with recordkeeping under § 1.31 is already covered under the information collection applicable to part 38 of the Commission's regulations,²⁴³ and to avoid double-counting, no adjustment is being made to that information collection.²⁴⁴

2. Request for Comment

The Commission invites the public and other federal agencies to comment on any aspect of the reporting and recordkeeping burdens discussed above. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission will consider public comments on this proposed collection of information in:

(1) Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

(2) Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the degree to which the methodology and the assumptions that the Commission employed were valid;

(3) Enhancing the quality, utility, and clarity of the information proposed to be collected; and

(4) Minimizing the burden of the collection of information on covered entities, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, *e.g.*, permitting electronic submission of responses.

A copy of the supporting statements for the collections of information discussed above are available from the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, 202-418-5714, or from <https://www.RegInfo.gov>. Organizations and individuals desiring to submit comments on the proposed information collection requirements should send those comments to:

- The Office of Information and Regulatory Affairs, Office of Management and Building, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer of the

Commodity Futures Trading Commission;

Submit comments electronically via www.RegInfo.gov by searching for the relevant OMB control number to locate the information collection request associated with this rulemaking. Please provide the Commission with a copy of submitted comments so that all comments can be summarized and addressed in the final rulemaking. Please refer to the **ADDRESSES** section of this notice of proposed rulemaking for comment submission instructions to the Commission. OMB is required to decide concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of receiving full consideration if OMB (and the Commission) receives it within 30 calendar days of publication of this notice. Nothing in the foregoing affects the deadline enumerated above for public comment to the Commission on the proposed rule.

D. Antitrust Considerations

CEA section 15(b) requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA in issuing any order or adopting any Commission rule or regulation.

The Commission does not anticipate that the proposed amendments to part 15, part 17, or part 16 would result in anticompetitive behavior. The Proposal would require public dissemination of the Covered Event Contract's information that would allow price discovery and also increase competition among Registered Entities and potential new entrants and incumbent entrants seeking to list new contracts. The Commission encourages comments from the public on any aspect of the proposal that may have the potential to be inconsistent with the antitrust laws or anticompetitive in nature.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 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, or tribal governments or communities; (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, or the President's priorities.

The Office of Management and Budget (OMB) has determined that this action is a significant regulatory action as defined in Executive Order 12866 under section 3(f) of Executive Order 12866 and therefore this action has been reviewed by the OMB, consistent with Executive Order 14215.

This Proposal, if finalized as proposed, is expected to be an Executive Order 14192 deregulatory action.

List of Subjects in 17 CFR Parts 15, 16, and 17

Commodity futures, Consumer protection, Fraud, Reporting and recordkeeping requirements, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR chapter I as follows:

PART 15—REPORTS—GENERAL PROVISIONS

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 9, 12a, 19, and 21, as amended by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).

■ 2. In § 15.03, revise paragraph (b) to read as follows:

§ 15.03 Reporting Levels

* * * * *

(b) The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

²⁴³ For the current burden estimates associated with OMB Collection 3038-0052, Core Principles & Other Requirements for DCMs, see ICR Ref. No. 202503-3038-001 (concluded Sept. 5, 2025).

²⁴⁴ See, *e.g.*, Final rule, Core Principles and Other Requirements for Designated Contract Markets, 77 FR 36612, 36663 (June 19, 2012) (where § 1.31 requirements are incorporated by reference, the

Commission does not perform duplicative burden analysis because "[t]he § 1.31 requirements are already covered by the existing information collection for part 38").

Commodity	Number of contracts
Agricultural:	
Cocoa	100
Coffee	50
Corn	250
Cotton	100
Feeder Cattle	50
Frozen Concentrated Orange Juice	50
Lean Hogs	100
Live Cattle	100
Milk, Class III	50
Oats	60
Rough Rice	50
Soybeans	150
Soybean Meal	200
Soybean Oil	200
Sugar No. 11	500
Sugar No. 14	100
Wheat	150
Broad-Based Security Indexes:	
Municipal Bond Index	300
S&P 500 Stock Price Index	1,000
Other Broad-Based Securities Indexes	200
Financial:	
30-Day Fed Funds	600
3-Month (13-Week) U.S. Treasury Bills	150
2-Year U.S. Treasury Notes	1,000
3-Year U.S. Treasury Notes	750
5-Year U.S. Treasury Notes	2,000
10-Year U.S. Treasury Notes	2,000
30-Year U.S. Treasury Bonds	1,500
1-Month LIBOR Rates	600
3-Month Eurodollar Time Deposit Rates	3,000
3-Month Euroyen	100
2-Year German Federal Government Debt	500
5-Year German Federal Government Debt	800
10-Year German Federal Government Debt	1,000
Goldman Sachs Commodity Index	100
Major Foreign Currencies	400
Other Foreign Currencies	100
U.S. Dollar Index	50
Natural Resources:	
Copper	100
Crude Oil, Sweet	350
Crude Oil, Sweet—No. 2 Heating Oil Crack Spread	250
Crude Oil, Sweet—Unleaded Gasoline Crack Spread	150
Gold	200
Natural Gas	200
No. 2 Heating Oil	250
Platinum	50
Silver Bullion	150
Unleaded Gasoline	150
Unleaded Gasoline—No. 2 Heating Oil Spread Swap	150
Security Futures Products:	
Individual Equity Security	1,000
Narrow-Based Security Index	200
Event Contracts:	
Event Contract (1 USD)	¹ 125,000
TRAKRS	¹ 50,000
All Other Commodities	25

¹ For purposes of part 17 of this chapter, the Event Contract (1 USD) reporting level applies to Covered Event Contracts, described in § 16.03 of this chapter. For Covered Event Contracts with contract size other than 1 USD, the applicable reporting level of notional value equivalent to 125,000 USD. For example, for a contract with 100 USD contract size, a reporting level of 1,250 contracts applies. For purposes of part 17 of this chapter, positions in TRAKRS should be reported by rounding down to the nearest 1,000 contracts and dividing by 1,000.

■ 3. Revise § 15.04 to read as follows:

§ 15.04 Reportable trading volume level.

(a) The volume quantity for the purpose of reports filed under parts 17 and 18 of this chapter is trading volume

of 50 or more contracts, during a single trading day, on a single reporting market that is a board of trade designated as a contract market under section 5 of the Act or a swap execution facility registered under section 5h of the Act,

in all instruments that such reporting market designates with the same product identifier (including purchases and sales, and inclusive of all expiration months).

(b) Paragraph (a) of this section does not apply to contracts reported pursuant to a reporting level applicable to Covered Event Contracts (as described in § 16.03 of this chapter) in § 15.03(b). The volume quantity for the purpose of reports filed under parts 17 and 18 of this chapter for Covered Event Contracts (as described in § 16.03 of this chapter) is trading volume of 125,000 or more contracts, during a single trading day, on a single reporting market that is a board of trade designated as a contract market under section 5 of the Act, in all instruments that such reporting market designates with the same product identifier (including purchases and sales, and inclusive of all expiration months).

PART 16—REPORTS BY CONTRACT MARKETS AND SWAP EXECUTION FACILITIES

■ 4. The authority citation for part 16 is revised to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6g, 6i, 7, 7b–3, and 12a, unless otherwise noted.

■ 5. Add § 16.03 to read as follows:

§ 16.03 Covered Event Contracts.

(a) Subject to paragraphs (b), (c), (d), (e), (f), (g), and (h) of this section, §§ 38.8, 38.10, 38.951 of this chapter (to the extent § 38.951 of this chapter requires compliance with part 45 of the Commission's regulations in this chapter), § 39.20(b)(2) of this chapter, part 43 of this chapter, and part 45 of the Commission's regulations in this chapter, or the requirements of the relevant CEA provisions pursuant to which those regulations were promulgated, shall not apply to any Covered Event Contract. For purposes of this section, a Covered Event Contract is any contract that:

(1) Is a swap under section 1a(47)(A)(i) and/or (ii) of the Act;

(2) Is listed for trade on a designated contract market and is cleared through a derivatives clearing organization;

(3) Trades as a fully collateralized position, as defined in § 39.2 of this chapter; and

(4) Either has:

(i) A binary payout structure that results, at settlement, in a payment of an absolute amount to the holder of one side of the contract and no payment to the counterparty; or

(ii) A variable payout structure that results, at settlement, in the payment to both counterparties to the contract based on the final settlement price, though only one of the counterparties ultimately profits.

(b) In connection with any Covered Event Contract, the following provisions

shall apply to the listing designated contract market:

(1) Section 16.00, to the same extent that such provision would apply to such designated contract market in connection with any futures or option contract;

(2) Section 16.01, to the same extent that such provisions would apply to such designated contract market in connection with any futures or option contract, except that in addition the designated contract market shall record information related to the settlement of the contract, including: whether the event that is the subject of each contract occurred and, if so, the event that occurred, the time and date the event occurred, and the source used to determine whether the event occurred; and

(3) Section 16.02, to the same extent that such provisions would apply to such designated contract market in connection with any futures or option contract.

(c) In connection with any Covered Event Contract, part 17 of this chapter shall apply to any designated contract market, futures commission merchant, clearing member, or foreign broker to the same extent that such provisions would apply to such designated contract market, futures commission merchant, clearing member, or foreign broker in connection with any futures or option contract;

(d) In connection with any Covered Event Contract, part 18 of this chapter shall apply to any trader to the same extent that part 18 of this chapter would apply to such trader in connection with any futures or option contract.

(e) In connection with any Covered Event Contract, the reporting level for purposes of part 17 of this chapter shall be the reporting level for the “Covered Event Contract (1 USD)” commodity enumerated in § 15.03 of this chapter and the reportable trading volume level for purposes of part 18 of this chapter shall be the reportable trading volume level set out in § 15.04(b) of this chapter.

(f) In connection with any Covered Event Contract, the designated contract market shall publish, as soon as technologically practicable, for each Covered Event Contract transaction, the execution timestamp, contract ticker symbol, trade quantity, and price. The designated contract market shall make such data publicly available on its website for a period of time that is at least one year after the initial public dissemination of such data and shall make instructions freely available on its website on how to download, save, and search such data. Data that is publicly

disseminated pursuant to this paragraph shall be made available free of charge.

(1) As used in paragraph (f) of this section, execution timestamp means the date and time of execution, as determined by the designated contract market, in the form and manner applicable to the “Event Timestamp” data element in appendix A to part 43 of the Commission's regulations in this chapter.

(2) As used in paragraph (f) of this section, contract ticker symbol means a code or symbol assigned by the designated contract market to identify the contract.

(3) As used in paragraph (f) of this section, trade quantity means the number of contracts bought or sold in a transaction. This data element shall be populated with a numeric value greater than or equal to zero.

(4) As used in paragraph (f) of this section, price means the price at which the trade was executed. This data element shall be populated with a numeric value expressed as a decimal.

(g) In connection with any Covered Event Contract, the designated contract market listing for trade such event contract shall obtain from all customers data that identifies each trader, by name, physical address, email address, phone number, occupation, employer, and, if any other persons guarantee the trading accounts of the trader or have a financial interest of 10 percent or more in the trader or the trading accounts of the trader, the names of such persons, for each transaction or order for the Covered Event Contract and shall maintain such data throughout the life of the Covered Event Contract and for a period of at least five years following the final termination of the Covered Event Contract.

(h) In connection with any Covered Event Contract, the designated contract market listing for trade such Covered Event Contract and the derivatives clearing organization clearing such event contract shall:

(1) Comply with all swap reporting and recordkeeping requirements of the Act and Commission regulations applicable, other than recordkeeping requirements contained in §§ 38.8, 38.10, 38.951 of this chapter (only to the extent § 38.951 of this chapter requires compliance with part 45 of this chapter), § 39.20(b)(2) of this chapter, part 43 of this chapter, and part 45 of this chapter.

(2) Keep all records required to be kept pursuant to § 1.31 of this chapter open to inspection upon request by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange

Commission, or by any representative of a prudential regulator as authorized by the Commission. Copies of all such records shall be provided, at the designated contract market's expense, to any representative of the Commission upon request. The designated contract market shall provide copies of the Required Records either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only.

PART 17—REPORTS BY REPORTING MARKETS, FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS

■ 6. The authority citation for part 17 continues to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6d, 6f, 6g, 6i, 6t, 7, 7a, and 12a.

■ 7. In § 17.00, add paragraph (j) to read as follows:

§ 17.00 Information to be furnished by futures commission merchants, clearing members and foreign brokers.

* * * * *

(j) *Covered Event Contracts.* Unless determined otherwise by the Commission, reporting markets that list Covered Event Contracts (as described in § 16.03 of this chapter) shall meet the requirements of paragraphs (a) through (h) of this section for all special accounts carried by clearing members trading in their own name and not on behalf of any customer (as defined in § 1.3 of this chapter), on behalf of all clearing members.

■ 8. In § 17.01, add paragraph (f) to read as follows:

§ 17.01 Identification of special accounts, volume threshold accounts, and omnibus accounts.

* * * * *

(f) *Covered Event Contracts.* Unless determined otherwise by the Commission, reporting markets that list Covered Event Contracts (as described

in § 16.03 of this chapter) shall meet the requirements of paragraphs (a) and (b) of this section for all special accounts carried by clearing members trading in their own name and not on behalf of any customer (as defined in § 1.3 of this chapter), on behalf of all clearing members.

Issued in Washington, DC, on June 26, 2026, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Data Reporting Requirements for Certain Event Contracts—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–13239 Filed 6–30–26; 8:45 am]

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Part III

Department of Education

34 CFR Parts 600, 668, and 685

Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, 685

[Docket ID ED–2026–OPE–0100]

RIN 1840–AE06

Accountability in Higher Education and Access Through Demand-Driven Workforce Pell: Student Tuition and Transparency System (STATS) and Earnings Accountability**AGENCY:** Office of Postsecondary Education, Department of Education.**ACTION:** Final rule.

SUMMARY: The Secretary of Education (Secretary) amends the regulations governing institutional eligibility, general provisions, and the William D. Ford Direct Loan (Direct Loan) Program under title IV of the Higher Education Act (HEA) of 1965, as amended (the title IV, HEA programs) to implement statutory changes to the title IV, HEA programs included in the Working Families Tax Cuts Act (WFTCA) signed into law by President Trump on July 4, 2025. These changes include revisions to program eligibility requirements for the Direct Loan program and the introduction of an earnings accountability framework that limits Direct Loan eligibility to programs whose graduates meet certain earnings benchmarks. This action finalizes regulations to implement the provisions of the WFTCA related to low-earning outcome programs and the Direct Loan program, and to harmonize those regulations with requirements for programs that are required to lead to gainful employment (GE programs).

DATES:

Effective dates: This rule is effective July 1, 2027, except for instructions 13 and 14, which are effective August 31, 2026.

Implementation dates: For the implementation dates of the regulatory provisions, see the Implementation Date of These Regulations in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

Joseph Massman, Office of Postsecondary Education, 400 Maryland Ave. SW, 5th Floor, Washington, DC 20202. Telephone: (202) 453–7771. Email: Joe.Massman@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

A brief summary of these final regulations is available at www.regulations.gov/docket/ED-2026-OPE-0100.

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I. Abbreviations

AHEAD: Accountability in Higher Education and Access through Demand-driven Workforce Pell
 ACS: American Community Survey
 AGI: Adjusted Gross Income
 APA: Administrative Procedures Act
 BLS: Bureau of Labor Statistics
 CFR: Code of Federal Regulations
 CIP Code: Classification of Instructional Programs Code
 CPI–U: Consumer Price Index for All Urban Consumers
 CPS: Current Population Survey
 D/E Rates: Debt-to-Earnings Rates
 DEOA: Department of Education Organization Act
 Department: United States Department of Education
 DL: Federal Direct Loans
 E.O.: Executive Order
 EP: Earnings Premium
 FAFSA: Free Application for Federal Student Aid
 FSA: Federal Student Aid
 FVT: Financial Value Transparency
 GE: Gainful Employment
 GEPA: General Education Provisions Act
 HEA: Higher Education Act of 1965, as amended
 IPEDS: Integrated Postsecondary Education Data System
 NPRM: Notice of Proposed Rulemaking
 OIRA: Office of Information and Regulatory Affairs
 Pell Grant: Federal Pell Grant
 PDF: Portable Document Format
 PRA: Paperwork Reduction Act of 1995
 PRCS: Puerto Rico Community Survey (PRCS)
 RFA: Regulatory Flexibility Act
 RFRA: Religious Freedom Restoration Act
 RIA: Regulatory Impact Analysis
 SOC: Standard Occupational Classification
 Title IV, HEA Programs: Student financial assistance programs authorized under title IV of the HEA

rtf: Rich Text Format

SBREFA: Small Business Regulatory Enforcement Fairness Act of 1996

txt: Text format

UI: Unemployment Insurance

WFTCA: Public Law 119–21, also known as the Working Families Tax Cuts Act and the One Big Beautiful Bill Act¹**II. Executive Summary**

The Secretary implements the amendments made to the HEA relating to earnings outcomes made by Public Law 119–21, the WFTCA, through these final regulations.

These regulations overhaul the accountability framework for the title IV, HEA programs by replacing the former debt-to-earnings (“D/E”) metric with a revised earnings premium measure, expanding transparency, and strengthening institutional compliance standards. Maintaining robust accountability measures will ensure program integrity and protect students from low-earning outcomes, aligning with Congressional objectives for higher education oversight. This rule removes outdated definitions tied to D/E metrics, introduces the term “earnings,” and revises several existing definitions. The Student Tuition and Transparency System (“STATS”) will apply to all programs qualifying for title IV, HEA assistance, using the earnings premium measure as the new accountability standard. Institutions will be required to report program-and certain student-level data, including tuition, fees, and financial aid awards such as grants and scholarships to the Department. This reporting will enable the Department to provide enhanced informational disclosures of net program cost to the public. A revised version of the earnings premium measure will apply to both GE and non-GE programs; those failing the earnings premium measure in two out of three consecutive years will lose Direct Loan eligibility, though limited extensions may be granted when an orderly program closure described under § 668.603(c)(4) is in the students’ best interest. Institutions will be required to update Direct Loan-eligible program lists, issue warnings about program risk and Pell Grant lifetime limits, and meet a new administrative capability standard. This rule aims to incentivize institutions in every sector of higher education to offer programs that deliver economic value through a return on investment, enhance data accessibility for students, and protect taxpayers and students through stricter

¹ The Department previously referred to the Working Families Tax Cuts Act as the “One Big Beautiful Bill Act,” including in the Notice of Proposed Rulemaking published on April 20, 2026.

oversight and comprehensive disclosures on program outcomes.

1. Summary of Major Provisions of This Regulatory Action General Definitions

These final regulations:

- Amend § 668.2 to remove the definitions of “annual debt-to-earnings rate,” “debt-to-earnings rates,” “discretionary debt-to-earnings rate,” “metropolitan statistical area,” “poverty guideline,” “qualifying graduate program,” and “substantially similar program.”

- Amend § 668.2 to add “earnings” and revise existing key terms, including “cohort period,” “earnings threshold,” “eligible non-GE program,” “Federal agency with earnings data,” and “institutional grants and scholarships.”

- Amend § 685.102 to add the terms “eligible non-GE program” and “gainful employment program (GE program).”

Subpart Q—Student Tuition and Transparency System (STATS)

These final regulations:

- Amend several provisions in subpart Q to reflect new numbering.

- Amend §§ 668.401, 668.402, 668.403, 668.404, and 668.405 to remove all references to the former D/E metric and use the earnings premium measure as the new accountability standard.

- Amend § 668.401 to remove exclusions for institutions located in the U.S. Territories or Freely Associated States, and to remove an exclusion for institutions with no groups of substantially similar programs that produced 30 or more total completers over the four most recently completed award years.

- Amend § 668.402(c)(3) to provide that if a program is designed to prepare a student for employment in an occupation that qualifies for a tax deduction of tip income, 50 percent or more of individuals in the occupation receive income from tips, and the earnings calculation would use graduate earnings data from 2025 or prior, the program will not be considered to have passed or failed the earnings premium measure but the Department will make earnings data and the earnings threshold that would have been used publicly available.

- Amend § 668.403(b) to establish that the Secretary will obtain the median annual earnings of students who completed a GE program or eligible non-GE program during the cohort period for the fourth tax year following program completion. The earnings data will be obtained from at least one Federal agency and will include students who are working and not enrolled during the

calendar year in which earnings are measured.

- Amend § 668.405 to clarify that the Secretary will notify an institution that a low-earning outcome program will cease participation in the Direct Loan program in the same notice of determination that is used to notify the institution of the results of the earnings premium measure calculation.

- Amend § 668.406 to require an institution offering any GE program or eligible non-GE program to report the total amount of Federal, State, private, or other grants and scholarships each student received for their entire enrollment. This reporting requirement will only apply to students who completed or withdrew from the program during the award year.

Subpart S—Earnings Accountability

These final regulations:

- Amend §§ 668.601, 668.602, 668.603, and 668.605 to remove all references of the former D/E metric.

- Amend § 668.601(a) to establish that earnings accountability applies to an eligible non-GE program or a GE program offered by an eligible institution and the Secretary determines whether the program is eligible for Direct Loan program funds.

- Add § 668.601(b) to establish exemptions for programs at institutions that enroll only students with Specific Learning Disabilities and Autism Spectrum Disorder.

- Amend § 668.603(a) to establish that a low-earning outcome program is a GE program or eligible non-GE program that fails the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated. A low-earning outcome program's participation in the Direct Loan program will end upon the completion of a termination action of Direct Loan program eligibility under subpart G.

- Amend §§ 668.603(b) and (c) to provide the conditions for an institution to appeal the Secretary's determination that a program is a low-earning outcome program that will cease participation in the Direct Loan program. Institutions will have 30 days from receipt of a notification of determination indicating that a program is a low-earning outcome program to appeal the decision and may only appeal based on specific conditions explained in these subsections.

- Add § 668.603(d)(4) to allow a program that has failed to satisfy the requirements of § 668.402, but is not a low-earning outcome program, to continue participating in the Direct

Loan program if the institution voluntarily agrees to conduct an orderly program closure, provided the Secretary determines that it is in the best interest of the students. This flexibility will be limited to three years or the full-time duration of the program, whichever is less, and will require the institution and the Secretary to agree to make certain amendments to the institution's program participation agreement (PPA).

- Add § 668.603(d)(5) to allow a program that has failed to satisfy the requirements of § 668.402, but is not a low-earning outcome program, to avoid a loss of title IV, HEA eligibility under the administrative capability requirements in § 668.16(t) if the institution voluntarily agrees to prevent students from borrowing Direct Loans in the program under § 685.203(m)(2) for at least five years. This flexibility will extend as long as the institution prevents Direct Loan borrowing in the program, and will require the institution and the Secretary to agree to make certain amendments to the institution's program participation agreement (PPA).

- Add § 668.603(d)(5) to clarify that the ending of a program's participation in the Direct Loan program under these regulations is not considered a limitation action under 34 CFR 668.94.

- Amend § 668.604 to remove the transitional certification requirements and require an institution to establish a program's eligibility for Direct Loan program funds by updating the list of the institution's Direct Loan-eligible programs maintained by the Department. An institution will be prohibited from including programs that share the same 4-digit Classification of Instructional Programs (CIP) code and any overlapping Standard Occupational Classification (SOC) codes as a failing program that was subjected to a two-year loss of eligibility.

- Amend § 668.605(c) to require an institution to provide a student who is eligible for Pell Grant funds with notice of their remaining lifetime eligibility for Pell Grant funds and an explanation that all Pell Grant funds received for enrollment in the program count against their future lifetime eligibility.

- Amend § 668.605(d) to require an institution to provide an enrolled student with information regarding their remaining Pell Grant eligibility at the time that the institution makes a disbursement of Pell Grant funds to them.

Standards for Participation in Title IV, HEA Programs

These final regulations:

- Add § 668.14(h)(1) to require institutions to be placed on provisional

status if they fail to comply with 34 CFR 668.16(t) in two out of any three consecutive award years, which will result in the institution's low-earning outcome programs becoming ineligible for title IV, HEA funds.

- Add § 668.14(h)(2) to allow an institution to appeal the Secretary's determination if they are found to have failed the conditions in 34 CFR 668.16(t) in two out of any three consecutive award years.

- Add § 668.14(h)(3) and (4) to provide an exception of automatic ineligibility for title IV, HEA funds if the institution does not participate in the Direct Loan program or agrees not to allow students to borrow in a low-earning outcome program.

- Amend § 668.16(t) to require an institution to demonstrate administrative capability by showing that at least half of the institution's recipients of title IV, HEA funds and at least half of the institution's total title IV, HEA funds are not from low-earning outcome programs under subpart S.

- Amend § 668.43(d)(1) to require that the program information website includes the median length of calendar time taken for full-time and less than full-time students to complete the program's academic requirements and obtain the degree or credential awarded by the program.

- Amend § 668.43(d)(2) to no longer require institutions to provide a prominent link to the website maintained by the Secretary on any web page containing academic information about the program or institution. The Secretary may require the institution to modify a web page if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.

- Amend § 685.300 to explain that a GE program or an eligible non-GE program must meet the student tuition and transparency system requirements under 34 CFR part 668, subpart Q, and the earnings accountability requirements under 34 CFR part 668, subpart S to participate in the Direct Loan program.

2. Summary of Costs and Benefits:

As further detailed in the *Regulatory Impact Analysis* (RIA), the Department estimates that the regulations will have significant impacts on students, educational institutions, and taxpayers. Certain degree programs are expected to lose eligibility for title IV, HEA funds under the earnings tests in the final regulations, while some undergraduate and graduate certificate programs are expected to gain eligibility relative to the prior Financial Value Transparency and Gainful Employment regulations

enacted on July 10, 2023. Students will incur costs when the programs they attend lose eligibility for title IV, HEA funds, or if they enroll in low-earning certificate programs that gain access to title IV, HEA funds. Students will also benefit in cases where the regulations prevent them from attending low-earning and high-cost degree programs. Certain institutions (mainly public and private non-profit institutions) will incur costs when programs they offer lose access to title IV, HEA funds under the regulations. Other institutions (such as proprietary institutions) will benefit as more programs in this sector will remain eligible for title IV, HEA funds. Taxpayers will incur new budget costs via an increase in transfers of title IV, HEA funds to institutions relative to prior regulations because these regulations result in a net increase in the number of students attending programs that will be eligible for these funds.

III. Purpose of This Regulatory Action

This regulatory action seeks to effectuate regulations that address the statutory changes made by the WFTCA and to harmonize those regulations with requirements for programs that are required to lead to gainful employment (GE programs).

IV. Background

Gainful Employment (GE) Prior Rules

Under Sections 101 and 102 of the HEA, there are two broad categories of title IV-eligible programs: degree programs offered by public and private nonprofit institutions, and programs required to lead to gainful employment in a recognized occupation (which include nondegree programs at any type of institution, and nearly all programs offered by proprietary institutions). The statute does not further elaborate on the gainful employment requirement.

The Department has issued four previous regulations on GE, most recently in 2023, as part of the FVT/GE accountability framework. These regulations required the Department to calculate two separate metrics for the vast majority of programs that were eligible for title IV, HEA funds—a debt-to-earnings (D/E) rate and an earnings premium measure—but did not impose program eligibility consequences for programs other than GE programs. The regulations also established a process by which the Department would disclose key information about academic programs to current and prospective students at a point when the information would be most useful for them.

WFTCA Earnings Accountability Framework

The WFTCA, signed into law by President Trump on July 4, 2025, amended the HEA to establish a new accountability framework for most postsecondary programs of study that participate in the Direct Loan program. Congress designed this framework to compare the median earnings of graduates to those of working adults, and it requires the Department to discontinue a program's Direct Loan program eligibility if its graduates earn less than the comparison group.

The WFTCA framework does not include D/E rates, and although the earnings comparison metric largely resembles the earnings premium measure under the FVT/GE regulations, there are differences in the populations of institutions and programs covered by the new framework, in the methodology by which the comparison must be performed, and in consequences for failing programs. To provide students, families, institutions, and the public with meaningful and comparable program information and to promote consistency in the treatment of programs across all credential levels and institutional sectors, the Department amends and simplifies its existing FVT and GE framework to harmonize with the accountability framework required under the WFTCA, establishing a single metric that will be calculated for nearly all programs eligible for title IV, HEA funds and including the same program eligibility consequences for failure of GE and eligible non-GE programs alike.

V. Implementation Date of These Regulations

Except for changes to 34 CFR part 685, these regulations are effective on July 1, 2027. The changes to 34 CFR part 685 are effective on August 31, 2026.

Section 482(c)(1) of the HEA requires that regulations affecting programs under title IV of the HEA be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. HEA section 482(c)(2) also permits the Secretary to designate any regulation as one that an entity subject to the regulations may choose to implement earlier and outline the conditions for early implementation. For the reasons described in "Authority for This Regulatory Action" below, the Secretary is waiving the master calendar requirements for the provisions of these regulations in 34 CFR part 685 that require institutions to agree to be subject to the earnings accountability requirements established in the WFTCA and these regulations.

The Secretary is exercising her authority under HEA section 482(c) to designate certain regulatory changes to Part 668 in this document for early implementation beginning July 1, 2026. The Secretary has designated the elimination of all provisions pertaining to reduced institutional reporting requirements under 34 CFR 668.406 for early implementation, and will assume that any institution that chooses not to report items that have been removed has elected to implement the provisions early.

VI. Authority for This Regulatory Action

The Department's authority to engage in this rulemaking action and pursue a transparency and accountability framework for GE programs and eligible non-GE programs is derived primarily from seven categories of statutory enactments: (1) the Secretary's generally applicable rulemaking authority, which includes provisions regarding data collection and dissemination, and which applies in part to title IV, HEA; (2) authorizations and directives within title IV, HEA regarding the collection and dissemination of potentially useful information about higher education programs, as well as provisions regarding institutional eligibility to benefit from title IV; (3) the definition of institution of higher education under Section 102 of the HEA and other provisions within title IV of the HEA that address programs that prepare students for gainful employment; (4) the Secretary's authority to establish procedures and requirements relating to the administrative capacities of institutions of higher education; (5) recently enacted changes within title IV, HEA as a result of Section 84001 of the WFTCA, which establishes an accountability system limiting Direct Loan eligibility for programs that demonstrate low-earning outcomes; (6) the Secretary's authority to develop a quality assurance system under the Direct Loan Agreement; and (7) the Secretary's authority to include other provisions in the Direct Loan Agreement that she determines are necessary to protect the interests of the United States and to promote the purposes of the Direct Loan program. Finally, this section also addresses the WFTCA's waiver of the HEA's master calendar requirements for some of the regulations set forth in this final rule.

The Secretary has broad powers to engage in rulemaking to implement programs administered by the Department. Specifically, Section 410 of the General Education Provisions Act (GEPA) grants the Secretary authority

“to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department,” such as the title IV, HEA programs that provide Federal loans, grants, and other aid to students, to assist in pursuing either eligible non-GE programs or GE programs. 20 U.S.C. 1221e–3. Likewise, Section 414 of the Department of Education Organization Act (DEOA) authorizes the Secretary to “prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.” 20 U.S.C. 3474.

Loper Bright Enters. v. Raimondo, 603 U.S. 369 (2024) brought about a sea change in administrative law by overturning *Chevron* deference; however, *Loper Bright* did not disrupt Congress's ability to provide “a degree of deference” to agencies in specific statutes. 603 U.S. 369, 394 (2024). Indeed, the Court directly acknowledged that Congress may “delegate . . . discretionary authority to any agency” by giving directions to agencies to promulgate rules that are “reasonable” or “appropriate.” *Id.* In a post-*Loper Bright* case challenging the 2023 FVT/GE rule, a lower Court specifically held that the Department has been explicitly granted such deference by Congress under the provisions of GEPA and the DEOA. *American Assoc. of Cosmetology Sch. v. Dep't of Educ.*, 2025 WL 4219345, at *5 (N.D. Tex. Oct. 2, 2025) (citing 20 U.S.C. 1221e–3); 20 U.S.C. 3474). The Court further stated that, through the HEA, the Congress had clearly granted the Secretary to promulgate rules necessary for the administration of the title IV, HEA programs: “the Supreme Court in *Loper Bright* recognized that Congress may ‘delegate[] particular discretionary authority to an agency’ by leaving it with ‘flexibility’ through terms ‘such as ‘appropriate’ or ‘reasonable’ ” and that the HEA confers such authority [on the Secretary] by including the additional specific direction to ‘prescribe such regulations as may be necessary to provide for . . . any matter the Secretary deems necessary to the sound administration of the financial aid programs[.]’ ” *American Assoc. of Cosmetology Sch.* *6 (citing 20 U.S.C. 1094(c)(1)(B); 1099c).

Section 431 of the GEPA grants the Secretary additional authority to establish rules to require institutions to make data available to the public about the performance of Federally supported education programs and about students enrolled in those programs and to

collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their intended purposes. See 20 U.S.C. 1231a. This provision authorizes the reporting and disclosure requirements in the proposed rule, which would enable the Department to collect data and information for the purpose of developing objective measures of program performance. The reporting is not only for the Department's use in evaluating programs but also serves to inform the public—including enrolled students, prospective students, their families, institutions, and other stakeholders—about relevant information to those Federally supported programs.

The Secretary's authority to establish rules requiring institutions to provide information to the Department is further bolstered by the fact that certain provisions of the HEA would be rendered inoperable if such data was not provided. For example, without collecting data from institutions regarding students participating in title IV, HEA programs, the Department would have no ability to determine whether a program offered by that institution satisfies the earnings test set forth in HEA Section 454(c)(2), added by the WFTCA. Therefore, in any such case in which the HEA directs the Department to conduct analysis that requires information that an institution possesses, the Secretary is permitted to establish regulations regarding such data collection under the Secretary's broad authority to promulgate regulations necessary or appropriate for governing the applicable programs administered by the Department. See 20 U.S.C. 3474.

Furthermore, in the GE setting, the Department has not only a statutory basis for pursuing the effective dissemination of information to students about a range of GE program attributes and performance metrics, but also has the authority to use certain metrics to determine that an institution's program is not eligible to benefit from one or more of the title IV, HEA programs. When an institution's program is at risk of losing eligibility based on a given metric, there should be no real doubt that the Department may require the institution that operates the at-risk program to alert prospective and enrolled students that they may not be able to receive assistance from one or more title IV, HEA programs for the program in question. Without direct communication from the institution to prospective and enrolled students, the students themselves risk losing the

ability to make informed choices about their educational pursuits. Congress clearly intended to require institutions to provide this manner of direct communication to students, as plainly evidenced by the presence of the student notice requirements for at-risk degree programs under HEA Section 424(c)(7), as revised by the WFTCA. In keeping with the Department's effort to harmonize the accountability requirements for non-GE and GE programs, we believe it is appropriate to similarly require institutions to provide warnings to prospective and enrolled students regarding at-risk GE programs consistent with the warnings expressly required in statute for eligible non-GE programs and that the Secretary is authorized to do so under the Secretary's general authority to promulgate regulations that are necessary or appropriate to administer the title IV, HEA programs. See 20 U.S.C. 1221e-3; 20 U.S.C. 3474.

The data to be collected and analyzed by the Department will not violate the student unit record prohibition found in HEA Section 134. The Department does not propose creating any new databases of student records. It will collect from institutions individual title IV, HEA recipient data, including PII, and will securely transmit that data to at least one Federal agency with earnings data for matching. The metric calculation will only utilize median earnings data that does not include PII data from student recipients of title IV, HEA assistance. The proposed regulation is also supported by the Department's statutory responsibilities to observe eligibility limits in the HEA. Section 498 of the HEA requires institutions to establish eligibility to provide title IV, HEA funds to their students. 20 U.S.C. 1099c. Eligible institutions must also meet program eligibility requirements for students in those programs to receive title IV, HEA assistance.

One type of program for which certain types of institutions must establish program-level eligibility is "a program of training to prepare students for gainful employment in a recognized occupation." 20 U.S.C. 1001(b)(1)(A)(i), (c)(1)(A). Section 481 of the HEA articulates this requirement by defining, an "eligible program," in part, as a "program of training to prepare students for gainful employment in a recognized profession." The HEA does not more specifically define the terms "training to prepare," "gainful employment," "recognized occupation," or "recognized profession" for purposes of determining the eligibility of GE programs for participation in title IV, HEA programs. At the same time, the

Secretary and the Department have a legal duty to interpret, implement, and apply those concepts in order to observe the statutory eligibility requirements in the HEA.

The Department has long interpreted the word "gainful" in this context to mean "profitable." Program Integrity: Gainful Employment, 79 FR 64890, 64894 (Oct. 31, 2014); *American Assoc. of Cosmetology*, 2025 WL 4219345, at *5.² And the Department has consistently interpreted the broader phrase "gainful employment" to mean that the program "actually train[s] and prepare postsecondary students for jobs that they would be less likely to obtain without that training and preparation."³ This would not include, for example, "baccalaureate degree[s] in liberal arts" as those programs are statutorily prohibited from being eligible for title IV, HEA assistance in most instances.⁴

It is relevant to acknowledge that there is some degree of ambiguity in the term "gainful employment." See *Ass'n of Priv. Colleges & Universities v. Duncan*, 870 F. Supp. 2d 133, 145 (D.D.C. 2012) (stating that "There is no unambiguous meaning of what makes employment 'gainful'"); *Ass'n of Proprietary Colleges v. Duncan*, 107 F. Supp. 3d 332, 359 (S.D.N.Y. 2015) (quoting *Ass'n of Priv. Colleges & Universities v. Duncan*, 870 F. Supp. 2d 133 at 145, and adopting its conclusion that "There is no unambiguous meaning of what makes employment 'gainful'"). Indeed, some dictionaries that define the whole phrase "gainful employment" define it as meaning "work that you get paid for."⁵ Under this definition, the only programs that do not prepare students for "gainful employment" would be programs that train students for unpaid volunteer positions or hobbies. But courts have warned about reading phrases in isolation like this, as the text of a statute must be construed as a whole. See *Kmart Corp. v. Cartier, inc.* 486 U.S. 281, 291 (1988) (per Kennedy, J.) ("In ascertaining the plain

meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole." The interpretative canon, which is generally referred to as the Whole-Text Canon or the Whole Act Rule, provides that the context of the broader statutory scheme is the "primary determinant of meaning." Scalia & Garner, *Reading Law*, 167 (2012).

As we look to other parts of the statute, we find provisions that help provide clarity regarding the definition of gainful employment. In the first instance, Congress has created two definitions of "institution of higher education." The first definition, which is in Section 101 of the HEA, authorizes non-profits and public institutions to participate in title IV student aid programs. 20 U.S.C. 1001. The definition in Section 101 does not include references to gainful employment, which is a notable omission and strongly suggests that Congress did intend to limit the universe of eligible programs when using that phrase elsewhere.

In Section 102, Congress provides its second definition of institution of higher education, this time defining it to mean proprietary institutions, vocational institutions, and foreign institutions. Here, Congress tells us that if a subset of these types of institutions (proprietary and vocational) wants to participate, they must provide "an eligible program of training to prepare students for gainful employment in a recognized occupation." The broader phrase makes it clear that these programs "train" students for "a recognized occupation." Further, we know that Congress does not think baccalaureate degree programs in liberal arts are gainful employment programs, because Congress says that proprietary institutions can offer (1) gainful employment programs, OR (2) programs leading to a baccalaureate degree in liberal arts if the program has been provided since January 1, 2009 and the institution is accredited by a certain type of accreditor. The disjunctive "or" in this context shows us that "gainful employment" does not mean liberal arts.

For the reasons above, it is clear that the operative purpose of Section 102(b)-(c) is to use taxpayer funds to help support students in their quest to obtain more training such that they may enter a recognized occupation. The Department thinks that this context is key in demonstrating that Congress only wants to fund programs that help make the student better off in their "gainful employment." Gainful means

² "Gainful." Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/gainful>. Accessed March 20, 2026.

³ Financial Value Transparency and Gainful Employment (GE), 88 FR 32,300, 32,342 (May 19, 2023).

⁴ Section 102(b)(1)(A)(ii) provides that baccalaureate degrees in liberal arts are no longer considered to be gainful employment programs, but Congress provided a grandfather clause to allow certain institutions that have offered such programs since January 1, 2009 to continue to offer such programs. Those baccalaureate degree programs are now covered by the accountability provisions in the WFTCA.

⁵ See "Gainful Employment", Cambridge Dictionary Online, <https://dictionary.cambridge.org/us/dictionary/english/gainful-employment>. Accessed March 22, 2026.

“profitable,” so Congress takes a common-sense approach where they want students to receive training that enables them to be more profitable than before they went to school. As such, the Department interprets the term “gainful employment” to mean that a program must, on average, make students better off financially than they would have been had they not attended the program. In other words, institutions must ensure that the median student in a gainful employment program earns a premium, compared to what they would have earned if they had never gone to school. This is the same earnings premium measure called for in the WFTCA, but the Department believes that the gainful employment statute calls for this type of accountability independent from the amendments made by the WFTCA.

The Department’s interpretation of the phrase “gainful employment” aligns with the statute and is supported by case law concerning the Department’s previous gainful employment regulations. In *Ass’n of Priv. Colleges & Universities v. Duncan*, 870 F. Supp. 2d 133, 146 (D.D.C. 2012), the court stated that term “gainful employment” must be understood in the context of the statutory command that “a given program ‘prepare students for gainful employment in a recognized occupation.’” That court reasoned that the “real question, then, is not how much gain is enough but rather how much preparation is enough” and found that the Department’s attempt to “answer that question by reference to the economic success of a program’s former students” was not precluded by the HEA, as the HEA does not specifically state “how to determine which programs actually prepare their students and which programs do not.” *Id.* at 146.⁶ Additionally, in a post-Loper Bright case, *American Assoc. of Cosmetology*, the Court stated that the ordinary meaning analysis supported the Department’s conclusion that students are not prepared for gainful employment if a program is designed to leave its graduates financially worse off than when they started, and they are unable to repay their loans. 2025 WL 4219345, at *5.

Furthermore, the Secretary is authorized to establish and enforce administrative capability standards for institutions participating in title IV, HEA programs and to terminate the

participation of any institution who the Secretary determines does not meet those standards. Section 498(a) of the HEA provides that, for purposes of qualifying institutions of higher education for participation in title IV, HEA programs, the Secretary shall determine the administrative capability of an institution of higher education.

Section 498(d)(1) authorizes the Secretary “to establish procedures and requirements relating to the administrative capacities of institutions of higher education” which can include “consideration of past performance of institutions.” Section 498(d)(2) further authorizes the Secretary to any other reasonable procedures necessary to ensure compliance with the administrative capability standard. Therefore, because of the broad authority conferred on the Secretary to establish such standards and procedures, as well as to consider the past practice of an institution in determining whether or not it satisfies the administrative capability standard, the Department believes that it is well within the Secretary’s authority to establish a standard that would penalize an institution where at least half of the institution’s recipients of title IV, HEA funds and at least half of the institution’s total title IV, HEA funds are from low-earning outcome programs under subpart S (and have remained so for two out of three consecutive years) by terminating the overall title IV, HEA program eligibility of all such programs and requiring the institution to participate in title IV, HEA program on a provisional basis.

Section 84001 of the WFTCA amends HEA Section 454 to create a new accountability framework, including an earnings test under HEA Section 454(c)(2) for title IV, HEA programs that lead to an undergraduate degree, graduate or professional degree, or graduate certificate. It further specifies under HEA Section 454(c)(7) that such programs which fail the earnings test are ineligible for Direct Loan program participation for a period of not less than two years. HEA Section 454(c)(6) further requires institutions to provide warnings to each student enrolled regarding at-risk programs.

Direct Loan Agreement Authority

Institutions that participate in the Direct Loan program must agree to comply with the requirements set forth in Section 454 of the HEA. The requirements in this section, which has been called the Direct Loan Agreement, have been incorporated into the Program Participation Agreement (PPA) which covers other title IV programs,

not just the Direct Loan program. As part of the Direct Loan Agreement, institutions must “provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives.” 20 U.S.C. 1087d(a)(4). The Department has never developed a formal quality assurance system before this rulemaking,⁷ but believes that the GE framework proposed herein is authorized by this provision and is itself a quality assurance system.⁸

The quality assurance system authority requires the Secretary to ensure that the institution is complying with program requirements and meeting program objectives. As such, it is important to discuss the “program requirements and program objectives” referenced in HEA Section 454. 20 U.S.C. 1087d(a)(4). The legal scholars Dan Zibel and Aaron Ament have noted that “the HEA is silent as to what is meant by ‘quality assurance,’ ‘program requirements,’ and what it means for an institution to ‘meet[] program objectives.’ In such situations, the law affords the Department ample discretion to fill these statutory voids, resolve statutory ambiguities, and ensure that institutions of higher education are serving students and taxpayers.”⁹ Zibel and Ament have argued that “a core ‘program objective’ of the Direct Loan program is to ensure not only that students have access to higher education, but also to ensure that Federally issued loans are repaid.”¹⁰ The Department largely agrees with these assertions that we have broad

⁷ See Dan Zibel & Aaron Ament, Protection and the unseen: How the US Department of Education’s underdeveloped authorities can protect students and promote equity in higher education, *Brookings Economic Studies*, 13 (Oct. 2020) (noting that the quality assurance authority in Section 454(a)(4) has never been relied upon, but that “[n]evertheless, section 454(a)(4) of the HEA (the ‘QA authority’) unambiguously provides that the DLA” shall implement a quality assurance system”), available at <https://www.brookings.edu/wp-content/uploads/2020/10/ES-10.13.20-Zibel-Ament.pdf>.

⁸ The Department has relied on its authority in Section 454(a)(7) to justify certain aspects of the 2016 Borrower Defense regulations, such as provisions prohibiting arbitration agreements in certain settings. See Student Assistance General Provisions, 81 FR 75926, 75932 (Nov. 1, 2026). These provisions were ultimately removed when the Department published 2019 borrower defense regulations, which are now in effect under Section 85001 of the WFTCA; however, the Department did not disclaim the authority to impose these provisions and made the change for policy reasons. See Student Assistance General Provisions, 84 FR 49788, (Sept. 23, 2019).

⁹ Zibel & Ament, *supra* note 8 at 14 (cleaned up).
¹⁰ *Id.*

⁶ This conclusion was directly restated several years later in *Ass’n of Proprietary Colleges v. Duncan*, 107 F. Supp. 3d 332, 359 (S.D.N.Y. 2015), which excerpted a considerable portion of the D.D.C.’s opinion in *Ass’n of Priv. Colleges & Universities v. Duncan*, 870 F. Supp. 2d 133, 146 (D.D.C. 2012).

authority to provide details as to what the purpose of these programs are and that the Direct Loan program is designed to provide borrowers with capital to attend college and to repay their loans in most circumstances. However, certain subsets of programs within the HEA have additional purposes that are narrower in scope.

Here, the Department believes that the gainful employment text in Section 102(b)–(c) of the HEA provides significant context as to what the program objectives are for proprietary and vocational institution programs as they participate in the Direct Loan program. Both types of institutions are required to provide “an eligible program of training to prepare students for gainful employment in a recognized occupation.” 20 U.S.C. 1002(b)–(c). As such, the purpose of these programs is to provide “gainful employment.” With that in mind, it is clear that the gainful employment authority operates in tandem with the quality assurance system authority, in that provisions intended to protect a GE program can be incorporated into a quality assurance system. As such, the Secretary is permitted to develop a quality assurance system on a curated basis for these specific GE programs that ensures quality in how these institutions are preparing students for gainful employment. As discussed above, the Department has determined that the gainful employment statute requires institutions to ensure that most graduates of a gainful employment program earn a premium compared to what they would have earned if they had never attended the program.

In sum, the Department has concurrent authority under Section 454(a)(4) along with Section 102(b)–(c) of the HEA to require institutions to comply with the earnings premium measure. Institutions that fail to comply with Section 102 fail to meet the definition of “institution of higher education” for the purposes of title IV, and are no longer eligible institutions, and the Secretary must terminate eligibility. Institutions that fail to comply with the terms of the Direct Loan Agreement under Section 454 are not eligible to participate in the Direct Loan program. As such, as part of this final rule, the Department is establishing the earnings premium measure as a quality assurance system that establishes eligibility for all GE programs to participate only in the Direct Loan program, consistent with the scope of Section 454, which only applies to Direct Loans.

The quality assurance system authority also requires the Department to develop a quality assurance system in

consultation with institutions of higher education, which we have done as part of the negotiated rulemaking process. In addition, institutions had the ability to comment on the proposed rule. The Department was required to consider making changes in response to all substantive comments under informal notice-and-comment rulemaking, and as such, we effectively consulted with institutions of higher education under the existing rulemaking procedures because we sought and obtained advice from institutions. 5 U.S.C. 553; 20 U.S.C. 1098a.

Institutions must also comply with “other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.” 20 U.S.C. 1087d(a)(7). Failure to abide by the terms of the Direct Loan Agreement results in disqualification from participating in the Direct Loan program, but not necessarily other title IV, HEA programs.

The Department believes that it has authority under these provisions in Section 454 of the HEA, as well as the GE provisions in Section 102, to require GE programs to comply with the earnings premium standard. However, the Department believes that the appropriate remedy for programmatic noncompliance is the loss of eligibility for Direct Loans for such programs that fail the earnings premium measure, except when a large number of an institution’s programs fail, which is discussed in greater detail below. The Secretary has been given significant deference by Congress in Section 454 in designing a quality assurance system, and that includes the option to tailor the remedy for noncompliance to a program-by-program basis to protect the interests of the United States. Indeed, it would not be in the interest of the United States to disqualify all programs at an institution if only one or a few programs are not performing because students in high performing programs would also lose access to programs that are adding value.

The Department also has authority under Section 454(a)(7) for this final rule, which authorizes the Secretary to include in the Direct Loan Agreement (which is incorporated into the PPA) “such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.” 20 U.S.C. 1087d(a)(7).

Indeed, this broad grant of deference to the Secretary gives the Department significant latitude in designing a quality assurance system necessary to protect the interests of the United States

and promote the purposes of this part. As explained above, the holding in *Loper Bright* does nothing to disrupt deference provided to the Department in broad statutory grants of authority like we have here. *Loper Bright*, 603 U.S. at 394–95.

As stated above, the purpose of authorizing proprietary institutions and vocational institutions to participate in title IV, HEA programs is to provide students opportunities for training designed to ensure that they may become gainfully employed in a recognized occupation. As such, the Department believes that Section 454(a)(7) provides additional authority for the Department to require the earnings premium measure, because doing so advances the purposes of the Direct Loan program through institutional eligibility under Section 102(b)–(c).

In sum, the Department has overlapping and concurrent authority to require an earnings premium measure for GE programs under the gainful employment authority in Section 102(b)–(c), the quality assurance system authority in Section 454(a)(4), the “protect” and “promote” authority in Section 454(a)(7), and our broad authority to regulate Section 410 of the GEPA. The Department believes that all of these authorities work in tandem and authorize us, independent from the amendments made by the WFTCA related to accountability, require an earnings premium measure for such GE programs.

In practice, the proposed earnings premium measure under the WFTCA is the same as the earnings premium measure under GE. The only type of program not covered by the earnings premium measure under the WFTCA are certificate programs, which are covered by GE. As such, if a court disagrees with our assessment of the robust legal authority we have, the accountability provisions relating to GE are severable and would only have a practical impact on certificate programs.

Summary of Authorities

The above authorities collectively empower the Secretary to promulgate regulations to (1) require institutions to report information about GE programs and eligible non-GE programs to the Secretary; (2) require institutions to provide disclosures or warnings to prospective and enrolled students regarding programs that do not meet earnings premium measures established by the Department; (3) implement Direct Loan program eligibility requirements pertaining to graduate earnings outcomes, including an earnings

premium measure and associated reporting, certification, and warning processes; and (4) define the GE requirement in the HEA by establishing similar measures to determine the eligibility of GE programs for participation in the Direct Loan program, which also is supported by the overlapping authority the Department has to create a quality assurance system for institutions participating in the Direct Loan program.

Waiver of HEA Master Calendar Requirements

Congress may waive, modify, or rescind requirements in the HEA and Administrative Procedure Act (APA) that require the Department to follow certain processes and procedures when engaging in informal notice-and-comment rulemaking. See, e.g., *Asiana Airlines v. F.A.A.*, 134 F.3d 393, 398 (D.C. Cir. 1998); *Methodist Hospital of Sacramento v. Shalala*, 38 F.3d 1225, 1237 (D.C. Cir. 1998) (finding that certain parts of the APA procedural framework had been waived when Congress gave an agency direction that conflicts with and is irreconcilable with the APA).

At the same time, the court in *Asiana Airlines* made clear that the APA requires “clear intent” from Congress to justify a departure from the procedural requirements in the APA, noting that 5 U.S.C. 559 requires an explicit waiver of APA procedural requirements. Here, the Department is complying with all of the requirements for informal notice-and-comment rulemaking in 5 U.S.C. 553, so an explicit waiver is not needed. The explicit waiver standard in 5 U.S.C. 559 only applies to the procedural requirement of the APA, and does not apply to the Master Calendar provision in Section 482(c) the HEA. Had Congress wished for the HEA Master Calendar provision to have the same rule of construction as it does for procedural requirements of the APA, we would have expected that Congress would either cross reference and incorporate 5 U.S.C. 559 into the HEA or use similar language to 5 U.S.C. 559 within Section 482(c) of the HEA. Congress knows how to create these types of special rules of construction when they want to, and they declined to do so in Section 482(c) of the HEA.

Absent an explicit rule of construction in the HEA, we rely on the ordinary tools of statutory interpretation to glean the meaning of the statute. The Harmonious-Reading Canon provides that statutes should, when possible, be interpreted in a way that renders them compatible, not contradictory, but such an approach is not always possible if

context and other considerations (including the application of other canons) make it impossible to do so, and another approach to statutory interpretation, such as the General/Specific Canon must be applied. See Scalia & Garner, *Reading Law*, 155 (2012). The General/Specific Canon dictates that, in cases where a general prohibition is contradicted by a specific permission or a general permission that is contradicted by a specific prohibition, the more specific of the two provisions controls. *Id.* at 158. Because, as discussed below, the WFTCA contains provisions with effective dates that cannot possibly be implemented in regulation in accordance with the HEA’s Master Calendar provision, the WFTCA implicitly provides a limited waiver of the HEA’s Master Calendar provision, so far as it is necessary to promulgate regulations that give effect to those provisions. See *Dorsey v. United States*, 567 U.S. 260, 274 (2012) (stating that an agency’s compliance with an existing statute “cannot justify a disregard of the will of Congress as manifested either expressly or by necessary implication in a subsequent enactment” (quoting *Great Northern R. Co. v. United States*, 208 U.S. 452, 465 (1908))).

Here, the WFTCA was enacted on July 4, 2025. The WFTCA directs the Department to implement roughly a dozen provisions by July 1, 2026. Many of these provisions are not self-executing and could not be implemented absent the Department promulgating regulations to provide details for institutions on how to comply with the WFTCA. Congress gave the Secretary discretion within the WFTCA to implement the provisions impacting the title IV, HEA programs and knew that its commands were not self-executing when directing the Secretary to take action. Congress expected the Secretary to act via rulemaking before July 1, 2026, to enable these provisions to actually go into effect.

The Master Calendar provision in the HEA provides that regulatory changes initiated by the Secretary affecting the title IV, HEA programs must be published in final form by November 1st in order for them to go into effect by July 1st of the following year. 20 U.S.C. 1089(c)(1). Section 492 of the HEA requires the Department to undertake negotiated rulemaking as part of any regulation under title IV of the HEA. In order to conduct negotiated rulemaking and meet APA requirements, the Department must have a public hearing (providing notice to the public), solicit nominations from the public to serve on a negotiated rulemaking committee,

select non-Federal negotiators, hold negotiations, develop an NPRM, publish an NPRM (with at least a 30-day comment period), and then publish a final rule that responds to any substantive comments received. The fastest possible timeframe in which the negotiated rulemaking process for the rulemaking packages assigned to the AHEAD Committee could have occurred is 149 days, which is irreconcilable with the timeline allowed by the enactment of the WFTCA, due to the fact that there were 120 days from July 4, 2025, (the day the WFTCA was enacted), through and including November 1, 2025, (the publication date of the final rule required by the Master Calendar).

It would not have been possible for the Department to undertake every step of the negotiated rulemaking process by November 1, 2025, in order to implement the provisions that become effective in the WFTCA by July 1, 2026, which is the statutory effective date. Congress was aware of this temporal impossibility when they passed the WFTCA, yet Congress decided that these provisions would still go into effect on July 1, 2026. Because these provisions are not self-implementing and cannot go into effect unless the Department promulgates a final rule, the WFTCA implicitly waives the Master Calendar provision.

With important details unanswered by the plain text of the WFTCA, it is clear that the policy scheme set forth in the HEA made by the WFTCA cannot be implemented absent regulatory action by the Department. The Department was not able to comply with the master calendar requirements and Congress’s statutory deadlines. Furthermore, the Office of Management and Budget has determined this is a major rule under the Congressional Review Act, and because major rules cannot go into effect until 60 days after publication, the effective date for the WFTCA provisions is August 31, 2026. Therefore, the WFTCA does not waive negotiated rulemaking nor any provision in the APA. For provisions in the WFTCA that become effective July 1, 2027, and beyond, Congress did not implicitly repeal the Master Calendar provision because it is possible for the Department to publish a final rule that complies with the Master Calendar to implement those provisions.

Severability

“It is axiomatic” that a regulation may be invalid in part but not in whole or as applied to one set of facts but not another. *Ayotte v. Planned Parenthood of N. New England*, 546 U.S. 320, 329 (2006). If a court finds one part of a

regulation is unlawful, the “normal rule” is to enjoin only that part. *Id.* (quoting *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 504 (1985)).

It is the Department’s intent that if any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the subpart or the application of its provisions to any person, act, or practice shall not be affected thereby.

Statutes and regulations are severable if the separate provisions are “wholly independent of each other” and can operate independently. *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 502 (1985). That is the case here. No part herein will be affected if another part is found to be unlawful. Nor does the Department believe courts or regulated parties would be unable to apply the rule if one part is held invalid. *C.f. Dep’t of Educ. v. Louisiana*, 603 U.S. 866, 868 (2024) (per curiam) (denying the government’s request to stay a preliminary injunction against an entire rule where only parts were found to be invalid because “schools would face in determining how to apply the rule for a temporary period with some provisions in effect and some enjoined”).

While the Department’s goal with these proposed regulations is to establish a universal earnings accountability framework that is applied evenly across all sectors and credential levels, because of the multiple bases of statutory authority the Department is relying upon for this regulatory action, the Department believes that it crucial to clarify that the provisions of this rule applicable to GE programs and non-GE programs are wholly independent of each other and can operate independently. The Department believes the application of a universal earnings accountability framework to GE programs and non-GE programs is severable, because while the standard applied to GE programs and non-GE programs will be the same, as discussed previously within this section, the Department is not relying on the same statutory authority to impose this unified framework. Likewise, the earnings accountability framework could be applied to only one category of programs without an issue operationally.

Relatedly, as explained in detail in this rule, the Department believes that the application of the earnings accountability framework to all programs, irrespective of whether a program is religious in nature or is offered by a religious institution, does not place a substantial burden on the exercise of religion, in violation of the Religious Freedom Restoration Act

(“RFRA”). However, should a court disagree with the Department’s conclusion, the Department intends for the earnings accountability framework to continue to survive and remain in effect for all other programs.

Relationship to Other Federal Agencies

Earnings measures supplied by another Federal agency are statistical inputs to the Department’s administration of the statutory accountability framework. The provision of such statistical products does not constitute the supplying agency’s participation in, endorsement of, validation of, or responsibility for any Department eligibility, accountability, enforcement, or appeal determination. Any administrative appeal or litigation concerning a program’s status under these regulations concerns the Department’s application of statutory and regulatory standards, not a determination by the agency that supplied the statistical product.

VII. Analysis of Public Comment and Changes

On April 20, 2026, the Secretary published an NPRM for these regulations in the **Federal Register** (91 FR 21088) (April 20, 2026). The Department received 9,994 comments on the proposed regulations. The Department has grouped the comments by functional topics and by similar themes. We discuss substantive issues under the sections of the regulations to which they pertain. In instances where individual submissions appeared to be duplicates or near-duplicates of comments prepared as part of a write-in campaign, the Department posted one representative sample comment along with the total comment count for that campaign to www.Regulations.gov, which continues to be our standard practice. We considered these comments along with all the other comments received. In instances where individual submissions were bundled together (submitted as a single document or packaged together), the Department posted all the substantive comments included in the submissions along with the total comment count for that document or package to www.Regulations.gov. Generally, we do not address minor, non-substantive changes (such as renumbering paragraphs, adding a word, or typographical errors) within this final rule. Additionally, we generally do not address changes or comments recommended by commenters that the statute does not authorize the Secretary to make (such as forgiving all student loans), or comments pertaining to

operational processes. Analysis of the comments and of any changes in the regulations since publication of the NPRM (91 FR 21088) follows.

Process for Out-of-Scope Comments

The Department does not typically address comments that are out of scope. For purposes of this final rule, out-of-scope comments are those that are not addressed in the NPRM (91 FR 21088) altogether. Generally, comments that are outside of the scope of the NPRM (91 FR 21088) are comments that do not discuss the content or impact of the proposed regulations or the Department’s evidence or reasons for the proposed regulations.

General Comments

Negotiated Rulemaking and Public Input

Comments: Several commenters argued that the Department failed to provide sufficient time for meaningful negotiated rulemaking and public comment. Some commenters requested the Department delay implementation until July 1, 2027, or later to allow for further study, stakeholder input, and adjustment.

Discussion: As mentioned in the Implementation Date of These Regulations section, except for changes to 34 CFR part 685, these regulations are effective on July 1, 2027. The changes to 34 CFR part 685 are effective on August 31, 2026. However, we note that one of the provisions that the Department is changing in section “Earnings of Program Completers—Use of IRS Data” would have the effect of delaying the application of program eligibility consequences for programs in certain fields associated with tip income. Please see that section for more information.

The Department is committed to conducting rulemaking in accordance with all statutory and regulatory requirements. For this rulemaking, we followed the procedures outlined in the HEA and the APA, including convening a negotiated rulemaking committee with representatives from a broad range of stakeholders and providing a public comment period consistent with Federal requirements. While we understand the desire for extended deliberation, the Department has a responsibility to implement timely reforms that protect students and taxpayers.

Changes: None.

Comments: One commenter urged the Department to engage in additional profession-specific outreach and operational consultation with institutions, accreditors, certifying organizations, and professional

stakeholders within the acupuncture and herbal medicine community before finalizing any earnings accountability framework that could significantly affect student access to graduate healthcare education and professional workforce entry within this field.

Discussion: The Department declines this suggestion. The Department strives to select negotiators with the goal of ensuring balanced representation across the communities most affected by the regulations. We will continue to apply this principle in future rulemakings.

Changes: None.

Comments: One commenter stated that the Department has already placed “lower earnings” warning labels on the Free Application for Federal Student Aid (FAFSA) form. They believed the warnings are premature since the rulemaking process is ongoing.

Discussion: The Department has provided these disclosures for transparent information about program outcomes as students and families make important decisions about their education. The warning labels are based on currently available data and are intended to inform, not to presume the outcome of this rulemaking process.

Changes: None.

General Agreement With the Regulations

Comments: Dozens of commenters including students, graduates, instructors, beauty and massage industry professionals, educators, and program owners support the overall goal of protecting students from predatory programs, ensuring programs lead to meaningful economic outcomes, and improving transparency. Commenters shared personal experiences of debt burdens, poor instruction, unsafe or inadequate equipment, and misleading job placement claims. A few commenters also raised concerns about the cosmetology sector specifically and urged the Department not to grant exemptions for programs or institutions represented by the American Association of Cosmetology Schools (AACS). These commenters asserted that accountability is necessary in this field and expressed concern that certain stakeholders are seeking relief from regulations designed to ensure program value.

Discussion: We thank commenters for their support. The Department agrees with commenters that the earnings accountability framework in this regulation will help protect students from low-earning outcome programs. We agree with commenters who suggested that the rule may result in improved program quality, affordability,

and outcomes. As explained in the “Earnings of Program Completers—Use of IRS Data” section, the Department also agrees that the earnings accountability framework must include cosmetology programs. The Department does not find a basis for providing the cosmetology sector with a blanket exemption to the rule; the intent of the rule is to ensure that all programs receiving title IV, HEA funds demonstrate that their graduates achieve earnings sufficient to support their educational investment.

Changes: None.

General Opposition to the Regulations

Comments: Thousands of commenters are concerned that this rule will reduce Federal student financial assistance for beauty, wellness, early childhood, drama/theater programs, music programs, fine arts programs, and other fields. Commenters, including cosmetologists, estheticians, massage therapists, beauty school owners, parents, and students shared personal stories about how financial aid enabled them to attend school, pursue a career, achieve financial independence, support their families, and contribute to their communities. Many commenters stated they would not have been able to attend school or enter their profession without Federal student aid, and they are concerned that the earnings test would reduce economic activity and growth generally because it would lead to fewer educational opportunities as programs and colleges would be forced to close.

Many commenters noted the high graduation rates and job placement rates of cosmetology programs, suggesting that they are high-quality programs based on these measures. Commenters also noted that the Department’s data suggested that approximately 93% of cosmetology programs would fail the proposed rule. Some commenters stated that protecting the cosmetology sector is essential because these workers provide critical services for weddings, graduations, job interviews, and other celebrations. Other commenters stated that cosmetology programs provide critical preventative health services that, without them, would have adverse consequences for society.

Many commenters also noted that this final rule could cause workforce shortages in essential service industries and create negative ripple effects on small businesses, local economies, and community services due to a shrinking pipeline of licensed professionals. Commenters further cited the effects of cosmetology program closure on unemployment and local communities

and emphasized the inability of businesses to fill in-demand jobs if cosmetology and massage therapy programs and programs close. They also indicated that unemployment would increase from students who would otherwise have found jobs after attending these programs and because employees from these schools would lose their jobs. Commenters expressed the importance of protecting these programs and personal anecdotes about the success they have achieved by attending a cosmetology program.

Discussion: The Department appreciates the extensive feedback from commenters regarding the importance of Federal student financial assistance. The Department’s intent is not to reduce access to high-quality programs and career pathways. The purpose of the earnings premium measure is to ensure that students are not left worse off financially after completing a program. Students who attend programs that do not support improved earnings are often stuck with debt and little ability to pay it off, resulting in long-term financial challenges for those students.

The Department has estimated the effects of the final rule on all types of programs, including specific analyses on the estimated impacts on cosmetology programs. Overall, we note that fewer students are anticipated to attend failing programs under this regulation relative to the current gainful employment regulation (Table 5.12). Regarding cosmetology programs, we note that compared with the current regulation, fewer cosmetology and massage therapy programs will fail the earnings test under the final rule (Tables 5.17, 5.18, 5.19, 5.20, and 5.28). Fewer of these programs are expected to fail the earnings test under the final rule because it measures earnings a year later than the current rule (4th year instead of 3rd year after completion) and it measures the median earnings of working individuals only (whereas the current rule measures the earnings of all completers regardless of whether they are working).

As described in the “Earnings of Program Completers—Use of IRS Data”, “Department Authority (Including GE and Quality Assurance Authority)”, and “Orderly Program Closure” sections, the Department has included certain provisions to mitigate the disproportionate impact the rule has on certain types of programs. First, the final rule amends the accountability framework so that certain programs are exempt from the earnings test if they did not receive Federal student loans for the five award years prior to the earnings premium calculation. Many types of

programs, including certain cosmetology programs, will be exempt from the earnings test due to this exemption (Table 5.27). Second, the final rule includes a new provision that allows failing programs to voluntarily remove themselves from the Federal student loan program after the first year they fail the accountability framework. In return, these programs preserve their Pell Grant eligibility in future years. Third, we amend the final rule to include a provision that delays the accountability framework for certain types of programs that are linked to predominantly tipped occupations.

Furthermore, as discussed in the Regulatory Impact Analysis, this regulation is estimated to cost \$1.5 billion in Direct Loan cohorts 2027 to 2036 and \$8.8 billion in Pell Grants in FYs 2027 to 2036 due to the higher amount of financial aid that will be available to students as a result of this regulation. Commenters mistakenly believe the regulation is removing financial aid from programs, when in reality, certain types of programs will receive a much greater amount of financial aid as a result of this regulation.

Ultimately, the Department's analysis and these included provisions suggests that the commenters' assertions about the harmful effects of this regulation are misguided: they incorrectly believe the rule is harming certain types of programs—including cosmetology programs, religious studies programs, and others—when in reality, this rule is often beneficial to those programs because fewer are expected to fail relative to the baseline policy. That said, the rule continues to hold all types of programs accountable, regardless of sector or credential level, to a fair and consistent accountability framework. The Department views this as critical because this framework helps protect students from programs that consistently deliver low-earning outcomes for their students.

In response to the many commenters who expressed concern about the rule's specific impact on the cosmetology sector, the Department clarifies that the final regulation only impacts cosmetology programs that participate in the Federal student loan program. Many cosmetology programs will not be impacted by the rule because they operate outside of the Federal student loan program. While precise data on the number of these programs is scarce, one study found that approximately 86 percent of cosmetology programs in Texas operated outside of the Federal

student loan program.¹¹ While this analysis is for a single State, it provides suggestive evidence that many cosmetology programs will be unaffected by the rule. Given this, the Department does not believe the commenters' assertions about the rule may result in workforce shortages in the cosmetology sector.

Changes: None.

Comments: Hundreds of commenters noted that the final rule's earnings test will have a large impact on religious studies and theology programs. Commenters pointed to the Department's analysis (Table 3.16 from the NPRM) showing that a large share of religious studies programs are estimated to fail the earnings test. Commenters argue that it is inappropriate to measure these programs based on their graduates' earnings because they are not intended to provide high earnings for their graduates but rather aim to achieve important spiritual and societal benefits. Some commenters requested that programs in religion, theology, and ministry studies be entirely excluded from the earnings premium measure.

The commenters argued that the income levels for religious programs are relatively low, at least during the first few years after graduation, but students enter faith-based programs knowing that they are accepting lower financial compensation in order to pursue religious service. One commenter pointed out that yeshivas do not participate in the Direct Loan program and therefore do not contribute to the problem of unsustainable student debt, which is the problem that the WFTCA was intended to address. The commenter further argued that the concern for such institutions is not the loss of Direct Loan program access, but rather the loss of Pell Grant funds.

Some commenters noted that many theology and religious studies programs only receive Federal Pell Grants and do not participate in the Federal student loan program. These commenters argued that it would be unfair to remove these programs' eligibility for Pell Grants because they do not participate in the Federal student loan program.

Discussion: The Department acknowledges the rule proposed in the NPRM would have had a significant impact on religious programs. However, as described in the "Department Authority (Including GE and Quality Assurance Authority)" section below,

the Department is amending its regulations to exempt an institution's programs from the administrative capability penalty if the institution has not participated in the Direct Loan program for the five most recently completed award years, and to similarly exempt a program if an institution voluntarily agrees to forego disbursing Direct Loans to students in that program for at least five years. This provision will allow low-earning outcome programs to continue receiving Federal Pell Grants while preventing students in those programs from borrowing Direct Loan funds that they would likely experience difficulty repaying.

Many institutions with religious missions do not participate in the Direct Loan program, and the Department's estimates show that this provision will likely reduce the regulation's impact on undergraduate students attending such institutions and programs. Specifically, the Department estimates that the final rule will have roughly half the impact on students and title IV, HEA program funds disbursed to religious programs relative to the impact of the current regulation (Table 5.18 and 5.19). Ultimately, the final rule is expected to benefit the religious sector, as fewer students in religious programs will be negatively impacted by the final rule relative to the current baseline.

Changes: None.

Comments: Hundreds of commenters urged the Department to allow institutions to demonstrate a program's value based on a broad set of factors rather than solely relying on graduates' earnings. Commenters recommended a variety of alternative metrics, such as program completion rates, transfer rates, job placement rates, employment rates, loan repayment rates, long-term earnings growth, business ownership rates, licensure pass rates, default rates, debt-to-earnings ratios, and levels of student satisfaction.

Discussion: The Department declines the suggested proposals. The Department believes the accountability framework should rely on metrics that are standardized, consistently available across all programs, and derived from reliable administrative data sources. At present, nationally consistent data on long-term career progression, transfer outcomes, business ownership among graduates, student satisfaction, patient outcome measures, and lifetime earnings are not uniformly available across institutions or programs.

Furthermore, the Department agrees that many of the alternative metrics cited by commenters, including debt and repayment measures, completion rates, and licensure attainment, all

¹¹ Cellini, S.R., & Onwukwe, B., (2022). Cosmetology Schools Everywhere: Most Cosmetology Schools Exist Outside the Federal Student Aid System. Washington, DC: PEER Center. www.american.edu/spa/peer/upload/peer_cosmetology_b.pdf.

provide meaningful information on program quality. The Department intends to continue publishing this type of data through the STATS collection, which will provide important information for prospective students as they consider enrolling in higher education. However, the WFTCA specifically requires the Department to consider the earnings outcomes of degree and graduate programs. Congress did not include other metrics, such as job placement rates or licensure pass rates, in the accountability framework authorized under the WFTCA.

Changes: None.

Comments: Many commenters expressed concern that the earnings test will penalize programs that have low earnings but are in valuable fields. Commenters specifically pointed out the social value provided by early childhood education programs, K–12 education programs, special education programs, social work programs, counseling programs, museum and library science programs, religion/religious studies programs, health care programs, career & technical education programs, fine arts programs, and other types of programs.

Commenters expressed that these fields provide value to students beyond their earnings that benefit society through the “social returns” these programs offer. Commenters recommended the Department exempt these fields of study from the earnings test or that the Department create “field specific benchmarks” that would lower the earnings test threshold for certain fields that provide higher levels of social returns. Commenters also highlighted that many of these socially valuable fields are already facing worker shortages, and that the proposed regulation would worsen these conditions.

A few other commenters argued that a student may obtain a degree in one field and use it for a job in a different field. These commenters emphasized the broader value of higher education, noting that degrees can open doors to various career paths and that the skills and experiences gained are often transferable across industries.

Discussion: The Department recognizes that postsecondary education can create benefits beyond higher earnings and that some programs that will be heavily impacted by the earnings test may face worker shortages. The Department also notes, however, that students need sufficient earnings to afford and repay their Title IV student loans, which makes the earnings test in the final rule an appropriate policy for student loan access. While the loss of

title IV, HEA program assistance may lead to closure of programs in high demand fields or those that face workforce shortages, the Department is concerned that these fields and credentials do not produce adequate earnings to support the growing student debt. The Department believes that institutions of higher education, employers, and State and local policymakers have the opportunity to respond to the effects of the earnings premium measure by creating or modifying programs so that they lead to higher earnings, or by reforming employee pay policies or credentialing requirements.

The Department is aware that the proposed earnings test will have a larger impact on certain fields and has provided an extensive analysis in the RIA (Tables 5.17, 5.18, 5.19, and 5.20) of which fields may be most affected. The Department’s analysis shows that bachelor’s degrees in the fine arts are estimated to fail the earnings test at relatively high rates. However, as many commenters noted, undergraduate students enrolled in Business/Management, Health, Vocational, and Technical programs all have lower fail rates (student-weighted) relative to the baseline policy (Table 5.18).

Furthermore, the commenters who argued that the Department should measure the “social returns” of programs provided no basis, data, or recommendation for how the social returns could be fairly and consistently measured. Lacking the data and methodology necessary to perform such an evaluation, the Department notes that any attempt to classify the social returns of programs would be arbitrary. For example, the Department does not have the ability to determine if electrical engineers have more or less “social value” in society than musicians.

Lastly, the Department does not have the statutory authority to set lower or different earnings benchmarks for the programs that commenters mentioned based on the potential social returns that these programs may offer. Congress provided specific statutory language on the way program earnings outcomes would be used to determine eligibility to title IV, HEA student loan programs. Congress did not provide any indication that the Department should also consider other factors, such as the “social value” of certain programs.

Regarding commenters’ assertion that programs can often set up an individual for a variety of different career paths, we agree that this can also be a source of value for graduates. This point has long been acknowledged in the Department’s CIP–SOC crosswalk, where many

programs are linked with a variety of different occupations and career paths. The Department also acknowledges that some occupations and career paths may have higher earnings outcomes than others, despite those occupations being linked to the same program. However, the Department contends that the commenters’ concern is already addressed in the regulation. The earning premium metric includes all program graduates, regardless of the particular career path they enter. Then, the Department calculates each program’s earnings value based on the median earnings of its graduates, thereby reducing the extent that outliers in high-paying or low-paying career paths have on the overall median earnings value. If programs are routinely leading students to enter into occupations that are unrelated to their field of study, the Department is concerned about the potential value of these programs and wants to ensure those graduates are included in the program’s median earnings measure.

Changes: None.

Comments: Commenters expressed concern that the earnings test would result in programs being judged during anomalous economic periods, like during the COVID–19 pandemic, when wages were unusually low. Some commenters expressed that this would particularly harm cosmetology programs, music programs, and theater programs. This is because many barber shops, massage therapy centers, theaters, and performing arts centers were forced to close or suspend services during COVID–19, negatively impacting the earnings of their graduates. Ultimately, commenters expressed concern that the regulation would unfairly penalize certain types of programs for factors that were outside of the institution’s control.

Discussion: The earnings test in this final rule includes several features that will mitigate the effects the commenters raised. First, programs lose eligibility if they fail in two out of three consecutive years, which reduces the significance of a single year in the test. Second, the high school and bachelor’s degree earnings threshold is aligned with the year that program graduates’ earnings are measured. If earnings are depressed across the economy, then the earnings used to calculate median earnings for the test and the earnings of programs completers will similarly be depressed. Third, for small programs, the earnings of program graduates are based on completers from multiple years (see the cohort aggregation process described in the “Minimum Number of Completers, Privacy, and Statistical Reliability”

section). Because many cosmetology and music programs are small, the earnings premium measure may be based on the earnings of graduates from multiple different years, smoothing the effect that one anomalous year has on the overall earnings measure. Fourth, the first year of the earnings test will primarily be based on completers who graduated during the 2021 award year, with earnings measured during the 2025 calendar year. Thus, the earnings period used to evaluate programs often occurred well after the conclusion of the COVID-19 pandemic. Collectively, these features will likely prevent programs from failing the earnings premium metric due to one year of anomalous data, similar to what occurred during the COVID-19 pandemic.

Changes: None.

Other General Comments

Comments: A few commenters argued that low wages in fields like massage therapy, cosmetology, and other skilled trades are primarily the result of employer pay practices, not the quality of educational programs. The commenters suggested that the Department should focus on why employers underpay skilled workers, rather than penalizing educational institutions or restricting student access to financial aid.

Discussion: The Department's regulatory scope is limited to educational institutions and the administration of Federal student financial assistance. The Department does not have authority over private sector wage-setting or employer compensation practices and therefore cannot adopt the commenters' suggestion.

Changes: None.

Comments: Some commenters argued that accountability rules should focus on fixing structural barriers that limit students' employment outcomes rather than penalizing academic programs for factors beyond their control. The commenters recommended a variety of things, including requiring universities to establish formal workforce agreements with government agencies, maintain dedicated staff responsible for securing paid public sector internships, and provide transparent data showing the different career pathways and job placement processes for career changers compared with students who enter programs with existing professional networks.

Discussion: The Department does not adopt these recommendations. These proposals extend beyond the

Department's current statutory authority and the scope of this final rule.

Changes: None.

Comments: A few commenters argued that a person may obtain a degree in one field and use it for a job in a different field. Commenters emphasized the broader value of higher education, noting that degrees can open doors to various career paths and that the skills and experiences gained are often transferable across industries.

Discussion: Programs can often set up an individual for a variety of different career paths. As discussed above, the Department of Labor's CIP-SOC crosswalk specifically links academic programs with occupations, and in many cases links several occupations to a single program type. While students from the same program may choose different career paths, the Department believes that including all students in the program earnings calculation is necessary to appropriately determine program value. The Department is concerned that excluding certain students from program completers list based on the career path they enter into could result in gamesmanship by colleges, as they could potentially skirt the accountability framework by directing students into certain career pathways. Furthermore, if programs are routinely leading students to enter into occupations that are unrelated to their field of study, the Department is concerned about the potential value of these programs. Ultimately, the Department believes the commenters' suggestions would leave students unprotected from programs with low-earning outcomes.

Changes: None.

Comments: Several commenters suggested the Department compare a student's earnings before and after completion of a program to assess whether the program has provided economic value. Commenters argue that programs that improve their students' earnings outcomes relative to their pre-enrollment earnings should be exempt from the accountability framework regardless of whether the median earnings of program graduates exceeds the earnings threshold for the program. These commenters argue that this is a more appropriate comparison than between program graduates and the individuals surveyed on the ACS.

Discussion: The Department declines to adopt this approach for several reasons. The first reason is feasibility: Not all students have pre-enrollment earnings. For example, many traditional college students, especially dependents who recently graduated from high school, do not have pre-enrollment

earnings. Second, for the subset of these students who do have pre-enrollment earnings, it is likely that these earnings occurred while the student was enrolled in high school, which would greatly bias the measure of pre-enrollment earnings. Third, a significant body of economic research finds that students' earnings in the years leading up to college enrollment are downwardly biased (*i.e.*, "Ashenfelter's Dip"¹²), providing an improper counterfactual to judge graduates' post-enrollment outcomes. Fourth, this proposal is not aligned with what Congress requires in the WFTCA. Congress instructed the Department to use earnings benchmarks based on working high school and bachelor-degree holders from a certain age and in the same geography; Congress did not contemplate pre-enrollment earnings as the benchmark. For these reasons, the Department rejects the commenters' proposal to use pre-enrollment earnings as the earnings benchmark.

Changes: None.

Comments: Several commenters called for greater accountability and transparency regarding tuition and program costs and urged the Department to address the root causes of rising education costs rather than restricting financial aid or access to programs.

Discussion: With extremely limited exceptions,¹³ the Department does not have the statutory authority to regulate tuition and program costs. The HEA stipulates the amount of title IV, HEA program funds an eligible student can receive, not how much an institution can charge.

Changes: None.

Legal Authority/Department Authority
Department Authority (Including GE and Quality Assurance Authority)

Comments: As described in the "Consequences for Failure to Demonstrate Administrative Capability" section below, many commenters objected to the loss of title IV, HEA eligibility for all of an institution's low-earning outcome programs if the institution fails the new administrative capability requirement at § 668.16(t),

¹² Heckman, J.J., & Smith, J.A., (1999). The Pre-Program Earnings Dip and the Determinants of Participation in a Social Program: Implications for Simple Program Evaluation Strategies. NBER Working Paper No. 6983. www.nber.org/system/files/working_papers/w6983/w6983.pdf.

¹³ In the "Workforce Pell" provisions of the WFTCA, Congress established a "value-added earnings" framework applicable only to eligible workforce programs that would limit the tuition and fees that could be charged for such programs based on the earnings of graduates. See 91 FR 29254. Congress did not establish a similar framework for other programs.

arguing that the WFTCA specifically only pertains to participation in the Direct Loan program and does not reference eligibility for other title IV, HEA programs.

Additionally, several commenters expressed concern about the applicability of these regulations to programs or institutions that exclusively serve students with documented learning differences—Specific Learning Disabilities and Autism Spectrum Disorder (ASD)—all of which are considered disabilities under Section 504 of the Rehabilitation Act of 1973. The commenters pointed to well-documented differences in labor market outcomes for individuals with disabilities versus those without such disabilities. The commenters also noted that as a result of these documented earnings gaps, the proposed accountability framework may negatively impact the students who enroll in such programs and institutions solely on the basis of the students' disabilities. The commenters requested that if a program is offered by an institution that enrolls 100 percent of its students with such disabilities, the Department should exclude such programs offered by those institutions from the accountability framework.

Discussion: Commenters make a strong argument that Congress did not intend for such programs to lose eligibility for title IV, HEA programs other than the Direct Loan program. Therefore, Department finds their assertion compelling that the application of the administrative capability test under 34 CFR 668.16(t) to institutions that do not participate in the Direct Loan program is inappropriate. The Department's intent in adopting the administrative capability provision during negotiated rulemaking was to improve program integrity by addressing institutions whose results suggest a more systemic set of concerns which extend beyond outcomes for individual programs. However, this argument must be placed in relation to the intent of Congress, which chose to apply the earnings accountability metric to non-GE programs participating in the Direct Loan program, rather than institutions. As a result, the Department acknowledges the likely intent of Congress not to apply sanctions to institutions that have not participated in the Direct Loan program for an extended period of time and will exempt an institution from the administrative capability provision under 34 CFR 668.14(h) if it has not participated in the Direct Loan program for the five most recently completed award years prior to

the year during which the earnings premium measure is calculated. Similarly, the Department will exempt a specific program from the administrative capability penalty if, shortly after the first time that program fails the earnings premium measure, the institution commits to preventing students from borrowing Direct Loan funds for the program for at least five years under 685.203(m)(2). The metric would still be calculated for programs in these situations, but the programs would not be subject to a loss of eligibility for title IV, HEA programs other than the Direct Loan program due to the new administrative capability test in 34 CFR 668.16(t). The Department chose a five-year period because that time period is longer than the published length of most postsecondary programs. Using a period of this length is intended to identify institutions that have made a long-term commitment to offering postsecondary programs without the support of the Direct Loan program, such that in most cases the most recent cohort of students in the institution's programs graduated without the ability to borrow. The Department seeks to avoid the possibility of institutions temporarily suspending Direct Loan participation for the purpose of avoiding the consequences of the administrative capability penalty.

We agree with the commenters that programs at institutions exclusively serving students with specific learning disabilities and related disabilities under Section 504 of the Rehabilitation Act of 1973 should be treated differently under this final rule. We believe that, without this change, the regulation could violate Section 504 of the Rehabilitation Act of 1973, which states that "no otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Therefore, we will exempt programs at such institutions from the program eligibility consequences of these regulations if they only enroll students with a *Specific Learning Disability* or *Autism*, as defined under the Department's Individuals with Disabilities Education Act, or IDEA regulations. Similar to the treatment of institutions not participating in the Direct Loan program, the Department would still calculate the metric for programs at these institutions, but the programs would not lose eligibility for any title

IV, HEA program as a result of the earnings premium measure.

For similar reasons, the Department notes that it already excludes from inclusion in the earnings premium measure, Comprehensive Transition and Postsecondary (CTP) programs that serve students with intellectual disabilities. These programs are approved by the Department to help students with intellectual disabilities continue their education, build independent living and career skills, and prepare for competitive employment. These final regulations do not change that exclusion.

Changes: We have made two changes in response to the concerns described above. In 34 CFR 668.14(h) we added new paragraphs (3) and (4). In paragraph (3), we specify that a low-earning outcome program at an institution that is not participating in the Direct Loan program and that has not participated in the Direct Loan program for at least the five most recently completed award years shall not be subject to an automatic loss of title IV, HEA program eligibility. Additionally, we provided in that paragraph that a similar exception applies if the institution agrees not to permit students to borrow Direct Loan funds in that program under the provisions in 34 CFR 685.203(m)(2). In paragraph (4) we explain the conditions for such agreement, where an institution is required to agree within 120 days of the Secretary's determination that the program has failed for the first time, to add an amendment to the institution's program participation agreement disallowing borrowing in the program for at least five award years prospectively. The paragraph also explains that the exception will remain in effect for as long as the institution agrees to prevent Direct Loan borrowing in the program.

We also added a new paragraph (b) to § 668.601 that exempts institutions from the program eligibility consequences of 34 CFR Subpart S if they only enroll individuals with documented *Specific Learning Disability* or *Autism*, as defined under 34 CFR 300.8.

Master Calendar and Effective Dates

Comments: Some commenters argued that the July 1, 2026, effective date of the final rule violates the HEA's master calendar requirements, due to the fact that the final rule was not published by November 1, 2025. Several of these commenters stated that, insofar as the WFTCA provides an implied waiver of the HEA's master calendar requirements, that this waiver does not extend to portions of the rule that impose the earnings accountability

framework on certificate programs below the graduate level, as such programs were not addressed in the WFTCA.

Discussion: As discussed fully in the “Authority for this Regulatory Action” section, above, the WFTCA implicitly provides a limited waiver of the HEA’s master calendar requirement, so far as it is necessary to promulgate regulations that give effect to provisions of the WFTCA that must take effect on July 1, 2026. *See Dorsey*, 567 U.S. 260, 274 (stating that an agency’s compliance with an existing statute “cannot justify a disregard of the will of Congress as manifested either expressly or by necessary implication in a subsequent enactment” (quoting *Great Northern R. Co.*, 208 U.S. 452, 465)).

The WFTCA was enacted on July 4, 2025, and directs the Department to implement roughly a dozen provisions by July 1, 2026. Many of these provisions are not self-executing and could not be implemented absent the Department promulgating regulations to provide details for institutions on how to comply with the WFTCA. Congress gave the Secretary discretion within the WFTCA to implement the provisions impacting the title IV, HEA programs and knew that its commands were not self-executing when directing the Secretary to take action. Congress expected the Secretary to act via rulemaking before July 1, 2026, to enable these provisions to actually go into effect. Therefore, Congress’s command to implement certain provisions of WFTCA by July 1, 2026, functions as an implicit waiver of the HEA’s master calendar requirements for rulemaking actions taken to implement those provisions in regulation.

The Department agrees with those commenters who stated that the WFTCA’s implied waiver of the HEA’s master calendar requirements does not extend to the regulations outside of those necessary to implement the provisions of WFTCA. Those provisions would normally take effect on July 1, 2027. However, the Secretary is designating such regulatory provisions as one that an entity subject to the provision may, in the entity’s discretion, choose to implement prior to the July 1, 2027, effective date of such regulations.

Changes: None.

First Amendment and Religious Freedom Restoration Act Concerns

Comments: Several commenters stated that they believe that the application of the earnings accountability framework to religious degree programs violates the requirements of the First Amendment

and the Religious Freedom Restoration Act (RFRA), with such commenters alleging that the application of the earnings accountability framework to religious degree programs will substantially burden the exercise of students seeking to pursue careers in religious fields, but will not be the least restrictive means of furthering a compelling government interest. These commenters stated that the application of the earnings accountability framework to religious degree programs will substantially burden the religious exercise of individuals seeking to pursue careers in religious fields by potentially precluding their ability to receive title IV, HEA funds to attend the programs necessary to prepare for such careers. Several commenters suggested that this burden will be substantial because of the many religious occupations that are generally low-paying in nature.

Some commenters further stated that the proposed requirement that as a component of administrative capability an institution must demonstrate that at least half of the institution’s recipients of title IV, HEA funds and at least half of the institution’s total title IV, HEA funds are not from low-earning outcome programs, constitutes an additional substantial burden on religious exercise. These commenters further state that, because of the low-paying nature of many religious occupations, institutions where a large percentage of students are enrolled in programs designed to prepare individuals for employment in religious occupations will be disproportionately likely to lose eligibility to participate in all title IV, HEA programs. These commenters stated that this will disincentivize institutions from offering programs that prepare individuals for employment in religious occupations, restrict the ability of individuals to obtain such employment, and harm religious organizations by reducing the number of individuals who are qualified to fill certain positions within those organizations.

Several commenters further argued that the Department has not adequately demonstrated that application of the earnings accountability framework for religious programs is the least restrictive means of furthering a compelling government interest. One commenter stated that the NPRM lacked sufficient analysis of the burden being imposed on the exercise of religion, despite acknowledging the substantial impact on religious programs that the rule would have. This commenter and others stated that they believed that the Department failed to adequately

consider alternative earnings accountability measures for religious programs that they contend would impose a less severe burden on religious exercise, such as allowing alternative earnings appeals for religious programs.

Discussion: The Department has considered the impact the Rule will have on religious institutions and programs and on religious exercise. Congress provided broad protection for religious liberty from the federal government through RFRA. 42 U.S.C. 2000bb *et seq.*; see also *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 591 U.S. 657, 680(2020). RFRA provides that the federal “Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability” unless the burden is “in furtherance of a compelling governmental interest and is the least restrictive means of furthering” that interest.” 42 U.S.C. 2000bb–1(a)–(b). A general rule of general applicability “substantially burdens” religious exercise when it forces someone to act in a way that violates his religious beliefs or denies him “rights, benefits, and privileges enjoyed by other citizens”—even if “the challenged Government action would interfere significantly with private persons’ ability to pursue spiritual fulfillment according to their own religious beliefs.” *Real Alternatives, Inc. v. Sec’y Dep’t of Health & Hum. Servs.*, 867 F.3d 338, 357 (3d Cir. 2017) (quoting *Lyng v. Nw. Indian Cemetery Protective Ass’n*, 485 U.S. 439, 449 (1988)); accord *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114, 1138 (10th Cir. 2013) (the law substantially burdens religious exercise if it “(1) requires participation in an activity prohibited by a sincerely held religious belief, (2) prevents participation in conduct motivated by a sincerely held religious belief, or (3) places substantial pressure on an adherent . . . to engage in conduct contrary to a sincerely held religious belief.” (internal quotation marks omitted, alteration in original)), *aff’d* sub nom. *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014)).

The Department does not believe the Rule substantially burdens religious exercise. Applying the low earning outcome test to religious programs that accept Direct Loans does not require anyone to participate in an activity that violates or places substantial pressure on his or her religious beliefs. While many commenters pointed out that students who graduate from religious programs take jobs that often have lower salaries, none alleged it would violate a religious belief to accept a higher salary.

And even if “[t]raining [] to lead a congregation is an essentially religious endeavor,” *Locke v. Davey*, 540 U.S. 712, 721 (2004), the government does not have to fund that training, see *id.* at 725. While the final rule may cause a small number of programs to become ineligible to receive federal student assistance—thus potentially making it more difficult or costly for some to enter these programs—it will not prevent students who are motivated by religious belief to enter into religious programs from doing so. Students will be able to use Pell Grants to participate in many programs even if some lose Direct Loan eligibility.

To the extent that this could constitute a substantial burden on religious practice, the Department believes it is justified by a compelling governmental interest. As discussed, the federal government has a strong interest in ensuring that federal student aid goes to programs that result in students earning more than they would have without having attended the program. This is true regardless of the subject matter of the program or the religious or non-religious affiliation of the school.

Finally, the rule is narrowly tailored because it only applies to programs that accept Direct Loans, which as stated, many religious programs do not. This ensures that these programs can continue to operate as they have been, with accepting Pell Grant funds, while also ensuring that those programs that receive Direct Loans lead to higher earnings for their students. Commenters did not demonstrate that all religious programs would fail the accountability framework in the regulation. The Department’s analysis suggests that fewer than 4 percent of undergraduate students in religious/theology programs will be impacted by our regulation, and this represents a large reduction in impact relative to the current regulation (3.9 percent vs. 7.8 percent) (Table 5.18). While the Department does acknowledge that graduate students in religious/theology programs will be slightly more impacted under this rule relative to the current baseline, only approximately 1 percent of such students are estimated to attend failing religious/theology graduate programs (Table 5.18) under the final rule.

The Department also considered the First Amendment implications of the rule on religious programs and institutions and does not believe the rule violates religious liberty. The First Amendment provides “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” U.S. Const. amend. 1. This amendment offers a

more limited protection than RFRA. As discussed above, the Department does not believe the rule violates RFRA because it does not substantially burden religious exercise, and, even if it did, the rule advances a compelling government interest and is narrowly tailored to meet that interest.

The First Amendment does not require the Department to provide funding for devotional programs or religious degrees for ministry. *Locke v. Davey*, 540 U.S. 712, 725 (2004). Rather, it prohibits the Department from denying funds to religious programs or institutions solely because of their religious nature. *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 462–63 (2017). Religious programs and institutions should be allowed to “compete on an equal footing” for a government benefit. *Id.* at 463.

That is exactly what the Rule allows. Religious and non-religious programs and institutions alike are eligible to participate in the title IV Program. All programs and institutions that participate in the title IV program are subject to the low-earnings test. Should a program fail the test and lose Federal student aid eligibility, it will not be because of its religious nature. It will be because the earnings of program graduates fail in the same way as a secular program that fails.

Changes: None.

Comments: Some commenters who raised religious liberty concerns (both under the First Amendment and RFRA) urged the Department to apply an alternate appeals process for religious institutions. They suggested that using ministry-related CIP codes and Bureau of Labor Statistics (BLS) wage data would more accurately and equitably reflect ministry programs while being consistent with Congressional intent and administratively feasible for the Department.

Discussion: The Department declines to apply an alternate earnings appeal for religious programs or institutions. As discussed above, the Department includes a provision that will exempt any program that has not accepted Federal direct loans for at least five award years prior to the enactment of the WFTCA. The Department’s analysis indicates that this will exempt approximately 600 religious programs from the earnings test, making an alternative appeals process unnecessary for many such programs. The Department also declines to create an alternative appeals process for the remaining programs for many of the reasons already discussed.

Changes: None.

Loper Bright Concerns

Comments: One commenter argues that the Department lacks statutory authority to apply the earnings accountability framework to all credential levels. The commenter states that the only statutory outcome requirements GE programs are completion and placement rates set forth in HEA Sec. 481(b) applicable to those short-term programs and that the WFTCA only explicitly applied the earnings accountability framework to for undergraduate degrees, graduate degrees, professional degrees, and graduate certificates and only intended for such programs to lose eligibility to participate in the Direct Loan Program. Therefore, the commenter asserts that the proposed regulations are in conflict with the Supreme Court’s ruling in *Loper Bright* and are not entitled to deference by a reviewing court.

Discussion: The Department disagrees with the commenter’s contention that the Department lacks statutory authority to extend the earnings accountability framework to all sectors and credential levels, including undergraduate nondegree programs. The Department has clearly identified its statutory authority for the proposed regulations, more fully discussed in the “Authority for This Regulatory Action” section of this rule.

The Department further disagrees with the commenter’s contention that the proposed regulations violate the standard established by *Loper Bright*. While the Department agrees that Section 454(c) of the HEA, as added by the WFTCA, only explicitly applied the earnings accountability framework to undergraduate degrees, graduate degrees, professional degrees, and graduate certificates, the Department does not believe that this precludes the implementation of a universal earnings accountability framework across all credential levels, because it possesses separate statutory authority to apply this framework to programs that “lead to gainful employment in a recognized profession.”

As previously discussed, in challenge the Department’s previous FVT/GE rule, a post-*Loper Bright* court stated that, through the HEA, the Congress had clearly granted the Secretary to promulgate rules necessary for the administration of the title IV, HEA programs: “the Supreme Court in *Loper Bright* recognized that Congress may ‘delegate[] particular discretionary authority to an agency’ by leaving it with ‘flexibility’ through terms ‘such as ‘appropriate’ or ‘reasonable’” and that the HEA confers such authority [on the

Secretary] by including the additional specific direction to ‘prescribe such regulations as may be necessary to provide for . . . any matter the Secretary deems necessary to the sound administration of the financial aid programs[.]’” *American Assoc. of Cosmetology Sch.* *6 (citing 20 U.S.C. 1094(c)(1)(B); 1099c).

Section 481(b) of the HEA provides that certain non-degree programs are eligible for title IV, HEA program funds if they “prepare students for gainful employment in a recognized profession.” However, nowhere in the HEA is the term “gainful employment” defined. In *Loper Bright* the Supreme Court held that when the “best reading of the statute is that it delegates discretionary authority to an agency,” then “the role of the reviewing court” is to “recogniz[e] constitutional delegations, fix[] the boundaries of the delegated authority, and ensur[e] the agency has engaged in ‘reasoned decision making’ within those boundaries.” *Loper Bright* at 371. Because the term “gainful employment” is undefined, and because courts have found that the HEA confers upon the Secretary authority to promulgate regulations that Secretary deems necessary to the sound administration of the financial aid programs, the Department believes that the “best reading” of the HEA is that Congress intended to grant the Secretary discretion to promulgate regulations which interpret what “gainful employment” means and such definition is entitled to deference so long as the Secretary engages in “reasoned decision making.” The Department believes that that requirement has been more than satisfied, as the Department has offered a multitude of bases for imposing a universal earnings accountability framework, most importantly, ensuring that students who complete GE programs obtain employment that is truly “gainful,” insofar as it leads to such students obtaining better economic returns than similarly placed individuals who received no postsecondary education.

Changes: None.

Title IX Exemption

Comments: Some commentators urged the Department to create an exemption for religious programs or institutions similar to the Title IX exemption the Department provides for faith-based institutions. They claim that the Title IX exemption provides a workable model for the Department to create an exemption from the earnings test for religious institutions and programs.

Discussion: The Department declines to adopt an exemption for religious institutions and programs similar to that provided by the Department’s Title IX regulations. 34 CFR 106.12 provides that an “educational institution which is controlled by a religious organization” does not need to comply with Title IX to the extent doing so “would not be consistent with the religious tenets of such organization.” 34 CFR 106.12(a). This exemption applies when the organization submits to the Department a statement explaining precisely which provisions of Title IX conflict with a specific religious tenant.

Title IX’s prohibition on sex discrimination, though, is different in kind than the rule’s earnings outcome requirement. No specific provision of the rule compels any religious organization to violate its religious tenants in order to continue receiving title IV, HEA funding. The burden, if any, on religious exercise comes from the outcome of the earnings test, not from the complying with the test. For this reason, the Title IX exemption does not create a workable framework for an exemption under this rule.

Changes: None.

Procedural Concerns

Comments: A few commenters argued that the Department provided an insufficient amount of time to submit comments on the proposed rule. Several of these commenters argued that 30-day comment period did not allow institutions and other affected stakeholders a meaningful opportunity to analyze the proposal and provide informed feedback, with one commenter noting that some (but not all) previous rulemakings which dealt with gainful employment regulations utilized longer comment periods.

Additionally, a few commenters challenged the composition and conduct of the negotiated rulemaking committee. One commenter took issue with the qualifications of negotiators chosen to represent specific constituencies. Another commenter took issue with the fact that civil rights groups that represent students were not given a separate, dedicated place on the committee. Finally, two commenters argued that the negotiated rulemaking committee did not actually reach consensus, because one negotiator abstained from the final consensus vote and, with the commenters claiming that the negotiator stated that she was coerced to do so. Still another argued that no negotiator represented the cosmetology industry, which would be the industry most negatively affected by the proposed regulations.

Discussion: The Department disagrees that the comment period following the NPRM offered stakeholders an insufficient amount of time to submit comments on the proposed rule. As discussed in the “Authority for this Regulatory Activity” section, above, the Congress imposed a very short window of time for the Department to implement those provisions of WFTCA which are required to be given effect beginning on July 1, 2026. Despite these time constraints, the Department has still provided the public opportunity to comment on the proposed regulations for just as long as it did during the 2018 and 2023 rulemakings dealing with accountability metrics and gainful employment issues. Furthermore, the Department notes that, in spite of these commenters’ assertion that the comment period was insufficient, over 9,900 comments were submitted regarding the NPRM.

Regarding the composition of the negotiated rulemaking committee, the Department disagrees that any negotiator serving on the committee lacked the competence to do so. Negotiators were chosen by the Department from list of individuals nominated by groups involved in student financial assistance programs, in accordance with the requirements of Section 492(b)(1) of the HEA and all negotiators possessed demonstrated expertise or experience in the relevant topics proposed for negotiations. And, although there was no negotiator specifically from the cosmetology industry, that industry was represented by negotiators for for-profit institutions, and to a lesser extent, community colleges. These negotiators brought up concerns that were specific to the cosmetology industry on several occasions during negotiated rulemaking.

Furthermore, in regard to the composition of the negotiated rulemaking committee, the Department rejects the assertion that the Department acted improperly by not providing a dedicated seat at the table for civil rights groups that represent students. Section 492(b)(1) of the HEA does not require the Department to provide a dedicated seat for that constituency and believes that the interest of that constituency was ably represented by the negotiators who jointly represented both that constituency and legal assistance organizations that represent students.

Finally, the Department rejects commenters’ contention that consensus was not reached because one negotiator abstained from the consensus vote. Prior to the vote, negotiators were very clearly informed about the effect of abstaining from the consensus vote. *See*

Accountability in Higher Education and Access through Demand-Driven (AHEAD) Workforce Pell Committee, Session 2, Day 5, Afternoon, at 15 (statement of Ms. Mack)(Jan. 9, 2026)(“I would like to clarify that I will ask everyone to exhibit their thumb [in] show of consensus. If you are a thumbs up, this means you are in support of the text as we just reviewed. If you are a thumb down, that would mean that you are, in fact, blocking consensus. If you wish to give a sideways thumb, we are going to treat that as abstaining. So, it will not be in support of the text, but it will also not block consensus.”) Furthermore, the Department rejects commenters’ assertion that the negotiator who chose to abstain from the consensus vote was the product of coercion. Contrary to commenters’ claims, the negotiator who abstained did not state that her decision was coerced, merely that it was made clear that certain bargains for provisions and compromises would be lost if consensus was not reached. *See Id.* at 17 (statement of Ms. Hoffman). Rather than improper, the Department contends that this statement simply demonstrates the give-and-take nature of the negotiated rulemaking process.

Changes: None.

Earnings and Earnings Threshold (Including Responses to Directed Questions)

Earnings of Program Completers—Use of IRS Data

Comments: Many commenters asserted that the earnings calculation in the regulation would not be accurate for programs that are designed to train students for occupations that rely on tipped income, cash payments, or freelance work, all of which may go under-reported in Federal tax data. Many commenters argued that the Department should apply an earnings multiplier (whereby the Department increases the actual reported median earnings to account for unreported or under-reported income) to cosmetology programs and other programs where graduates often receive a significant portion of their earnings through tips, as a way to account for this potential under-reporting. Some commenters asserted that most tipped income was not included in Federal tax data at all, arguing that the earnings test would therefore be biased against cosmetology and other programs that prepare students for occupations that customarily and regularly receive tips.

Other commenters argued that cosmetology programs should not receive an earnings variance or

exemption from the accountability framework. These commenters explained that all tipped income is required to be reported by law, and if any under-reporting occurs, based on past research, it is a relatively small percentage—usually around 8 percent of income, according to one study.¹⁴ For those reasons, commenters argued that these programs should not be treated differently from other types of programs, stating that they should not receive an earnings multiplier, exemption, or any other special treatment.

A few other commenters argued that tipped income may be more accurately reported by tax filers after the “No Tax on Tips” policy from the WFTCA is implemented. These commenters argued that many individuals working in occupations where workers customarily and regularly receive tips do not currently fully report their tipped income. They also acknowledged that the “No Tax on Tips” provision was passed in the same law as the earnings test, and it may likely change the way that tipped workers report their tips in the future. Other commenters recommended the Department consider a “more comprehensive and equitable evaluation method” for tipped workers, proposing a delay in the implementation of the accountability framework. Noting the challenges currently associated with the reporting of tipped income, commenters specifically requested the Department delay the rule until July 1, 2028, to allow for “sufficient time to address outstanding concerns.”

Discussion: After considering the totality of feedback the Department received on the issue of unreported and under-reported tipped income, the Department has decided to delay the implementation of the accountability framework for certain programs that prepare students for employment in occupations where workers customarily and regularly receive a predominant percentage of their income through tips, in order to use earnings from the tax years when the “No Tax on Tips” policy is in effect, which began with the 2026 tax year.

The Department made this determination based on the following comments and feedback. First, commenters argued that Federal tax data may often not reflect amounts of tipped income customarily and regularly received by certain types of workers.

Conversely, other commenters argued that significant amounts of under-reported tipped income is rare and unlikely to make up a significant share of a tax-filer’s total income. However, these commenters still acknowledged that unreported tips may comprise around 8 percent of individuals’ total earnings in cosmetology and related occupations. Notwithstanding these issues identified by commenters, the Department continues to believe that the earnings data reported annually by tax-filers to the IRS are the most accurate and comprehensive information available to determine the earnings of individuals.

To address some of the situations identified by commenters and to increase the accuracy of the earnings calculations, the Department is adopting a solution suggested by some commenters: To delay the implementation of the accountability framework for certain programs that train individuals for occupations where workers customarily and regularly receive tips until the earnings of those individuals can be measured after the “No Tax on Tips” policy is in effect. Beginning in the 2026 tax year, the new policy removes the potential incentive that certain tax filers previously faced to under-report or not report tipped income. Because of this, the Department believes the accuracy of the earnings data for workers in tipped occupations is likely to increase starting in the 2026 tax year, further enhancing the precision of the IRS data.

To implement this, the Department determined the types of programs that prepare students for employment in occupations that customarily and regularly receive tipped income. For this determination, the Department used the list of occupations included in the IRS and Treasury final rule listing occupations that qualify for the “No Tax on Tips” policy.¹⁵ We then limited those occupations to those where tipping is most predominant, meaning that 50 percent or more of tax filers in these occupations reported at least \$100 in tipped income. The Treasury Department and the IRS identified occupations listed on the income tax returns (as reported on page 2 of Form 1040 next to the taxpayer’s signature) described in the prior sentence as having customarily and regularly received tips based on the percentage of taxpayers who reported at least \$100 in

¹⁴ Cellini, S.R., & Blanchard, K.J., (2022). Hair and Taxes: Cosmetology Programs, Accountability Policy, and the Problem of Underreported Income. Washington, DC: PEER Center. www.american.edu/spa/peer/upload/peer_hairtaxes-final.pdf.

¹⁵ 26 CFR part 1. “Occupations That Customarily and Regularly Received Tips; Definition of Qualified Tips.” 91 FR 19026. www.federalregister.gov/documents/2026/04/13/2026-07104/occupations-that-customarily-and-regularly-received-tips-definition-of-qualified-tips.

annual tip income within a given occupation as reported on Form 1040. The Department used the threshold of 50 percent because it is unlikely that a program's median earnings value would be significantly affected by occupations where fewer than half of individuals receive tipped income. Then, the Department linked those occupations (defined by 6-digit SOC codes) to programs defined by 6-digit CIP codes.

Ultimately, this process results in 20 fields that are associated with predominantly tipped occupations. These 20 fields are listed in Table 5.22. For programs in these 6-digit CIP codes, the Department will not apply the accountability framework in this regulation until the measurement year(s) for the earnings test includes only year(s) that the "No Tax on Tips" policy is in effect (2026 through at least 2028 under current law).

This change results in at least a one-year delay for affected eligible programs because the first cohort of students included in the earnings test are those who completed during the 2020–21 award year. These students will have their earnings measured under the regulations during tax year 2025—a year before the "No Tax on Tips" policy was in effect. During the second year the Department will calculate the earnings test, the single-year cohort covers students who graduated in the 2021–22 award year, and their earnings will be measured in tax year 2026. This year occurs after the "No Tax on Tips" policy is in effect, so programs with 6-digit CIPs matching those listed in Table 5.22 that have sufficient N-size for a single-year cohort will begin being counted as passing or failing the earnings test in the second round of calculations. However, if the program is small and requires cohort aggregation with prior years, those programs will take longer to reach a stage where their earnings premium metric can potentially lead to consequences for a failing result. For the smaller programs in this group, it may take several rounds of calculations until the program's aggregated cohort is fully comprised of completers from 2021–22 or later. These programs could potentially see up to four years with the earnings premium metric being published on an informational basis (after which point all cohorts with sufficient N-size to receive median earnings would consist of completers from award year 2021–22 or later).

The Department acknowledges that the "No Tax on Tips" policy is currently set to expire after tax year 2028. While it is likely that this provision would be extended or made permanent, should

this policy expire at a future point, the Department will continue to apply the accountability framework to these programs and will revisit the issue of data quality. This is because, as stated above, the Department continues to believe that the income data maintained by the IRS is the most comprehensive information available on individual earnings. Additionally, the Department notes that tipped income is included in Federal tax data, as it is legally required to be reported under the tax code. The IRS directs employees to keep a daily tip record, to report all cash tips to the employer (unless tips are less than \$20 per month), and to report all tips on the individual's Federal income tax return.¹⁶ Therefore, the possibility of under-reported tipped income would only occur if program graduates were unlawfully not reporting tipped income *en masse*, which is why we continue to believe the issue of under-reported tipped income is likely to be much smaller than what some commenters suggested.

The Department further clarifies that it will continue to measure and report the earnings outcomes for the programs listed in Table 5.22, though these will not be subject to the accountability framework during years where their graduates' earnings are measured in 2025 or before. The Department believes this provides important information to students about the possible earnings outcomes they may experience if they attend such programs, and furthermore, it provides colleges with information to help it gauge whether their particular programs may be likely to pass or fail the earnings premium measure once the program becomes subject to the penalties of the accountability framework during a future year.

The Department has broad authority to provide this delay under 20 U.S.C. 1221e–3, as well as from its express authority to establish and manage an appeals process for programs that do not meet the low-earnings requirements, 20 U.S.C. 1087d(c)(5). The Department anticipates if the programs included in Table 5.22 are not found to meet the low-earnings requirements, many would likely try to appeal the outcome on the basis that the 2026 tax year data does not accurately reflect the earnings of their graduates. By the time of such an appeal, the Department will have the benefit of the enhanced data brought about by tax filings made under the "No Tax on Tips" provisions, which, as stated, the Department anticipates will reflect higher earnings because more

workers in these occupations will report more of their tipped income. Given the number of programs potentially affected, these avoidable appeals could prevent the Department from adjudicating appeals from other programs in a timely, efficient manner. And because the Department cannot end a program's participation in a title IV, HEA program while the appeals processes is ongoing, this could result in many programs that have failed to meet the low-earnings requirements, and whose data the Department has no reason to believe is inaccurate, continuing to use funds for an extended period. So, the Department has determined that the appeals process can be more efficient if the Department institutes the one-year delay for the programs listed in Table 5.22.

The Department disagrees with commenters who requested an earnings multiplier for cosmetology programs and other types of programs that prepare students to work in occupations where workers customarily and regularly receive tips. As we discussed in the NPRM, the Department specifically evaluated how an earnings multiplier for cosmetology programs would impact the extent that these programs fail the earnings test in the final rule (Table 8.2). The Department's analysis showed that an 8 percent earnings multiplier to income reported to the IRS by graduates of cosmetology programs would result in only a roughly 8–9 percentage point decline in the fail rates of cosmetology programs. Instead, we believe the approach discussed above more adequately addresses the concern about the accuracy of tipped income by taxfilers. Many cosmetology programs, approximately 77 percent, will qualify for at least a one-year delay in when the accountability framework first applies (Table 5.24). The Department believes this provision addresses the commenters' concerns about unreported tipped income while also maintaining a consistent earnings premium metric and protecting students from programs that regularly leave students with low earnings after attending.

To determine which programs are designed to prepare students for employment in occupations that predominantly receive tipped income, the Department will use the following process. First, we will use the list of occupations included in the final rule "Occupations That Customarily and Regularly Received Tips; Definition of Qualified Tips" from the Internal Revenue Service and Treasury (91 FR 19026). We will then narrow the list to the occupations where 50 percent or more of workers report tipped income to

¹⁶ www.irs.gov/businesses/small-businesses-self-employed/tip-recordkeeping-and-reporting.

the IRS. Then, we will use the Department's CIP-SOC crosswalk to link occupations (defined using 6-digit SOC codes) to programs (defined using 6-digit CIP codes).

Ultimately, twenty unique programs (defined using 6-digit CIP codes) will qualify for this provision. These CIP codes and program names are listed in Table 5.22. For these programs, the Department will continue to compute and publish median earnings information and the benchmark that the program would have been compared against. However, these programs will not be held accountable for the sanctions associated with failing the earnings premium metric until the program graduates are measured using earnings from the 2026 tax year or later.

Programs would not be held accountable for results occurring prior to consequences taking effect. For example, if a program had informational metrics in the first round of calculations that would have resulted in failing the earnings premium and passed the earnings premium metric in the second round when consequences first could take effect, it would be in the same position as a non-tipped program that had passed both of the first two rounds of calculations. The tipped program would not be subject to warnings based on informational results from before potential consequences took effect.

Changes: The Department modifies § 668.402 to add a new paragraph (c)(4), which specifies that programs that are designed to prepare students for employment in certain occupations that predominantly receive tipped income, as defined under IRS regulations in 26 CFR 1.224-1(h), and in which the IRS has determined that 50 percent or more of the individuals in the occupation receive income from tips, will not be considered to have passed or failed the earnings premium measure for any award year in which the Secretary evaluates earnings data from the 2025 tax year or prior. We also specify that we will make earnings data and the earnings threshold used to calculate the earnings premium measure available to the public.

Comments: Commenters raised several concerns about how income from self-employment and independent contractors is treated in the earnings test. These include concerns that the earnings data used to assess programs does not include self-employment income, and that individuals working in certain careers (including individuals who conduct acupuncture, chiropractors, cosmetologists, massage therapists, and the fine arts) earn significant amounts of their income

from self-employment. Some commenters also noted that self-employment earnings only include earnings after business deductions, which would therefore undercount the true earnings of program graduates who earn a significant share of their income through self-employment.

A few commenters stated that the methodology explained in the NPRM would fail to capture partnership income as reported on IRS Form K-1 and the business distribution portion of earned income arising from an S-corp. Other commenters voiced concern that graduates working in gig-style employment involving cobbling together many engagements, most if not all of which fall under the reporting threshold, would show up with inaccurately low income.

One commenter indicated that they understood the Department's emphasis on maintaining comparability with ACS and were not proposing a change in the data source, but instead requested that the Department apply a methodology-based correction factor, grounded in the IRS's own tax gap research, for fields in which freelance work is the predominant employment outcome. The commenter argued that this approach would preserve consistency with ACS thresholds while addressing a known and measurable bias.

Discussion: Earnings data available to the Department through the IRS includes self-employment income from IRS Form 1040-SE records. This data includes "the sum of wages and deferred compensation from all non-duplicate W-2 forms and positive self-employment earnings from IRS Form 1040 Schedule SE (Self-Employment Tax) for each student measured."¹⁷ The IRS form 1040 Schedule SE captures self-employment income earned from a partnership and reported on form 1065 Schedule K-1, and it captures self-employment income from a sole proprietorship reported on form 1040 Schedule C. The Department acknowledges that the 1040 Schedule SE captures the net profit or loss from a business or self-employment and therefore reports income that is the net of certain business-related deductions that individuals claim.

The Department believes that the claimed possibility that some types of earnings, like earnings from partnerships and business distributions, may be missing from Federal tax data is unlikely to have an impact on median program earnings values. First, the commenter did not provide data or

evidence on the extent of this potential problem, and the Department is not independently aware of data demonstrating either that people underreport earnings from partnerships and business distributions or, if there is such underreporting, the scope of the underreporting. Even if there is underreporting, the Department believes that many individuals from the same program—usually more than half—would need to have unobserved income from partnerships and business distributions for this to influence the median value, which the Department has no evidence to support and views as unlikely.

Furthermore, the Department believes the income data that are available from Federal administrative sources are well-suited for the purposes of these regulations. Only Federal administrative sources, such as earnings records maintained by the IRS, contain such a comprehensive view of earned income. As discussed in prior versions of the Gainful Employment regulations (such as the 2014 and 2023 prior rules), earnings data reported through other channels—such as by self-reported survey data collected by colleges—are implausibly high. Issues such as recall and selection bias likely contributed to inflated earnings measures when colleges conducted surveys to gather self-reported income information. Therefore, the Department believes that if it allowed colleges to supplement earnings data through self-reported surveys to account for sources of potentially unobserved income, as the commenters requested, it would introduce another larger problem that the earnings data would likely be arbitrarily inflated due to the issues of recall and selection bias.

Additionally, while self-employment income reflects income after business deductions, the Department believes that this measure is appropriate because it more accurately reflects the income the individual has available to pay a loan, and because measures self-employment income prior to business deductions are not accurately capturing the actual income that the individual has available.

For all the reasons described above, the Department also believes that applying adjustments to earnings is unnecessary, and moreover would violate the statute's requirements. Regarding the request by one commenter to specifically make such an adjustment for individuals engaged in freelance work, we are concerned that the nature of freelance work varies greatly by profession, so applying a one-size-fits-all "correction factor" would

¹⁷ <https://collegescorecard.ed.gov/files/InstitutionDataDocumentation.pdf>.

likely result in large-scale distortion. Therefore, we decline to adopt that commenter's recommendation.

Changes: None.

Comments: Some commenters suggested that the Department should use earnings data from BLS rather than the IRS to determine whether programs would remain eligible for Federal student financial assistance. Under the proposed approach, a program would pass the earnings test if BLS data showed that a worker with a specific credential earns above the high-school or bachelor's degree tests. Similarly, other commenters noted that BLS data show that earnings for certain fields of study are higher than those the Department has cited and reported using data from the IRS.

Discussion: The Department does not have the statutory authority to use earnings data from the BLS when measuring earnings for degree programs as the commenters requested. The earnings data from the BLS are based on the earnings of all individuals who have a certain level of educational attainment and who work in a certain industry. However, the statute clearly requires that the earnings data be based on individuals who graduate from specific degree programs. Therefore, data from the BLS do not satisfy the statutory requirements to determine the median earnings measure of graduates from each program as outlined in Section 84001 of the WFTCA.

The Department further notes that the observed differences between the earnings data in the PPD:2026 data that the Department released and the BLS data stem from a difference in what these two sources attempt to measure. Whereas the PPD:2026 data measure earnings for all individuals who graduate from specific programs, regardless of the industry they enter four years after completion, the BLS data cited by the commenters measures the distribution of earnings for individuals who successfully work in a given industry, irrespective of their path into the industry or the stage of their career. We do not believe it is appropriate to evaluate a postsecondary program on the basis of the earnings of individuals who were not enrolled in that program and who are successfully employed, as this would not recognize any impact by the postsecondary institution on the student's employment success.

Changes: None.

Comments: One commenter requested the Department incorporate safeguards or complementary measures that account for variability in earnings realization and reporting to improve the

accuracy and fairness of the framework while maintaining administrative flexibility.

Discussion: The Department thanks the commenter for their feedback, but without a concrete suggestion, it is difficult to come up with further ideas for what those improvements might be. We would note, however, that the statutory framework's use of two failures in three consecutive calculations for a program to reach the low-earning outcome designation would protect programs having uncharacteristic outcomes occurring in a single year.

Changes: None.

Comments: One commenter suggested supplementing IRS data with payroll-based sources such as the National Directory of New Hires or State Unemployment Insurance (UI) wage records, where data-sharing agreements are permitted. The commenter felt the alternative payroll data captured earnings closer to real time and with greater accuracy for wage earners than annual tax filings.

Discussion: The Department thanks the commenter for their suggestion, but we believe that data from the IRS is currently the best available data for these purposes. The data is measured after sufficient time has passed for the IRS records to be compiled and validated, so the use of prior real-time data would not provide the enhancement that the commenter describes. Requiring earnings data from a Federal source is consistent with prior approaches and provides both statistical reliability and the option to use a different Federal source in the future should operational needs arise. Furthermore, the Department is concerned that supplementing the earnings data from the IRS with other sources of income, such as State UI data, will create a significant burden on the Department and would likely be infeasible given the privacy protocols of other agencies.

Changes: None.

Comments: Several commenters stressed concern with which income or tax return line items would be used when calculating median earnings and the real differences that can exist when reporting income for different comparison groups due to occupational variances. As an example, if using the adjusted gross income (AGI) as a measure of income, there are several occupations that due to self-employment or freelance work, are able to claim legitimate deductions that will reduce taxable income thus reducing the formal AGI reported.

Several commenters noted that for the creative workforce, disproportionately composed of sole proprietorships and independent contractors, income would be drawn from Schedule C after legitimate business expenses have been deducted. These commenters believed that this would be an unfair net profit vs. gross income penalty since an artist's direct receipts would be reduced by the costs associated with inputs such as rent, materials, and equipment.

Discussion: The Department will not be directly using AGI because that number is shaped by household choices, such as directing funds to a tax-advantaged retirement account or to a health savings account, but the Department will be sourcing reported earnings from IRS data.

While self-employed individuals have some amount of discretion in how to allocate funds that employees do not, such as moving to a less expensive office to free up more funds for household income or accepting lower household income to cover investment in new equipment, funds allocated to business expenses are not available to cover household expenditures or savings. These expenses are not considered income.

Change: None.

Comments: One commenter requested that the definition of earnings be revised to include self-employment and gross business revenue. Their proposed language would change § 668.2(b)'s definition of earnings to read "For the purposes of Subparts Q and S of this part, wages, income as reported to the Internal Revenue Service, and other earned income, including self-employment and gross business revenue."

Discussion: The Department declines to adopt this definition, and notes that using gross business revenue would result in a massive distortion of an individual's earnings and funds available for living expenses, debt repayment, and other expenses, and would certainly not represent an earnings boost from an educational credential. Gross business revenue includes the prices of any inventory sold, or costs of other inputs, and counting this as part of an individual's income could have a drastically misrepresentative multiplicative effect on the amount stated. For example, if an individual sold goods purchased for \$950,000 at a markup, receiving \$1,000,000, their gross revenue would be \$1,000,000 and their profit would be \$50,000 (minus any additional expenses); claiming the \$1,000,000 as income would be inappropriate.

Changes: None.

Comments: Several commenters expressed concerns that occupations compensated with housing allowances, such as many ministerial vocations, will not have their full earnings factored in when evaluating IRS income data because, though listed on W-2s, housing allowances are not reported as part of taxable income since they are excluded before the IRS calculates taxable income. One commenter also requested an alternative earnings metric covering all elements of the compensation structure for clergy and religious workers, including housing allowances, in-kind benefits, and stipend arrangements.

One commenter mentioned that it is a common experience for early career artists to work in residencies that provide room and board which can last from two weeks to a full year. This commenter indicated that these benefits dramatically impact the income required by an artist to live and create that gets reported to the IRS.

One commenter recommended including all earned income regardless of whether such compensation is taxed, including non-monetary or in-kind compensation from the employer such as food, lodging, use of a company car, etc.

A couple of commenters also requested that the Department clarify if, or how, certain types of compensation for physician residencies such as housing stipends, meals or education will be factored into the earnings measurement to ensure all appropriate income is fully captured. The commenters indicated that these issues highlight concerns that certain program completers will not have their full income compensation used when comparing earnings to the benchmark earnings causing potential discrepancies.

Discussion: The Department carefully considered possibilities recommended by commenters and reached the decision to limit earnings to forms of monetary compensation, as these are fungible earnings available to cover household expenses and loan repayments and to otherwise be directed by the recipient.

Housing stipends are unlikely to be observed in Federal tax data used by the IRS to compute program earnings. However, the Department believes these data are still the best available data to determine program earnings. While the Department acknowledges that occupations where non-taxable allowances are common may affect how earnings appear for individuals, developing or mandating new data collections would be burdensome for

institutions and would introduce significant variation that could undermine comparability across programs. Furthermore, for the reasons discussed in prior comments about tipped and self-employment income, the Department views administrative data from Federal agencies with earnings data as the highest quality data that currently exist that could be utilized to fulfill the statutory requirements. Alternative sources of income data, such as data collected through self-reported surveys conducted by colleges, would likely produce inflated earnings values due to issues of selection bias and recall bias.

Changes: None.

Comments: One commenter stated that they believed the description in the regulatory text was inconsistent with the discussion in the NPRM's preamble guidance as to how earnings would be sourced. The commenter believed that the regulatory definition of earnings as "wages, income as reported to the Internal Revenue Service, and other earned income, including from self-employment" is inconsistent with the preamble's clarification that earnings would be defined as "wages, and other earned income as reported to the IRS, including net income reported from self-employment. This does not include other forms of income (whether taxed or untaxed)." The commenter stated that the latter frames the calculation as one that excludes any income not reported to the IRS regardless of whether it is earned.

Discussion: The Department does not view these as inconsistent. In both cases, the Department has expressed its view that earnings information will be sourced from data held by the IRS.

Change: None.

Graduate Earnings—Alternative Data Sources

Comments: One commenter stated that it is incumbent upon the Department to review the school-conducted earnings surveys submitted in 2018 under the 2014 Gainful Employment rule as a means of evaluating the accuracy of government-reported income.

Discussion: The Department disagrees with this commenter's recommendation. Small samples taken by schools without any means of controlling for non-response bias and other sources of statistical distortion are not an authoritative source to evaluate whether tax data, covering all individuals and required by law to be reported truthfully, are accurate.

Changes: None.

Graduate Earnings—Adjustments

Comments: One commenter requested that the Department adjust wages for certain occupations, such as chiropractors, who are often forced to accept lower fees in order to be included in various State or private insurance networks.

Discussion: We thank the commenter for raising their concern; however, the statute does not allow the Department to individually adjust earnings for particular occupations or academic programs. In our effort to harmonize across all eligible title IV, HEA programs, we want to ensure all students and programs are treated as consistently as possible when calculating an earnings premium measure.

Changes: None.

Comments: Many commenters expressed concern that the earnings test does not account for the race or sex of program graduates, noting that certain groups of individuals may experience challenges in the labor market that impact their earnings outcomes. Consequently, commenters expressed that this would unfairly penalize certain programs who serve marginalized or disadvantaged groups.

Discussion: The Department disagrees with commenters who requested to adjust program earnings based on the characteristics of program completers, such as student race/ethnicity and sex. First, several studies have found that, after controlling for State location and program, that differences in the compositions of students in programs are unrelated to the program earnings outcomes.¹⁸ This research contradicts the commenters' assertion that programs serving different types of student populations—such as Black and Hispanic populations—will be unfairly treated under the earnings test. Second, the earnings benchmark also includes individuals from a variety of different racial/ethnic and sex categories. This will likely mitigate the extent to which programs are penalized based on the composition of students they serve, because the geographic area and population they are compared against will likely contain a similar mixture of

¹⁸Christensen, C., (2024) Unintended Consequences of an Earnings-Based Accountability Test for Master's Degree Programs. Washington, DC: Urban Institute. January 2024. www.urban.org/research/publication/unintended-consequences-earnings-based-accountability-test-masters-degree; Christensen, C., & Turner, L.J., (2021). Student Outcomes at Community Colleges: What Factors Explain Variation in Loan Repayment and Earnings? Washington, DC: Brookings Institution. www.brookings.edu/articles/student-outcomes-at-community-colleges-what-factors-explain-variation-in-loan-repayment-and-earnings/.

characteristics. In effect, the Department believes this “nets out” any potential influence that such factors would have on program outcomes. Third, the Department may not treat programs differently based on the racial composition of their students. Absent (at the very least) any findings that the Department had discriminated against students on the basis of race in the title IV, HEA program and that this course of action would rectify that discrimination, any consideration of race would violate the students’ Equal Protection rights. *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 205 (2023). The Department believes that preferencing or penalizing programs for the immutable characteristics of students would likely violate Civil Rights law, which we decline to do.

Changes: None.

Comments: One commenter suggested that the Department consider whether annualized earnings measures could be supplemented with quarterly earnings data to capture short-term post-completion gains that the annual snapshot may obscure, especially for students enrolled in nonstandard programs with rolling start dates who complete programs at various times throughout the award year.

Discussion: The Department believes that the commenter may be misunderstanding the time frame under which earnings are measured. The Department looks at earnings for students who completed the program four award years prior to the calendar year from which we source earnings, allowing time for students to finish their programs, find jobs, and become established in their career. The short-term gains the commenter describes would not be as relevant by that point, and the timing with which students graduate within the July-June award year would not have the materiality the commenter cites.

Changes: None.

Comments: One commenter asked the Department to “expand § 668.2(b) earnings definition to include Schedule E income—royalties, licensing, and performance residuals—which represent another post-graduation revenue stream for working film, music, and literary professionals.”

Discussion: The Department declines the commenter’s request for several reasons. First, the request is not feasible, as the data maintained by the IRS is not positioned to observe this type of income. Second, the Department believes this type of income is relatively rare and is unlikely to influence the overall median earnings value of a

program. A large share of individuals from the same program would need to receive royalties and licensing income, which seems implausible. Third, the Department continues to contend that the income information maintained by the IRS, which includes W–2 income and 1040 self-employment income, is the best and most comprehensive income information available.

Furthermore, income from royalties that is earned through self-employment is captured on form 1040 SE, which is included in the earnings information provided by the IRS to the Department. Income earned from royalties reported on other IRS forms (such as form 1040 Schedule E) are more similar to investment or passive income than employment income, which the Department believes should be excluded from the earnings measure.

Changes: None.

Comments: One commenter recommends that the Department adjust the earnings definition for self-employed graduates to use gross receipts or measures based on the Current Population Survey (CPS) or to adopt a longer multi-year measurement window analogous to Social Security benefit calculations, to mitigate the structural downward bias in IRS administrative data for independent-practice professions.

Discussion: Gross receipts include items such as business expenses that cannot be reasonably interpreted as income. CPS measures are not specific to a program’s exact completers and would therefore not fit with this framework. The statute requires us to source earnings covering one calendar year, but we would point out that in the case of small programs such as the commenter mentioned, the fact that completers are sourced from different years to complete the cohort will also mean that earnings from different calendar years are being covered.

Change: None.

Comments: One commenter indicated that artists often participate in a barter economy, exchanging services and creative product for other goods and services, which would dramatically impact the income required by an artist to live and create that gets reported to the IRS thus artificially lowering their median earnings as compared to benchmark earnings where the majority of income is fully reported to the IRS.

Discussion: The Department thanks the commenter for this information, but there is no viable way for us to incorporate it. Earnings derived from the barter economy are not captured on the IRS’s W–2 earnings or 1040 self-employment reporting. The IRS data are

the best and most accurate income information available and attempts to otherwise capture this data (such as through institution-constructed surveys) would introduce bigger problems, including non-response bias, social desirability bias, and recall bias. Any of these would make our data less likely than the IRS’s records, not more accurate. We do believe that this type of income is likely to be rare, or not on a large scale, making it unlikely to influence a program’s median earnings value.

Change: None.

Earnings Threshold—Data Source

Comments: A few commenters suggested that it was unfair that both baccalaureate degrees and undergraduate certificates were being compared to a threshold based on working adults with only a high school diploma, with one claiming that this was the equivalent to comparing a graduate of a highly selective institution with a baccalaureate degree in a more lucrative science field to a graduate of a cosmetology certificate program. The commenter suggested instead comparing undergraduate nondegree programs to a group with proportionately lower earnings, such as working adults without a high school diploma. One commenter suggested creating a special group for nondegree certificate programs tied to state licensure.

Discussion: The use of an earnings threshold comparing completers of undergraduate-level degree programs to individuals with only a high school diploma is a statutory requirement; therefore, the Department does not have the authority to change this comparison for degree programs. In order to provide high school graduates seeking higher education with meaningful and comparable data across program types, we need to use a harmonized and standard comparison for undergraduate-level programs. We would point out, however, that the metric is designed to approximate the change in earnings from pursuing a career after earning a higher education credential versus solely with the education level a student would have before. Not only do students in undergraduate certificate programs most commonly enter their programs after earning a high school diploma or equivalent, but receipt of title IV, HEA funds usually requires a high school diploma or equivalent for eligibility, with few exceptions. In this context, working adults without a high school diploma or equivalent would not be a meaningful comparison group. It sounds as though the commenter requesting a comparison group tied to state licensure

would want a comparison to the earnings of other licensed professionals instead of to individuals with only a high school degree, which would likely set a higher threshold and regardless would not meet the requirements of the statute.

Changes: None.

Comments: The Department received comments in response to its directed question in the NPRM regarding limitations with the ACS when calculating one of the graduate-level earnings thresholds described in Section 668.2(b), specifically the “same-state, same-field bachelor’s degree median earnings benchmark” (Table 5.5). Some commenters believed that the policy proposed in the NPRM would unfairly harm these graduate programs, which are more likely to be in rural areas and in specialized fields.

Some commenters suggested that the Department should exempt these programs from the earnings test. Other commenters suggested that the Department partner with the Census Bureau to obtain statistical estimates that could serve as the earnings threshold for bachelor’s degrees in the same field of study, or that the Department should conduct a full analysis of its own administrative data to determine which undergraduate fields feed into each graduate credential and use those to define the threshold instead.

Discussion: The Department believes the commenters are correct that, in some instances, it may not be possible to calculate the median earnings of working adults aged 25–34 with a bachelor’s degree in the same field of study (defined using 2-digit or 4-digit CIP codes) in the State in which the institution is located and who are not enrolled in college. In some cases, especially in uncommon graduate fields of study and in less-populated states, the ACS may not sample any individuals (or only a very small number of individuals) who meet all of these criteria. We estimate ACS data are unreliable for approximately 2,650 graduate programs.

The Department agrees with the commenters who stated that it is necessary to avoid unfairly comparing certain graduate programs to the lower of two earnings thresholds, when the statute calls for these programs to be compared to the lowest of three earnings thresholds. The Department considered the suggestions it received about working with the Census Bureau to produce more detailed earnings estimates, but we believe that obtaining such estimates from the Census Bureau would significantly increase the

administrative burden for the Department.

Therefore, in cases where the ACS data are unreliable, the Department will amend Section 668.2(b) to use a value of \$1 for the “same-state, same-field of study” earnings threshold. The Department will use \$1 because it has no reliable way to determine the income of individuals who should be included in the calculation for this particular earnings threshold, and therefore uses the smallest possible value that working individuals could earn during a year—one dollar. This safeguards graduate-level programs from being held to an unfairly high threshold if they are at an institution where at least 50% of enrolled students come from the State of the main campus and if the data for their field of study has an insufficient n-size in the ACS data.

The Department will use this earnings threshold value for programs where there are fewer than 16 individuals who meet the criteria to be included in the “same-state, same-field” earnings threshold. This aligns with sample size criteria used by the Department and other Federal agencies for the purposes of protecting student privacy. Furthermore, we believe that calculating a median earnings value based on fewer than 16 individuals would be unreliable and arbitrary.

Changes: The final rule adjusts the language in § 668.2’s definition of earnings threshold under paragraph (3). This paragraph now specifies that for States where the Census Bureau data necessary to perform the calculations set forth in subsections (1) and (2) are not available, the earnings threshold will be one dollar. As a conforming change, we also struck the language in 34 CFR 668.402(c)(3), which indicated that the Department would not calculate an earnings premium in cases where there no earnings threshold could be determined. The change to the earnings threshold definition obviates this provision.

Comments: One commenter voiced concern with the methodology behind the use of same-field comparison groups to construct the earnings threshold and how individuals with graduate degrees might affect the earnings threshold in different subject areas. They incorrectly stated that the earnings threshold would consist of students who earned a bachelor’s degree or higher, and listed an example with a respondent with an undergraduate degree in history and a law degree, claiming that individual would pull up the earnings statistics for history bachelor’s degrees, leading to problematic comparison groups for graduate-level programs in history when

the bulk of the individual’s earnings stem from their studies in the legal subject area.

Discussion: The commenter misdescribes how ACS data works. The ACS asks individuals to answer with the highest level of education they have attained. While all individuals with at least a bachelor’s degree are asked to name their bachelor’s degree major in a separate question, the category for individuals whose highest level of education is a bachelor’s degree strictly pulls individuals whose highest level of education is a bachelor’s degree. Joining a higher-level category would mean departing the lower-level category. The individual in the commenter’s example would not be counted in ACS data as an individual holding only a bachelor’s degree in history because they hold a higher degree than a bachelor’s degree, and therefore, would not impact ACS statistics for individuals holding only a bachelor’s degree.

Changes: None.

Comments: Some commenters requested that the Department not use the ACS data when calculating the earnings benchmarks for programs. Commenters expressed that this data is not granular enough to implement the statutory requirements of the WFTCA, and instead proposed that the Department delay implementing the regulations until such a data source exists.

Discussion: The Department rejects the commenter’s request. Congress directed the Department to use a dataset maintained by the Census Bureau for this calculation. Presumably, Congress was referencing the ACS because it is the only data set that is updated annually and that is granular enough to calculate the specified earnings benchmarks.

The Department does note, that in response to some commenters’ suggestions, that it has modified the final rule (see “*Discussion*” and “*Changes*” related to the changes above) to exempt such programs where ACS data are unreliable to produce a particular benchmark. Specifically, certain graduate level programs at institutions that enroll a majority of students from in-state will be exempted from the earnings test if they are offered in a State and field where ACS data are not granular enough to produce the “same-state, same-field earnings benchmark” among bachelor’s degree-holders. The Department believes this modification alleviates the commenters’ concern about the ACS data not being granular enough to implement the policy, while also allowing us to move forward with implementing the earnings

test for all other programs for which data are available.

Changes: No changes directly relate to this comment, but see other changes pertaining to States where no earnings threshold is available referenced above.

Comments: Several commenters voiced concern that the data used from the ACS would be insufficiently accurate to construct the earnings threshold, citing the fact that ACS uses voluntary self-reported data for earnings as opposed to tax data reported under legal obligation. Concerns were raised that using two fundamentally different data sources (treatment-group earnings from IRS and comparator-group earnings from the ACS) for a binary pass/fail regulatory determination falls short of the experimental design standards reflected in the Department's own What Works Clearinghouse Procedures and Standards Handbook (Version 5.0, 2022) [14].

Several other commenters expressed concern with using the ACS data as the primary source for the earnings benchmarks because they argue the data may be unreliable. These commenters noted that the ACS data is limited because it often has wide confidence intervals and may suffer from non-response bias, both of which may result in earnings values being overestimated in the ACS. One commenter alleged that self-reported earnings may be inflated. Another commenter requested an across-the-board "haircut" to all of the earnings thresholds to offset these perceived weaknesses in the ACS.

Discussion: Individuals selected by ACS are legally obligated to answer all of the questions as accurately as they can under Title 18 U.S.C 3571 and 3559, so those questions are also completed under legal obligation. The Census Bureau also has methods to combat nonresponse bias, including mailing reminders on a broad scale and conducting telephone or in-person interviews for a targeted sample. Moreover, as discussed in more detail throughout this document, the WFTCA requires the Department to construct the earnings threshold using data from the Census Bureau.

In response to the commenter pointing out that the framework's approach does not match experimental standards, the Department points out that the framework established by Congress is not an experiment. We are not working with a control group or a treatment group; we are working with a comparison mandated under statute according to criteria set by Congress. Additionally, the Department disagrees with the commenters' assertions about the quality of the ACS data. The ACS

data are among the highest quality, nationally-representative datasets maintained by the Census Bureau. These data are routinely assessed for their quality and accuracy. Furthermore, the commenters did not provide or suggest an alternative dataset that they thought was stronger than the ACS. For these reasons, we disagree with the commenters who question the accuracy of the ACS data and those who requested that the ACS data be downwardly adjusted to account for its potential weaknesses.

Changes: None.

Comments: One commenter voiced the opinion that the margin of error and any additional statistical noise in the ACS make it an invalid source of data for the earnings threshold. This commenter also stated a belief that WFTCA requires the use of median earnings and not an estimate of median earnings in constructing the earnings threshold, and that a true median can only mean the exact midpoint of a complete distribution taken from full population data.

Discussion: The Department disagrees. Any survey using sampling will have some margin of error. Congress would have been aware of the impact of margin of error and statistical noise when drafting the WFTCA, and it still decided to specify the use of Census data in its requirements for the earnings threshold. WFTCA specifies that the data for incomes should be based on data from the Bureau of the Census, and as discussed in more detail earlier in the document, the ACS is the only dataset held by Census that matches the specifications set by Congress. Congress did not specify whether a population median or a sample median should be used in constructing the earnings threshold, but since they stated it should be sourced from datasets maintained by the US Census, the only reasonable conclusion is that they believed a sample median derived from the ACS would suffice for median earnings used in calculating the earnings threshold.

Changes: None.

Comments: Many commenters argue that the high-school earnings benchmark will inadvertently include individuals with undergraduate certificates, skewing the earnings benchmark higher than intended. They note that ACS treats individuals with apprenticeships, certificates, vocational training, or other types of workforce preparation beyond high school as having completed only a high school diploma as their highest level of education. Some commenters pointed to information from the Census Bureau

that says vocational degrees are generally not included as a category of educational attainment because these credentials are "not part of the regular collegiate system" and that respondents are instructed to "exclude vocational degrees as a level of schooling."

One commenter further extended this analysis to note that individuals with a graduate-level certificate but no graduate-level degree are categorized in ACS data as only having a bachelor's degree, potentially raising values used in the earnings threshold for graduate-level programs.

Discussion: The Department acknowledges that, in some instances, individuals the ACS categorizes as having only a high school diploma may have undergraduate certificates, as the survey is at times unclear about how these credentials are treated in the data collection. The Department does not believe, however, that the ambiguities in the survey would systematically categorize survey respondents who hold certificates as having only a high school diploma.

While some commenters argue that the ACS technical documentation instructs respondents with an undergraduate certificate to select a high school diploma as their highest level of education, the Department notes that the documentation is far from clear on this matter and it does not define key terms that would ensure that respondents complete the survey as commenters claim. For example, ACS technical documentation related to these issues uses the terms "vocational degree" and "trade school" and "regular collegiate system" but does not define these terms nor does it explain if these terms encompass a 1-year undergraduate certificate offered at a public community college.

The Department believes the ACS data are the best and only available dataset for assessing the typical earnings in each state of individuals aged 25–34 whose highest level of education is a high school diploma and who are not currently enrolled in college. This is because the ACS is the only annual dataset maintained by the Census Bureau that contains all the needed individual-level data elements to compute these calculations. Ultimately, to the extent that the education level of individuals in the ACS is misclassified, the Department contends that this dataset remains the only one available in which the statutory and regulatory requirements could be fulfilled. The commenters did not identify or suggest an alternative source of data that the Department could use to construct the high-school earnings threshold.

The Department also received comments citing analyses that suggest any effects of the misclassification of certificate holders in the ACS would be insignificant and unlikely to affect the earnings benchmark. The commenters note that alternative Census Bureau data sources show that only about 9 percent of high school diploma holders also hold an undergraduate certificate and that while their earnings are higher than their peers with only a high school diploma, the difference has a negligible effect (about \$200) on the median earnings of the combined group. The Department verified these findings after conducting its own analysis of data from the Census Bureau's 2024 Survey of Income and Program Participation. For this reason, the Department believes that the ACS's treatment of undergraduate certificates would only have a de minimis impact on the earnings benchmarks produced using the ACS data.

The Department similarly believes that the impact of individuals holding a graduate-level certificate but no graduate-level degree potentially being included among individuals with only a bachelor's degree in the median earnings calculation is de minimis.

Changes: None.

Comments: One commenter stated that the Department's use of the 5-year pooled ACS data instead of single-year ACS data means that the resulting earnings thresholds are a temporal mismatch to program earnings data taken from the fourth calendar year following a student's program completion. The commenter voiced concern that this pooled estimate may differ substantially from a single-year benchmark.

Discussion: The Department is using the 5-year pooled ACS rather than the 1-year ACS out of necessity since the 1-year ACS will often have too few respondents to calculate all of the earnings thresholds called for in the statute. This data will be adjusted for inflation (using the CPI-U) to make comparisons fair. Many completion cohorts will also be taking data from several years, so we do not believe it will be a temporal mismatch as the commenter states. Most importantly, the use of 5-year pooled data helps smooth year-to-year fluctuations, protecting program metrics from some of the impact of fluctuations, which we believe will benefit schools.

Changes: None.

Comments: A few commenters requested that the Department take a hybrid approach to the 2-digit CIP level ACS data in the "same field of study" earnings threshold amounts used to

evaluate graduate-level programs. In such a structure, the 2-digit CIP level data from ACS would be supplemented with 4-digit CIP level from the Department's own program-level earnings data (such as College Scorecard data and IRS-matched NSLDS earnings) to scale the earnings threshold for a 2-digit CIP program area up or down by a prorated percentage based upon earnings in their 4-digit CIP sub-field, so that programs in lower-earning sub-fields would be held to a lower benchmark and programs in higher-earning sub-fields would be held to a higher benchmark.

Another commenter suggested a similar approach, but with a plus or minus 25 percent cap. One commenter suggested that if a benchmark adjustment is not possible, use the 4-digit CIP data where available and 2-digit CIP data only when necessary.

Discussion: The Department thanks the commenters for their idea, but program level data sourced from IRS matches to data from NSLDS could not be adapted to statewide or nationwide medians at the 4-digit CIP level because the IRS does not return data for individual students; they return the median earnings for a program's completers anonymously and in the aggregate.

The Department also disagrees with the commenters' suggestion to match earnings data from the ACS to College Scorecard data to scale the earnings threshold values. The statute calls on the Department to use data from the Census Bureau for the calculation of the earnings thresholds, and the College Scorecard is maintained by the Department of Education. Therefore, the Department believes that it would be inappropriate to alter the Census Bureau data using additional datasets from the Department of Education, as the commenters request.

Furthermore, the Department believes the commenter's suggestion to use the College Scorecard data to scale the earnings of certain fields in the ACS data based on the percentage of individuals in 4-digit CIPs would not be feasible due to the high number of privacy-suppressed fields in the College Scorecard.

Changes: None.

Comments: One commenter suggested the use of the Census Bureau's CIP-PUMS crosswalk for the field-of-study comparison group for the earnings threshold for graduate-level programs, stating that the Public Use Microdata Sample (PUMS) could provide field-of-study data at a level of aggregation more granular than 2-digit CIP codes but less granular than four-digit CIP codes,

providing 200 field groupings as opposed to dozens of 2-digit CIP instructional families and over 400 four-digit CIP codes.

Discussion: The Department declines the commenter's suggestion to use a hybrid field-of-study category that falls somewhere between the granularity of the 2-digit CIP code and 4-digit CIP code level. The ACS does not contain more granular field of study information beyond the 2-digit CIP classifications. The Department is concerned that any attempt to estimate the particular fields that individuals graduated from using a crosswalk (such as the CIP-PUMS crosswalk) based on their field of employment would result in making arbitrary estimations, as we do not actually have any information about the particular field of study an individual graduated from. As discussed above, using more granular field-of-study classifications also increases the possibility that more programs will have insufficient N sizes to calculate the "same-state, same-field" earnings threshold, and the Department is concerned about exempting additional programs because of this data limitation. For these reasons, the Department will use two-digit CIP classifications for the purpose of determining the same-state, same-field earnings threshold.

Changes: None.

Comments: One commenter stated that BLS data are inappropriate for use in constructing the comparison statistics used for the earnings threshold, explaining that BLS wage estimates rely on payroll data that exclude the self-employed.

Discussion: The Department is required under the statute to use data from the Census Bureau to determine earnings thresholds. Therefore, we are not considering using BLS data for the earnings thresholds.

Changes: None.

Comments: Many commenters expressed concern about the Department's method for classifying field of study categories to calculate the "same field of study" earnings thresholds for graduate programs. Commenters noted that the Department's approach, grouping fields using 2-digit CIP codes, may obscure meaningful differences between programs with distinct training pathways and labor market outcomes.

Discussion: The Department disagrees with the commenters' concern. The American Community Survey (ACS) identifies bachelor's programs using 2-digit CIP codes, meaning the Department would be unable to produce a more-granular definition for "field of study" as recommended by several

commenters. The Department believes that grouping programs based on common 2-digit CIP codes is necessary so that appropriate sample sizes can be achieved. The Department also notes that the use of the median value (rather than the mean) reduces the concerns raised by commenters that this method would obscure meaningful differences across programs.

Changes: None.

Earnings Threshold—Characteristics of Working Adults

Comments: Numerous commenters argued that the proposed rule would arbitrarily penalize certain programs because the earnings test does not distinguish between full-time and part-time employment when calculating the median program earnings value. For example, some commenters explained that part-time work is temporary while building a clientele in some occupations, while others pointed to situations where individuals choose to work part-time work to accommodate family obligations. Because of this, commenters expressed concern that the earnings test would disproportionately impact programs whose graduates go on to work part-time at high rates. Commenters argued that it is inappropriate to compare the earnings of part-time workers to the earnings of full-time employees. Some commenters advocated that the Department incorporate a tiered system that scales program earnings based on the share of part-time workers in the program. Several commenters similarly suggested adjustments to compensate for completers who may experience gaps in employment due to temporarily leaving the workforce for family responsibilities.

Discussion: Both the earnings of program completers and the counterfactual earnings benchmark include full-time and part-time workers, which the Department believes will roughly cancel out for most programs. Because of this, the Department disagrees with commenters who assert the rule will unfairly impact programs who enroll graduates that go on to work part-time. Additionally, the Department notes that the program earnings value is based on the median earnings of workers. Programs would have to have unusually high levels of students who go on to work part-time for the program's median earnings value to be negatively skewed by these workers.

Furthermore, the Department is unable to scale earnings in the manner requested by some commenters because employment status and hours worked is not reported on the wage records with

the IRS and therefore do not allow us to distinguish between full-time and part-time workers. In the Department's view, including an exemption or differentiated test for the lower earnings of part-time workers would undermine the purpose of the earnings test, which is to determine if the credential leads to sufficient earnings to justify the Federal investment and to allow the graduate to afford the loans they borrowed.

Additionally, the Department does not have the authority to differentially scale the earnings for degree programs that may enroll students who go on to work part-time. The earnings test outlined by Congress in Section 84001 of the WFTCA specifies that the median earnings value for programs is based on the earnings of *working* individuals, which is inclusive of both full-time and less-than-full-time workers.

Changes: None.

Comments: One commenter suggested that the Department use BLS information for average weekly hours by industry, crosswalk it to occupational SOC codes and program-level CIP codes and make proration adjustments to scale reported earnings up to full-time equivalents.

Discussion: The median earnings returned to the Department by the IRS are returned anonymously and in the aggregate. As previously mentioned, the Department has no way to know the hourly workload corresponding to the earnings of the individual at the median value for a program's completers, and such an adjustment could very well be misleadingly multiplying income already earned from full-time work. Regardless, the calculation is designed to evaluate whether a program's completers are actually earning enough to justify continued loan eligibility for the program under the framework's standard, not what they hypothetically could potentially be earning.

Changes: None.

Earnings Threshold—Geographic Scope of Data

Comments: Many commenters emphasized that the earnings threshold fails to take regional wage differences into account, potentially comparing earnings of graduates in an area with lower wages and lower cost of living to higher statewide or national median figures. Examples often cited were rural geographic areas as compared to more urban or metropolitan regions or comparing median income from individuals living in the same county or city. One commenter stated that these effects are heightened by online and multi-location students. Another commenter requested that the

Department allow institutions the flexibility to choose which State its students are considered to be from when the institution is from a geographically small area extending beyond one State border.

Other commenters stated that the economies in some rural areas fluctuate more than other regions, which would adversely impact programs in these areas. Several commenters mistakenly asserted that the Department entirely ignored how the regulation would impact programs in rural areas.

One commenter cautioned that unique characteristics of local labor markets could create misleading results. Some commenters suggested that the Department should account for regional economic differences in determining the earnings threshold. One commenter pointed out that whether graduates choose to live and work in higher paying urban labor markets is a graduate decision beyond the school's control. Several commenters pointed out that Tribal economies often differ substantially from surrounding regional labor markets as well.

Discussion: The Department specifically considered the impact of the proposed regulation on programs in rural areas. The Department's analysis (Table 5.10) shows that the proposed regulation would result in a slightly higher share of failing programs (3.9 percent vs. 3.4 percent) and students (1.8 percent vs. 1.3 percent) in rural areas relative to the current regulation. This is due to the statutory requirement to hold all programs accountable for their earnings, including programs at public institutions. Many programs at public colleges were previously exempt from the current accountability framework. Including these programs results in a marginal increase in the share of programs and students in rural areas that will be impacted by the regulation because many programs in rural areas are offered by public institutions.

The Department disagrees with the commenters who stated that short-term labor market fluctuation would adversely impact rural programs. Programs must fail the earnings test in two out of three consecutive years. Therefore, a one-year labor market fluctuation will not result in any program losing access to title IV, HEA programs.

The Department also clarifies that the earnings test for undergraduate-level programs compares the earnings of program graduates to the earnings of individuals with only a high school diploma in the same State (assuming the institution enrolls a majority of its

students from the state where the institution is located). Therefore, the earnings benchmark will include the earnings of rural, urban, and suburban individuals in the same State who have only a high school diploma. While this sometimes results in a rural program being compared against the earnings of individuals from different geographies, the Department notes that this requirement is predicated on the highly specific statutory requirement outlined in Section 84001, where Congress explicitly instructed the Department on how the earnings test would be conducted.

The Department further notes that Congress included regional variations and adjustments in other parts of the WFTCA, such as the provisions for Workforce Pell Grants, and chose not to include such an adjustment for the earnings test in Section 84001. Therefore, the Department concludes it was not Congress's intent to account for regional differences in the earnings accountability framework.

The Department also analyzed the impact of the regulation on Tribal Colleges and found that the regulation would not increase the impact on these institutions relative to the baseline regulation (Table 5.10). Thus, the Department disagrees with commenters who suggested the regulation would negatively impact Tribal Colleges.

Changes: None.

Comments: One commenter suggested that using State-level data by CIP code to establish an earnings threshold for working adults with no more than a high school diploma would lead to artificially inflated earnings thresholds in States where particular areas of defense manufacturing may be in high demand.

Discussion: The commenter incorrectly describes the use of State-level data broken out by CIP code to construct an earnings threshold, which is not applied to working adults with no more than a high-school diploma as the commenter states. Earnings thresholds used to evaluate undergraduate programs use median earnings for working adults aged 25–34 with only a high school diploma either from the State in which the institution is located or nationwide, depending on the institution's enrollment makeup, but they are not disaggregated by CIP code.

The issues described by the commenter do not appear to be ones that would apply in the case of groups of adults with no more than a bachelor's degree being used to construct the earnings threshold for graduate-level programs. However, even in the case when field-of-study data comes into

play for evaluating graduate-level programs, the Department still uses the lowest median earnings to construct the earnings threshold. If working adults aged 25–34 with only a bachelor's degree in a graduate program's 2-digit CIP field of study have a higher median earnings than working adults aged 25–34 with only a bachelor's degree as calculated under the other earnings benchmarks, the (lower) median earnings not targeted to a specific CIP code would be used to evaluate the program. If working adults aged 25–34 with only a bachelor's degree in a graduate program's 2-digit CIP field of study have a higher median earnings than working adults aged 25–34 with only a bachelor's degree as calculated under the other earnings benchmarks, then the (lower) median earnings benchmark would be used to evaluate the program; the scenario the commenter describes would not occur under the framework.

Changes: None.

Comments: One commenter wanted the Department to extend the field-adjusted threshold options used with graduate programs to undergraduate programs as well.

Discussion: We thank the commenter for their suggestion; however, the earnings threshold comparison groups and field-adjusted threshold options for degree programs and graduate programs are statutory and the Department is not permitted to modify the statutorily mandated threshold formula. Additionally, the Department clarifies that it is not possible to adjust the undergraduate earnings thresholds by field of study. Undergraduate programs are compared to an earnings threshold based on individuals with only a high school diploma, which by definition, do not have an applicable field of study because those individuals have not gone to college.

Change: None.

Earnings Threshold—Other

Comments: One commenter suggested that rather than requiring the median earnings of a program's completers to be equivalent to those of a high school graduate to be eligible for Federal student loans, the threshold should be at least 10 percent higher to compensate for the time and money invested in higher education.

Discussion: The Department thanks the commenter for this suggestion, but notes that the requirement for a program's median earnings to equal or exceed its relevant comparison group is a statutory requirement, so we are unable to change it for degree programs or graduate certificate programs. For

undergraduate certificate programs, because the Department's aim is to harmonize requirements across program types, we decline to adopt a separate standard only applicable to a single credential level. Additionally, the commenter did not provide reasoning for the 10 percent value selected, and the Department is unaware of information that would support that specific value.

Changes: None.

Comments: One commenter suggested making adjustments to the comparison threshold based on a program's target occupation or sector, possibly paired with earnings analysis distinguishing public-service professions from private-sector occupation with market-driven wages.

Discussion: The Department thanks the commenter for their suggestions, but we believe that taking this approach would not be consistent with the criteria set out in the statute that we are obligated to implement, as it adds a factor that is not clearly described in the law. We also note that many credentials in higher education prepare graduates for a variety of professions and success in both the private and public sectors, so we do not believe it would be fair to judge some programs only on the statutory earnings premium calculation, while judging other programs that prepare students for specific occupations in accordance with the outcomes for those occupations.

Changes: None.

Comments: One commenter detailed various potential interpretations of the 50 percent used to determine whether a program's earnings threshold uses a national comparison group or a State, requesting clarification on how out-of-state status is determined and at what point in time that determination is made.

Discussion: To clarify, the commenter has mistaken the old criterion in current 668.2's definition of earnings threshold assessing whether “fewer than 50 percent of the students in the program are from the State where the institution is located” with the proposed regulatory language's dividing line assessing whether “fewer than 50 percent of the students enrolled in the institution . . . are from the State where the institution is located.” This is a new statutory requirement under HEA 454(c)(3)(B) as amended by the WFTCA. The Department will determine whether to use in-State or national earnings thresholds based on an evaluation of address information provided on the FAFSA form by students who are currently enrolled at the institution at the time the evaluation is performed.

Changes: None.

Comments: One commenter requested that the Department define “uncommon field of study” in instances where the ACS may not be able to sample enough individuals to produce a formal calculation, and use that definition to either avoid a pass or fail judgment or use other methods for evaluation, such as qualitative methods. The commenter argued that failing to take one of those approaches would result in inaccurate evaluations.

Discussion: This request appears to be grounded in a misunderstanding of the terms that the Department uses for the earnings premium calculation process. The term “uncommon fields of study” is not used to enable the Department to adjust its approach to use a particular earnings threshold. By “uncommon fields of study,” the Department was referring to bachelor’s degree programs where, among the group of individuals surveyed in the ACS, there are not a sufficient number of individuals that are working individuals aged 25–34 who live in a particular state and hold a bachelor’s degree in a particular field of study. For example, in the ACS, there are very few working 25–34 year-olds with a bachelor’s degree in English—which the Department referred to as “an uncommon field of study.” Because there are so few individuals included in the ACS in Wyoming who have a bachelor’s degree in English, the Department would not be able to calculate the “same-state, same-field bachelor’s degree earnings thresholds” for graduate-level English programs in Wyoming.

In response to concerns about reasonable comparison groups used to construct the earnings threshold for graduate-level programs when too little data is available to construct a “same-state, same-field of study” threshold from ACS data, the Department has made adjustments to the procedure. When a graduate-level program has at least 50% of enrolled students come from the state of the main campus but an insufficient n-size in the ACS data for their field of study, the Department will use an earnings threshold of one dollar.

Changes: The final rule adjusts the language in § 668.2’s definition of earnings threshold under (3). It now specifies that for States where the Census Bureau data necessary to perform the calculations set forth in subsections (1) and (2) are not available, the earnings threshold will be one dollar. This safeguards graduate-level programs from being held to an unfairly high threshold if they are at an institution where at least 50 percent of

enrolled students come from the State where the main campus is located and if the data for their field of study has an insufficient n-size in the ACS data.

As a conforming change, we also struck the language in 34 CFR 668.402(c)(3), which indicated that the Department would not calculate an earnings premium in cases where there no earnings threshold could be determined. The change to the earnings threshold definition obviates this provision.

Comments: One commenter requested that the language requiring publication of the annual earnings thresholds in the **Federal Register** be changed to require publication of the annual earnings thresholds on the FSA Partner Connect Knowledge Center (Knowledge Center) in a manner that is easy for financial aid professionals to locate, read, and consume, citing the importance of the Knowledge Center as a centralized resource for financial aid professionals.

Discussion: The Department thanks the commenter for their feedback and is glad to hear that the Knowledge Center is a helpful resource. While the NPRM and final rule both contain language requiring the Department to list information for institutional reporting in the **Federal Register**, under the regulatory language the Department is simply required to publish the earnings thresholds annually, not necessarily in the **Federal Register**. Keeping this part open-ended provides the Department with the flexibility to publish this information to the Knowledge Center web page the commenter mentioned relying upon, to a successor website, or to a future resource created as we learn more about what is helpful to stakeholders.

Changes: None.

Comments: One commenter recommended the Department to publish, well in advance of the first measurement year, a comprehensive data availability map—by state, by CIP at both 2-digit and 4-digit levels, by credential level, and including both n-sizes for program earnings and n-sizes for the earnings threshold (ACS)—so institutions can identify which of their programs will be subject to which comparison and which will fall into the “no threshold calculated” bucket described. The commenter also suggested that the Department commit to providing the all-students program earnings dataset to institutions at least two cohort years before any institution is subject to a loss-of-eligibility determination, so that institutions can validate the data, benchmark programs, and undertake any orderly program

closures or curricular changes responsibly.

Discussion: The Department thanks the commenter for their suggestion, but declines to implement it. Data will not be available in advance, as the commenter requests, on which particular earnings threshold that each program will be compared against. This is because the Department must verify program completers lists and institutional enrollment lists to determine which earnings benchmarks (in-state or national) that a particular program will be compared against. Therefore, data for each threshold group will be made available when earnings premium data is released. Following the commenter’s suggestion would require the Department to use less recent and unofficial data, which the Department believes would add significant burden for itself and create confusion among colleges. The Department further clarifies that ACS data are publicly available, and if colleges desire, they could use the data in conjunction with their own institutional enrollment records to estimate which types of programs at their institutions would fall into the “no threshold calculated” category based on the n-sizes in the ACS and enrollment at their institution.

Changes: None.

Comments: One commenter wanted to adjust the high school benchmark based on individual State issues. As an example, the commenter indicated that the State of Wyoming’s earnings landscape is unique from other States. Wyoming leads the nation in energy jobs per resident. The majority of those jobs only require a high school diploma, with entry-level oil field wages often exceeding \$60,000 per year. As a result, Wyoming’s median high school graduate income is inflated, and the proposed earning premium measure fails to take that into account.

Discussion: The Department thanks the commenter for their feedback, but the statute requires us to compare the median earnings for completers of most undergraduate-level programs to the median earnings for working adults aged 25–34 with only a high school diploma. The Department would note, however, that institutions with fewer than 50 percent of their enrolled student population coming from the State where the institution is located would be compared to national data and therefore, programs at those schools would not be impacted by what the commenter describes.

The Department also examined how the regulation would impact programs in Wyoming. Among those with earnings data currently available (in

PPD:2026) and who are projected to be subject to the earnings test, just two programs out of 86 total are estimated to fail the earnings test. This is far below the national average, suggesting that the actual impact of the commenter's concern on programs in Wyoming at institutions where at least 50 percent of enrolled students are not from the State where the institution is located will likely be much smaller than they anticipate.

For all these reasons, the Department declines to make a change based on this commenter's concerns.

Changes: None.

Completers, Cohort Period, and Cohort Expansion

Cohort Expansion

Comments: Several commenters recommended changing the method by which small-program cohorts are expanded in a way that would limit a cohort strictly to completers under the 6-digit CIP code of the program being evaluated, but would pull completers from award years as far in the past as needed to reach the minimum cohort of 30. Under this proposed method, completers from award years prior to the eighth award year prior to the year with earnings data might be included in calculations, but distinct programs (as defined by 6-digit OPEID, 6-digit CIP code, and credential level) would not have completers from other programs included in the cohort used to calculate their earnings premium measure.

Commenters from several fields pointed out examples of diverse fields that would be grouped together under the same 2-digit CIP codes to illustrate their belief that the 2-digit level is overbroad.

Several commenters recommended stopping the cohort expansion process after expanding to programs sharing a 4-digit CIP level, striking a balance between increasing the number of programs for which an earnings premium measure may be calculated and grouping data that some commenters thought would be too broad, while complying with the expansion mandated by the statute.

We also received public comments suggesting that the cohort aggregation process used in this regulation should align with the process used in the Workforce Pell final rule (91 FR 29254). Commenters argued that this would reduce burden and complexity on the Department, as it would prevent the need to develop different systems to implement the aggregation procedure.

Several commenters expressed concern that cohort aggregation methods combining programs across broader CIP

categories at the 2-digit or 4-digit level may produce metrics that do not accurately reflect the curricula, quality, or labor-market outcomes of distinct academic programs. A few commenters similarly were concerned that aggregation beyond the 6-digit level could reduce statistical validity and program-specific reliability of the median earnings by potentially combining materially different occupations, labor markets, and educational pathways into a single metric.

Another commenter discussed the range of programs covered within a 4-digit CIP code, pointing out examples of different credentials with differing earnings prospects, citing examples specific to Ph.D., master's degree, and baccalaureate degree types. This commenter requested that cohorts be limited to the 6-digit CIP level and that the CIP-SOC crosswalk be consulted in constructing benchmark fields without specifying how that should be done in this context.

Numerous other commenters more broadly requested limiting cohorts to the 6-digit CIP code, with various suggestions. Several recommended an exemption for programs with fewer than 30 completers under FVT/GE's 2-year/4-year cohort group structure, with one suggesting that wage transparency would still be covered for small programs by other Federal reporting requirements and accreditor requirements plus general knowledge of wages for the relevant profession.

Discussion: We thank the commenters for their helpful feedback. The statutory language in WFTCA requires the cohort construction to expand beyond the 6-digit CIP code if an n-size of 30 is not reached, but does not specify how many years of past data must be used before expanding to a broader CIP code. The Department is also balancing the need to use data for completers who graduated recently enough for the data to be a fair reflection of the program.

To clarify, program data aggregation does not combine programs at different credential levels, meaning some of the commentary about dissimilarities in earnings prospects between one master's program and another baccalaureate program in similar subject areas is not applicable.

The Department is persuaded by commenters who suggested that aggregating programs from the same institution and credential level up to the 2-digit CIP code is too broad for constructing the cohort used to evaluate a program. Aggregating to that level would risk that certain programs are evaluated based on the earnings

outcomes of individuals from potentially highly dissimilar programs. The Department was also persuaded by commenters who recommended the cohort aggregation process should, to the extent possible, be aligned with the process used in the Workforce Pell regulation. The Department agreed that using a similar process would reduce burden, complexity, and cost. Therefore, the final rule's revised definition of cohort period has removed steps involving the use of data from other programs that only match a program's CIP code at the 2-digit level. To more closely align this process with the cohort aggregation process used in the Workforce Pell regulation, it has also removed the steps involving the use of data from completers during the eighth award year prior to the year of determination.

Changes: We have revised the definition of cohort period in § 668.2(b) to simplify the procedure, to reduce the number of steps, to remove the addition of data from the eighth award year prior to the calendar year corresponding to earnings, and to remove steps that involve expanding the cohort to include programs at the 2-digit CIP level. Under the revised approach, if an institution's program (grouping of any institutional programs sharing the same 6-digit OPEID, 6-digit CIP code, and credential level) does not have a sufficient number of completers in the award year four years prior to the calendar year used for earnings, we will add data for completers from the fifth award year prior to the calendar year used for earnings. If additional data is still needed, the next step would include adding data for completers from the sixth and seventh award year prior to the calendar year used for earnings together as one group. If that additional data still does not yield a sufficient number of completers, data for completers from programs sharing the same 4-digit CIP code and credential level from the fourth, fifth, sixth, and seventh award years prior to the calendar year used for earnings will be added in one batch. If the n-size is still too small following those additions, metrics will not be calculated.

Comments: Several commenters requested data be broken down to a more granular level than the 6-digit CIP code, including by occupation, institutional program name, or program modality. One commenter stated that the proposed expansion methodology is a reasonable solution to sample size constraints, but fails to represent the diverse array of occupations that may be occupied by graduates from a single program. Another commenter requested

additional data such as the reporting of earnings distributions by occupational sector or graduate pathway to help students and the public make genuinely informed choices.

Discussion: Splitting a program's data into sub-groupings by occupation or other distinctions would run up against many of the sample size issues some commenters acknowledged. Compiling broad occupational sector data not specific to an educational program is outside of the scope of this program-based accountability framework and would likely be duplicative of information already published by other Federal agencies. Furthermore, consistent data are not available that would allow the Department to break down programs into categories that are more granular than six-digit CIP codes, as the commenters requested. The commenters provided no recommendation on what data could be used to accomplish this request.

Changes: None.

Comments: One commenter expressed concern that small cohort sizes might heighten the risk of false-negative outcomes unrelated to educational quality.

Discussion: The cohort expansion is designed to address the concern of statistical reliability with overly small n-sizes, expanding the cohort in accordance with the WFTCA's requirements until a critical number can be reached.

Changes: None.

Comments: One commenter suggested using multi-year averaging would better reflect true program value instead of sampling variation.

Discussion: While programs meeting the minimum n-size will be measured according to the single year prescribed by Congress in the WFTCA, when smaller programs require additional years of program data, each of those will be measured the same number of years after graduation, resulting in earnings sourced from multiple calendar years being factored into the program's median earnings.

Changes: None.

Comments: A few commenters requested additional transparency into aggregation methodologies, institutional review prior to publication, and safeguards for small-sample statistical reliability.

Discussion: The Department is fully transparent about its aggregation methodology—every initially proposed procedural step in the aggregation process was listed in the NPRM. Every procedural step in the process we will ultimately use following changes in response to public comment is now

listed in the final rule. Institutions will have the opportunity to review the program completers lists prior to the earnings calculation, allowing institutions an opportunity to correct any inaccuracies in the data they previously submitted to the Department. This review process enhances transparency and reduces the possibility of error. Furthermore, the cohort expansion process was included in the WFTCA by Congress as a safeguard for small-sample statistical reliability.

Changes: None.

Comments: One commenter said that cohort expansion would not solve a problem with the time it takes to receive a security clearance, leading to some calendar years in which a graduate's permanent job's earnings only are reflected in some of the months out of the year.

Discussion: The commenter misunderstands the lapse between graduation and the year in which earnings are measured. The commenter's example states that a 2025–2026 graduate might receive a conditional offer in May 2026 and begin cleared employment in February 2027, leading to incomplete earnings for calendar years 2026 and 2027, but a 2025–2026 graduate's earnings would not be examined in either of those years under the earnings accountability framework. Under the framework, in 2027 we would begin examining earnings from calendar year 2025 for graduates from four award years prior, or 2020–2021. Smaller programs requiring data from additional years would go further into the past, such as adding earnings from calendar year 2024 earnings for 2019–2020 program graduates. A program graduate from 2025–2026 would have their earnings from calendar year 2030 first come into view in early 2032. A May 2026 graduate's security clearance taking until some point in 2027, as the commenter described, would not lead to a partial year of earnings in 2030, and therefore the commenter's further discussion based on this foundational misunderstanding is moot.

Changes: None.

Comments: One commenter expressed concern with the proposed rule giving the Secretary discretion to raise the n-size requirement above 30, requiring additional years of data when the commenter already was concerned that data from certain years would not be representative of program quality.

Discussion: The Department thanks the commenter for their feedback. To clarify, the Department is only maintaining this discretion for scenarios where the n-size of 30 is met but there

are too few matches to earnings data for the Federal agency with earnings data to meet their own threshold to release what they consider to be statistically reliable median earnings to the Department. In this case, it is possible that further cohort expansion to additional steps in the sequence would be required to obtain statistically reliable data.

Changes: None.

Comments: One commenter requested that when a program has ceased admitting new students and a successor program using the same CIP code has been established, the predecessor program's completers be excluded from the successor program's earnings cohort effective as of the date new admissions ceased. The commenter suggested that this treatment could apply to any institution that could document the transition through State educational system records. The commenter argued that this would avoid concerns about new programs or programs transitioning into new fields from being judged on the basis of other programs at the same institution that may have poorer outcomes.

Discussion: The Department thanks the commenter for their suggestion, but we are unable to implement this idea under the statute's requirements. Exempting such subdivisions for a program (defined for the framework as covering all institutional programs sharing the same 6-digit CIP code, credential level, and 6-digit OPEID) would result in fewer programs receiving metrics and such a loophole would run the risk of being exploited to evade accountability and potential consequences.

Changes: None.

Comments: One commenter saw problems with the aggregation methodology, pointing out that programs sharing only a 2-digit CIP code in their vocation field vary significantly in length, content, and labor market outcomes. They stated that they do not believe that these are “of equivalent length” by reasonable construction.

Discussion: The Department interpreted the statutory specification of “of equivalent length” to apply to programs at the same credential level in similar subject areas. In response to commenters' concerns about the aggregated cohorts in the NPRM, as described in section “Completers, Cohort Period, and Cohort Expansion,” we have simplified the cohort expansion process to involve fewer steps and to limit expansion to the 4-digit CIP level. This revised process more closely aligns with the process for aggregating Workforce Pell

programs, reducing burden and complexity for the Department.

Changes: None.

Comments: One commenter stated that when the statute instructs the Department to look to “additional years” of programmatic data when an initial cohort does not have sufficient completers, it does not require looking backward for these additional years. They request that the Department hold off on calculating an earnings premium in the first year of calculations for programs without an n-size of 30, waiting until further data in future years builds up for programs at the same 6-digit CIP level, and only expanding to broader pooling of similar programs later if necessary at some unspecified time in the future.

Discussion: The statute specifies that the Department must measure earnings for individuals who completed a program four years prior to the year of determination (the year from which earnings are sourced). Since we are beginning with the most recently available earnings and graduates from the corresponding award year, it is implied that the instruction to aggregate additional years of programmatic data must involve reaching to completers from years further in the past.

Changes: None.

Comments: Some commenters expressed concern about the cohort aggregation process for small programs because of the possibility that some programs may get combined with other programs that are loosely-related or unrelated to the original program. Such an outcome could occur if a small program was aggregated with other programs sharing the same 2-digit CIP code. Commenters stated that aggregating dissimilar programs together could skew the earnings outcomes of small programs. Some commenters requested a process to allow institutions to provide additional information to develop more nuanced and appropriate related program lists.

Discussion: The Department agrees with the commenters’ concerns. Aggregating programs to the 2-digit CIP code level introduces the possibility that certain programs are aggregated with other programs that are highly unlike the initial program, and these different types of programs may have different earnings outcomes that may skew the earnings of small programs. Given this concern, the Department proposes in Section 668.2(b) to aggregate small programs up to the 4-digit CIP level. This greatly reduces the possibility that dissimilar programs are aggregated together in ways that skew the program earnings metric.

The Department disagrees with the commenters’ suggestion to allow for institutions to submit more nuanced program completers lists. This would greatly increase burden on both the Department and institutions and would likely result in arbitrary procedures for determining which students are ultimately included or excluded from such lists. We believe the proposed process to aggregate programs up to the 4-digit CIP code level produces a consistent and fair cohort aggregation process while also mitigating the commenters’ concerns.

Changes: Cohort expansion to programs sharing a 2-digit CIP has been removed. For further improvements to cohort expansion, see the more comprehensive description above or the final definition for Cohort period.

Comments: Many commenters requested that when further years of data are aggregated into the cohort group, the Department adjusts prior earnings years for inflation so that earnings data from different calendar years will be comparable. One commenter requested that the Department include the final cohort size used for a program’s earnings premium measure, the number of completers with earnings used in the calculation (in ranges if necessary for privacy), the aggregation path taken and how many award years were pulled to reach the minimum, the inflation index used, and a clear indication of whether the program would have been exempt absent a particular aggregation step. The commenter also requested a short-structured pre-publication review period for institutions to validate cohort construction inputs (not to negotiate outcomes) to ensure accurate, reliable determinations and transparency.

Discussion: The Department will adjust all earnings data used in calculation of the program’s median earnings in accordance with the CPI-U to be consistent across years. This will correspond to the calendar year before the base calendar year used to source program earnings so that data is comparable to the most recent ACS data available to construct the earnings threshold. For example, in 2027 when we source earnings data for calendar year 2025, the most recently available ACS data corresponds to calendar year 2024. As a result, we will source 2025 earnings data for 2020–2021 graduates (and 2024 earnings data for 2019–2020 graduates, 2023 earnings data for 2018–2019 graduates, and 2022 earnings data for 2017–2018 graduates, if needed) and adjust to 2024 dollars using the CPI-U.

The Department will make several pieces of information available to

institutions, including program n-sizes, the number of aggregation steps used in the cohort expansion process, and information on which individuals are included in program completer lists and when determining the institutions in-state or out-of-state enrollment status (for the purpose of determining which earnings threshold is utilized).

Changes: None.

Comments: One commenter requested that when cohort expansion added completers from additional award years to the cohort, the Department source earnings from the same calendar year for all completers used in the calculation. For example, if a program does not have enough 2020–2021 completers and the Department must next aggregate data from the program’s 2019–2020 completers, instead of using the most recently available calendar year earnings from 2025 for the 2020–2021 completers and shift back a year to calendar year earnings from 2024 for the 2019–2020 completers, the commenter believes it would be better to use the most recently available earnings for all completers.

Discussion: The Department chooses to measure each completer’s earnings in the fourth tax year following program completion (for example, 2025 for 2020–2021 completers, 2024 for 2019–2020 completers, etc.) so that each completer is assessed at roughly the same amount of time after graduation. We believe that this approach of standardizing the span between graduation and measured earnings leads to more comparable data and fairness in calculation for programs of varying sizes.

Changes: None.

Similar Programs of Study

Comments: One commenter expressed concern with when the Department would be using various levels of CIP specificity, voicing opposition to a use that they believed would potentially lead to novice studio art majors with two-year degrees being compared to visual arts professionals who are well-established in their fields.

Discussion: The commenter is misunderstanding the use of similar CIP codes in the earnings premium calculation. The earnings premium for a two-year undergraduate degree would still compare the earnings of program graduates to the earnings of working adults aged 25–34 (not specific to a field of study) with only a high school diploma. If a program had few enough graduates to necessitate adding completers from similar programs of study to have sufficient data, those graduates would be added to the measurement pool for the program being

evaluated; they would not adjust the earnings threshold (benchmark).

For additional clarity, we would add that what the commenter is describing as 2-digit and 4-digit CIP codes are actually considered 4-digit and 6-digit CIP codes, respectively. These categorizations count all of the digits of a CIP code, not just those following the decimal point.

Changes: None.

Comments: A few commenters requested confirmation that the Department would not apply cohort aggregation procedures to a new program before the program has a single completer, pointing out how a strict reading of the statute could lead to this presumably unintended outcome.

One commenter also urged the Department to exempt programs from earnings premium determinations until they have produced at least one title IV completer with earnings data in the determination year cohort. The commenter asserted that if the Department does not make this change, the likely consequence is that a new program could lose Direct Loan eligibility based solely on the performance of students in other programs at the 4-digit or 6-digit CIP code levels. The commenter argued this would be inconsistent with the purpose of these requirements, which is to evaluate how a particular program's completers fare in the labor market.

Discussion: The Department disagrees with the commenters for several reasons. First, the Department is concerned about the quality of all postsecondary programs, including new programs. If an institution has a failing program in a closely related CIP (*i.e.*, a program in a different 6-digit CIP but the same 4-digit CIP), we are concerned about the college starting a new 6-digit CIP in that same field. Second, the Department anticipates the scope of this problem to be very small.

Approximately 83 percent of 4-digit CIPs only have a single 6-digit CIP within it.¹⁹ Therefore, at most, this concern would only apply to the roughly 17 percent of 4-digit CIPs that have two or more 6-digit CIPs. Then, the college would also need to have a preexisting 6-digit CIP sharing the same 4-digit CIP and credential level. And finally, only a smaller subset of those programs will be impacted, since only approximately 5 percent of programs are estimated to fail overall (Table 5.12). Therefore, the Department believes the odds that a new program gets aggregated

with another failing 4-digit CIP and therefore also fails the earnings test is very low.

Third, the Department believes that rolling up programs in these situations is, for degree programs and graduate non-degree programs, the only solution meeting statutory criteria. And, by extension, we also believe that treating programs across postsecondary education equitably requires the Department to take the same approach for undergraduate non-degree programs.

Finally, even if the Department believed that treating undergraduate certificate programs differently was warranted and that, as a policy matter, new programs should be treated differently, the logistical obstacles to doing so would be costly and resource intensive. The Department would need to identify and track each student who first enrolls in a new program through the point that they complete programs, which could be years apart, particularly if a student withdraws and returns to enroll in the same program. This would result in significant burden for a very small number of affected programs.

Given these factors, the Department believes that providing new programs with an exemption, as the commenter requested, would be frivolous, costly to the taxpayer, and unnecessary, as it would only infrequently change the result of the earnings premium calculation.

Changes: None.

Minimum Number of Completers, Privacy, and Statistical Reliability

Comments: Many commenters want the program cohort to include all completers, not just those that receive federal financial aid, when determining the median earnings calculation. This will help small programs meet the 30 completer threshold without having to dilute program data with prior year or similar program information and will also help obtain a true program median earnings measurement by factoring in all program completers income.

Discussion: The Department thanks the commenters for their suggestion, but the statute requires that a low-earning outcome program is to be determined based on the programmatic cohort of students who received title IV, HEA funds for enrollment in the program.

Changes: None.

Comments: Many commenters raised concerns about statistical reliability with small n-sizes, requesting that eligibility determinations be limited to programs with an aggregated n-size of at least 50 or 100 completers and earnings premium measures for programs with aggregated n-sizes such as cohorts of

30–49 or 30–99 completers be informational only.

Discussion: The Department thanks the commenter for their feedback. The statutory framework established by Congress considered the n-size of 30 to be sufficient and we support that determination. Furthermore, this request would substantially reduce the number of programs covered under the accountability framework. For example, if programs were aggregated until they achieved 100 completers, as one commenter requested, the Department estimates that fewer than half as many programs would be subject to the earnings premium metric relative to the share that are covered in this final rule. The Department is concerned that this approach would allow many moderately small programs, some of which may have low earnings outcomes, to skirt the accountability framework in this regulation.

Changes: None.

Other Definitions

Institutional Grants and Scholarships

Comments: One commenter voiced support for the proposed expanded definition for institutional grants and scholarships, stating that they believed the proposed clarification on what constitutes an institutional grant or scholarship would help reduce ambiguity and improve consistency in reporting across institutions, leading to lower administrative burden, more accurate data collection, and better comparability of program-level information available to students, institutions, and policymakers.

Discussion: The Department thanks the commenter for their support.

Changes: None.

Comments: One commenter wanted to remove the reference to the institutional share of Federal Campus-based programs in the definition of institutional grants and scholarships due to a concern of increased complexity and institutional burden associated with additional reporting requirements.

Discussion: The Department added the language to provide further clarification and resolve confusion among stakeholders when reporting institutional grants and scholarships. Based upon the commenter's concerns, it appears our goals are actually in alignment, as the new definition further specifies that the Department does not consider the institutional share of Federal Campus-based programs to be institutional grants or scholarships; therefore, the institution would not be required to report the non-Federal share

¹⁹ Blagg, K., (2026). Measuring Program-Level Outcomes in Higher Education. Washington, DC: The Urban Institute.

of Federal Campus-based programs under the Transparency reporting requirements.

Changes: None.

Other Definitions

Comments: One commenter requested that we clarify whether eligible non-GE programs include programs that do not participate in the Direct Loan Program.

Discussion: Eligible non-GE programs include programs participating in at least one title IV, HEA program even if those programs do not participate specifically in the Direct Loan program.

Changes: None.

Comments: One commenter suggested adopting a functional definition of “worker” for purposes of the earnings premium calculation that limits calculations to graduates who work at least 30 hours per week, are employed within their field of study, are employed in a position with employer-sponsored health and/or retirement benefits, or are self-employed. This definition would exclude individuals in unpaid positions, on medical disability or leave, on family-based leave within 12 months of credential conferral, or serving on active duty in the United States Armed Forces or National Guard.

Discussion: There is not a viable way to disaggregate individuals based on their work intensity, a field of employment that matches their coursework, or work-based compensatory benefits received. Moreover, if a program’s graduates are underemployed and/or unable to find work in their field in large numbers, allowing institutions to exclude program outcomes for those graduates would evade the point of having an accountability metric.

The final rule excludes completers with Direct Loan program loans discharged or under consideration for discharge on the grounds of Total and Permanent Disability or death. The framework already limits working adults to those who have worked for pay, and the Department does not believe it appropriate to exclude individuals based on additional unpaid activity or based on family plans occurring roughly three years prior to the year in which earnings are measured.

The Department made a considered choice in the 2023 Financial Value Transparency/Gainful Employment final rule to include graduates engaged in military service in program outcome metrics, citing educational attainment as a key factor to successful advancement within the military. The Department also pointed to the military’s stated intent to pay service members at the equivalent

of the 70th percentile of comparably educated and experienced civilians, indicating the high likelihood that a program graduate in the armed services would raise the median earnings for their program. We continue to believe that this is the correct approach.

Changes: None.

Comments: Several commenters suggested defining “working” to include only individuals who meet a certain income threshold, such as \$15,000 in income or the \$19,000 gift exclusion amount in the relevant year, to eliminate individuals with only sporadic, seasonal, or de minimis attachment to the labor market. A few other commenters requested that the Secretary define a “working” adult as a person working a minimum period of time in the labor market over a year or by month.

Discussion: The Department declines to adopt this suggestion. The ACS data includes individuals meeting the same criteria the commenters would like to exclude, so excluding those individuals from one grouping but not the other would decrease the validity of the comparison. We would also note that the \$15,000 that some commenters selected could potentially exclude some individuals working full-time or nearly full-time at low wages. For example, at the federal minimum wage of \$7.25 per hour, an individual working 40 hours per week and 50 weeks out of the year would only earn \$14,500 in income.

Changes: None.

STATS—Transparency Framework and Metric

STATS Scope and Purpose

Requests for Exemption

Comments: Numerous commenters asked that specific programs be exempt from the new earnings premium measure. As described above under the “General Opposition” section, many institutions with religious missions sought an exclusion on legal grounds, because their students do not borrow Direct Loans, or are foregoing higher earnings in favor of a life of religious service. Many suggested that cosmetology, esthetics, and massage programs should be excluded. Several commenters requested an exemption for programs preparing individuals for high-skill, high-need professions. One commenter urged the Department to exclude non-degree, licensure-based programs from this provision, and another similarly recommended removing undergraduate certificate programs from consideration. One asked that private career schools be removed from this regulation. One commenter

recommended either an exemption to the accountability measure or adjusted benchmarks for licensed healthcare professions with mandated clinical training. One commenter suggested that the Department exclude all vocational, technical, and community colleges from the rule.

Many commenters argued that early childhood education programs should be exempt from the STATS framework and the earnings premium calculation. One commenter offered that early childhood educators should be exempt because they are an essential part of the workforce. Another commenter agreed, requesting exemption from the earnings premium measure for high-skill, high-need, low-wage positions in education including school paraprofessionals, public school teachers, and private school teachers. One commenter recommended excluding from earnings calculations students who gave birth after graduation, as childbirth and early childcare responsibilities can directly and temporarily affect earning capacity.

Another requested the Department restore and extend the profession-specific evaluation accommodations that were incorporated in prior Federal frameworks, ensuring that professions with non-linear income trajectories, practice-based models, and community-based delivery roles are evaluated on terms the commenter considered more appropriate.

Another commenter proposed that the Department exempt students at high-quality religious private institutions from the earnings premium measurement, as they are not Direct Loan participants and they continue to have access to the education they deserve.

Discussion: The Department declines to adopt these suggestions for several reasons. First, aside from undergraduate certificate programs, the Department lacks the statutory authority to exempt any class of institutions or programs from the earnings premium measure. As described in the Department Authority (Including GE and Quality Assurance Authority) section, the Department is exempting institutions and programs in several very specific scenarios where other laws or the Department’s limited authority required such changes, but in general we do not have the ability to establish exemptions based on commenters’ arguments about the merits of certain occupations or types of institutions.

Additionally, none of the commenters offered a persuasive rationale for why their particular programs or occupations should merit a unique approach compared with other valuable programs.

The Department has taken a careful approach in these regulations to support the equitable treatment of all programs and students, and implementing any of the exemptions described by commenters would necessarily preference some programs above others. Doing so would arbitrarily benefit whole groups of students, programs, institutions, or occupations, which would undermine the Department's strong desire for a fair, equitable, and consistent evaluation of all postsecondary programs.

Changes: None.

Comments: Some commenters suggested that programs at accredited institutions should be exempt from the earnings test. The commenters argued that accrediting agencies already ensure that programs are high quality, making the earnings test unnecessary for these programs.

Discussion: The Department disagrees with the commenters' suggestions. First, all programs qualifying for title IV, HEA program funds are at accredited institutions. Therefore, the commenters' request would exempt all programs from the accountability framework. Second, Congress directed the Department to evaluate programs based using graduates' earnings, which accrediting agencies do not often evaluate. Third, Congress did not provide an exemption for programs at accredited institutions. Therefore, the Department does not believe exempting such programs would align with the statutory requirements of the WFTCA.

Changes: None.

Comments: One commenter requested the Department add to the list of students in the exclusion list those who are employed less than full time. They also encouraged us to expand the completers list to include both title IV and non-title IV students. According to the commenter, by focusing only on title IV, HEA recipients, program earnings data will be skewed by not reflecting the full earnings premium gained for program completers who are eligible for title IV, HEA program funds. The commenter noted that this would be especially true for degree programs where there is a high concentration of non-Pell-eligible students who choose not to take out Direct Loans. This could create a potential earnings penalty for institutions and programs that keep costs low to minimize student loan borrowing.

Discussion: We decline to add less than full-time students to the list of exclusions for the reasons we have discussed elsewhere in this rule. As for expanding the completers lists to include title IV-eligible students who

are eligible for title IV, HEA program funds, but who don't receive such funds, we decline to do that as well. First, this suggestion directly contradicts the statute, which requires the program earnings measure be based on recipients of title IV, HEA program funds. Additionally, this request would also be extremely difficult, if not impossible, to implement operationally, because the Department cannot know with certainty whether a student was "eligible" for title IV, HEA program funds without information directly from the institution. This information would not be provided under normal circumstances for students who do not ultimately receive aid. The Department believes that the best course of action is to track students who receive title IV, HEA program funds rather than to add those who applied for aid but did not receive it to that group. This would add complexity and burden to both the Department and schools. Moreover, the purpose of the accountability program is to limit students' access to potentially dangerous borrowing or overborrowing to programs that do not provide a sufficient return on investment. The Department believes that including students who did not receive title IV, HEA funds, despite their eligibility, would run counter to the intent to limit borrowing.

Changes: None.

Comments: One commenter suggested that the Department should apply this accountability framework on a forward-looking basis, exempting all student cohorts admitted prior to the final publication of this rule. The commenter argued that this would provide a reasonable transition and phase in period during which earnings metrics are released for informational and evaluative purposes only, without triggering immediate eligibility consequences or institutional sanctions particularly for cohorts that enrolled or graduated prior to implementation of the final rule.

Discussion: The Department disagrees with the commenter. The Department is concerned that, if this regulation was applied only on a forward-looking basis, it would allow many low-earning outcome programs to continue receiving Federal student loans for at least four additional years. As a consequence, it would fail to protect students from programs that routinely leave students worse-off financially after attending until at least 2031.

Additionally, the statute clearly requires the Department to evaluate programs based on the earnings of individuals who completed the program in the past. The Department also does

not believe that such treatment is appropriate for undergraduate certificate programs, which were already subject to the existing FVT/GE regulations.

However, as described in under the section entitled "Earnings of Program Completers—Use of IRS Data," the Department is making a limited exception for programs associated with professions that have substantial amounts of tipped income, and will not treat such a program as passing or failing if earnings for graduates of the program are from tax year 2025 or prior.

Changes: None.

Elimination of the D/E Rate

Comments: Several commenters supported the removal of the debt-to-earnings rate.

Discussion: The Department thanks the commenters for their support. The Department acknowledges that this is a change from the previous regulations. However, we believe the elimination of the D/E metric will reduce the complexity, cost, and burden necessary to implement and comply with the regulations; result in greater consistency in the regulations across all program types and sectors of postsecondary education; and provide useful and comparable information to students and the public. These benefits outweigh any potential reliance any party could have had on the current rule, which the Department notes, it has never applied to any program or institution.²⁰

Changes: None.

Comments: Several commenters opposed the elimination of the D/E rate metric for GE programs. One commenter specifically requested that the Department not to impose the proposed earnings premium measure on GE programs. They claimed the D/E framework, when coupled with cohort default rate oversight, is more appropriate, more informative, and more consistent with congressional intent.

Some of the commenters opposing the elimination of the D/E rate metric suggested that a debt-to-earnings test or a loan-based metric, such as a repayment or default rate, would be superior to the proposed earnings test because it would better reflect whether students were able to repay their loans. They suggested the Department replace the earnings test with a debt-based test. Other commenters suggested that the Department add a D/E rate metric to the

²⁰ Because the Department has not applied the D/E metric to a program or institution or determined that a program is ineligible for title IV benefits because of the metric, we do not believe any party has a reliance interest, let alone a significant reliance interest, on the use of the metric.

earnings test and require that programs pass both to remain eligible for title IV, HEA program funds.

Discussion: The Department does not have the statutory authority to replace the earnings test enacted in the WFTCA with a loan-based test for degree programs and graduate certificate programs. For programs subject to gainful employment requirements, the Department believes the earnings test in the final rule is more advantageous than a loan-based alternative test. Earnings are a more direct measure of whether a loan is affordable, or a whether program of study pays off, whereas loan repayment measures can be influenced by many factors, including repayment terms and policies.

The Department did not include a separate debt-to-earnings test, similar to the current regulations, for programs subject to the gainful employment requirements as the Department believes that such a test does little to increase taxpayer and consumer protection but adds significant complexity, cost, and administrative burden for the Department.

As described in the NPRM, the Department's analysis of data obtained for the College Scorecard revealed that it is likely that including a D/E test for GE programs would not result in a substantial number of additional programs failing the metric. The Department estimates that, after accounting for the programs that fail the earnings premium measure, maintaining the D/E metric would result in a 0.1 to 0.3 percentage point increase in the share of programs and students, respectively, that would fail (Table 8.1). The Department believes those shares are likely be even smaller once pending changes to loan limits under the WFTCA are implemented. In the Department's view, this amounts to a de minimis number of impacted programs. The Department notes that the estimated net budget impact for the proposed regulation reflects a larger effect by removing the D/E metric than the Department's separate analysis that identifies additional failing programs used for research purposes.

Changes: None.

Comments: A few commenters disagreed with the Department's proposal to eliminate the D/E metric from the accountability framework and STATS transparency reporting requirements and indicated their belief this action would be a step backwards in oversight, leaving students at risk of predatory programs. They opined that an earnings premium metric alone does not go far enough to ensure that programs lead to financial stability.

Some commenters further stated that evaluating a program strictly on earnings, without providing any context for the debt required to achieve those earnings, provides an incomplete picture of the financial realities for students. These commenters argued that removing the D/E metric enables institutions to continue charging high tuition for graduate education programs or certificates without facing any consequences. A few commenters urged the Secretary to reinstate the D/E metric for all programs, create fair alternative benchmarks, and immediately cut off all title IV, HEA funding, including Pell Grants, to predatory and failing programs.

Discussion: The Department will not apply a D/E test to GE programs for the reasons discussed during negotiated rulemaking and in the NPRM to harmonize the accountability requirements for all programs and reduce unnecessary complexity while preserving meaningful accountability. Additionally, as we have explained previously, the D/E rate metric would only impact a very small percentage of programs that the earnings premium measure does not already address, and the added technical complexity, cost, and burden to the Department is not worth maintaining the framework. As discussed during negotiated rulemaking, in the NPRM, and in the RIA in this final rule (Table 8.1), the Department believes that including the D/E metric would result in a 0.1 to 0.3 percentage point increase in the share of failing programs and students, respectively, which the Department does not believe justifies the burden, complexity, and cost to maintain this metric.

Changes: None.

Earnings Premium Calculation (Earnings Measurement Period)

Comments: One commenter applauded the Department's commitment to applying accountability standards to non-degree programs. They reiterated that maintaining an earnings test for these programs will protect both students and public investment in higher education.

Discussion: The Department agrees that revising the existing FVT and GE regulations to align with the WFTCA requirements and applying both frameworks across title IV eligible GE and non-GE programs regardless of institutional sector or program type is beneficial for students and the public's investment in higher education.

Changes: None.

Comment: Many commenters expressed their belief that there is a mismatch between the age of program

completers and individuals in the earnings test benchmark. The earnings threshold includes individuals who are 25–34 years old, and commenters argued the earnings test makes a flawed comparison by measuring graduates' earnings just four years after completion against a benchmark derived from individuals with significantly more years in the workforce.

These commenters suggested that the Department should use different age ranges to determine the earnings thresholds, such as individuals aged 21 to 25, which they believed would better reflect the age program graduates.

Other commenters suggested that a larger age range be utilized to determine the earnings thresholds, such as individuals aged 19–60 or 19–65. These commenters believed that a larger age range more appropriately reflected the age of workers in particular industries, such as massage therapy.

Discussion: The Department believes the typical graduate across the credential categories (certificate, associates, bachelor's degree) is within the identified comparison age range. According to the National Postsecondary Student Aid Study (2019–20), the median age for a student who completes an undergraduate certificate is 26.

Under the earnings test, earnings would therefore be measured when completers are 30 years old (4 years post completion), placing them squarely within the 25–34 age range for the comparison group. Median ages for completers in associate and bachelor's degree programs are 24 and 22, respectively, also placing them within the age range for the earnings comparison group when earnings are measured four years after completion (*i.e.*, 28 and 26, respectively).

Furthermore, the Department does not have the statutory authority to use different age ranges to determine the earnings thresholds used in the earnings test for degree programs and graduate non-degree programs. Section 84001 of the WFTCA specifically states that the earnings benchmarks will be based on the median earnings of individuals aged 25–34. For these reasons, the Department cannot accept the commenters' suggestions to use alternative age ranges.

Changes: None.

Comments: Many commenters expressed concern with using the 4-year earnings of program graduates to judge program quality. Commenters stated that measuring earnings after only four years is too soon to accurately measure the true value of the program. Other commenters noted that in many fields it

takes longer than four years for individuals to realize the true outcomes from their program.

Many commenters explicitly called out the future earnings growth in cosmetology professions. These commenters stated that it takes cosmetologists many years to build a client base, invest in necessary tools, and establish themselves in the field. Other commenters stated that the rule does not account for the additional time it takes cosmetologists to become licensed in their states. For these reasons, commenters argued that measuring the earnings of cosmetologists during these early earnings years does not accurately reflect the earnings of individuals in this profession.

Several commenters explained that graduates of Chinese Medicine programs must complete 4 or 5 national board exams and then apply for state licensure, a process that can take several months or more. Also, acupuncture and East Asian medicine programs require extensive supervised clinical hours mandated by state licensure boards and national accreditors. Early earnings in such models are not comparable to those of graduates entering salaried employment immediately after graduation. Applying a uniform earnings-based standard across different career pathways risks mischaracterizing program effectiveness.

Several commenters recommended pushing the program earnings measurement year out to five to ten years after students graduate, suggesting that this would provide a more realistic measure of earnings.

Discussion: The Department is aware that earnings tend to grow over time, including for individuals with cosmetology credentials, as they gain experience and establish themselves in the labor market. The Department notes that the proposed rule measures earnings a year later (4 years after completion) than under the current Gainful Employment regulations, which better accounts for these earnings gains.

The Department is concerned that there is a policy tradeoff, however, in pushing the measurement year out further. Graduates are responsible for repaying their loans starting in the first year after they complete their credential. A credential that does not produce earnings above the test threshold for many years will make it difficult for borrowers to afford their loans during those years, leading to financial distress or costs for the federal government which must subsidize low earnings through loan repayment benefits, such as interest waivers and loan forgiveness.

The Department believes that the 4-year measurement strikes an appropriate balance between capturing earnings gains after graduation and ensuring that loan borrowers earn enough to support their debts.

The Department has also reviewed research showing that certificates and associate degrees in cosmetology and massage therapy tend to show lower earnings growth than other credentials between the first and fifth year (about \$5,000 after inflation) after students complete. Earnings growth between the fourth and fifth year after completion for these credentials accounts for only approximately \$1,000 after inflation, which does not support the claim that these fields tend to see a large spike in income around the 5th year after completion.²¹

The Department also notes that measuring earnings as late as 10 years after completion, as some commenters suggest, may not accurately reflect the current program the institution offers because so much time has passed from the point that students enrolled and the point at which earnings are measured. Under a 10-year earnings test, the Department would effectively take action against a program that may no longer resemble the one for which it is measuring earnings.

Lastly, the Department does not have the authority to extend the period between the student's graduation and the year in which earnings are measured for degree programs, as some commenters requested. Section 84001 of the WFTCA specifies that program earnings are to be measured in the fourth year following the year students graduate from their program. For this reason, the Department does not believe it has the authority to measure the earnings of program graduates in later years, as some commenters requested.

Changes: None.

Alternate or Additional Metrics

Comments: One commenter requested that, when calculating the program earning premium measure, the Department should distinguish between graduates who plan to pursue a career related to their major and those who do not. The commenter noted that many students enroll in online courses for a bachelor's degree program with no intention of pursuing a career in that

particular field, but these students would continue to be included in the program's median earnings measure.

Discussion: The Department believes that in such situations, programs should still be held to the same standard regardless of which occupation students intend to pursue. Students who receive Direct Loans to pay for an undergraduate degree they are interested in for nonpecuniary reasons should expect as much, not only for themselves, but also on behalf of the taxpayers who provide the loan funds. Importantly, the law does not distinguish between student motivations. Also, as we note in the RIA section below, the regulations accommodate programs that serve as a precursor to graduate school both by excluding from the earnings premium calculation students who have completed a higher-credentialed program and, pertinent to this comment, by excluding students who are enrolled during the year earnings would be measured for the student.

Changes: None.

Comments: One commenter asserted that the Secretary has the ability to adjust the proposed ACS-based median earnings thresholds, such as increasing the margin of error (MOE) confidence level for the results of the ACS from 50 percent to 99 percent, which would have the result of lowering the thresholds a marginal amount. In addition, the commenter proposed adding a "Zone" result to the earnings premium test if a program's earnings miss the threshold by less than a given percentage, such as 5 percent. Finally, the commenter believed the Secretary should consider testing based on combining the program graduates' earning results over a rolling two-year period, as it has done with some prior GE accountability measures. These recommendations would directly apply only to the measurement of undergraduate degree programs.

Discussion: The Department disagrees with the commenter and declines to accept these recommendations. First, the Department does not use a confidence interval or margin of error when calculating the median earnings value in the earnings thresholds. The Department uses the median without regard for a confidence interval because of the statutory requirements to use median earnings. Second, there is no legal justification for the Department to establish a "zone" category for degree programs because the statute does not describe such a category nor a unique treatment for programs that might fall into it. Third, the commenter requests that the Department average several

²¹ Jason Delisle and Jason Cohn, "Measuring Earnings Growth by Field of Study to Inform Higher Education Policy, New College Scorecard Data Report Earnings up to Five Years after Completion," Urban Institute, December 2024. https://www.urban.org/sites/default/files/2024-12/Measuring_Earnings_Growth_by_Field_of_Study_to_Inform_Higher_Education_Policy.pdf.

years of data together, and the Department clarifies that some programs, particularly small programs, will include completers from two or more years due to the cohort expansion process described in this regulation. Furthermore, the Department reminds commenters that a program must fail the earnings premium metric in two out of three consecutive award years before Direct Loan program participation is impacted, which further reduces the influence that one anomalous earnings year may have on program earnings outcomes.

Changes: None.

Comments: Several commenters proposed the Department incorporate repayment-based safe harbor protections for programs with strong borrower repayment outcomes and low default rates. They stated this method would provide a more accurate and equitable measure of program value than a narrow earnings-based calculation alone.

Discussion: The Department declines to adopt the commenters' proposed "safe harbor" because establishing a categorical exemption from earnings-based standards for programs with low cohort default rates would undermine the purpose of a uniform accountability framework, violate the statute in the case of degree programs and graduate non-degree programs, and could inadvertently shield programs whose graduates earn low wages but avoid default through income-driven repayment mechanisms. The Department recognizes that repayment and default rates can provide important information about students' ability to manage their debt after leaving a program. However, the Department believes that the earnings premium measure remains a critical component of accountability, as it provides a direct measure of the economic value of educational programs and helps ensure that Federal student financial assistance supports pathways that lead to positive financial outcomes for students. While low default rates may indicate students avoiding default, they do not demonstrate whether a program leads to labor market outcomes that justify the investment of Federal resources.

Changes: None.

Comments: A commenter from an acupuncture program stated that the entry level degree for that program is a doctorate. They requested that the accountability framework for doctoral programs be modified to use a 35 percent repayment rate and a licensure pass rate as an alternative to the debt ratios.

Discussion: As the Department has already described above, we decline the

suggestion to use alternative metrics like licensure pass rates and loan repayment rates. For the specific program the commenter mentions, the Department clarifies that we are statutorily required to implement the earnings test for the doctoral degree program in acupuncture. The Department does not have the statutory authority to exempt or modify the accountability framework for particular types of graduate programs, as the commenter requests.

Changes: None.

Comments: One commenter encouraged the Department to build upon the STATS framework by publishing program-linked loan performance datasets across all title IV programs. The datasets could include repayment outcomes, delinquency, and default status. Post-completion earnings distributions, borrower characteristics, program and institution identifiers, and loan product and repayment plan information. The commenter contended that these datasets would allow researchers, policymakers, students, parents, and other market participants to assess program value and identify areas for improvement.

Discussion: The Department appreciates the commenter's request to publish program-level outcomes. While the Department does not commit to publishing the specific data elements the commenter requests, we clarify that this regulation includes a provision that requires the Department to publish program-level outcomes information, including: the published length of the program; the median length of calendar time it takes for students to complete the program's academic requirements; the total number of individuals enrolled in the program; the total cost of tuition and fees; the total cost of books, supplies, and equipment; the percentage who received a Direct Loan program loan, a private loan, or both for enrollment in the program; the median loan debt of students who completed the program during the most recently completed award year; the median earnings of students who completed the program; whether the program is programmatically accredited and the name of the accrediting agency, as reported to the Secretary.

The Department believes this information will be informative to students and families, as well as researchers, who would like to assess program value. The Department also clarifies that it has the ability to publish additional metrics beyond this list, should it determine to do so at a future point.

Changes: None.

Comments: One commenter recommended that the Department adopt a multi-year averaging of earnings (i.e. 3–5 years) or an adjustment for self-employment dynamics, mirroring the methodology used for Social Security benefit calculations to remedy the limitations in the administrative data.

Discussion: The Department declines the commenter's request. As discussed above in this regulation, self-employment income is accounted for in the earnings data maintained by the IRS. The Department believes that averaging multiple years of self-employment data together to smooth over year-to-year variation would contradict the statutory intent of the earnings test, which is to measure earnings in the fourth year after graduates finish their program. Combining earnings across multiple years would extend the time horizon in which earnings are measured in a way that the Department does not have the authority to do.

Changes: None.

Comments: Several commenters urged the Department to replace or supplement the earnings premium test by comparing the earnings of a program's graduates before and after completing a program of study instead of an earnings threshold of working adults. These commenters argued that this methodology would better account for factors such as regional cost and wage differences and age group comparisons between graduate and working adult cohorts.

Discussion: The Department disagrees with this suggestion. First, Congress specified the working adults benchmark population in the WFTCA, and the Department does not believe it would be appropriate to contradict Congressional intent by imposing an alternate comparison group. Moreover, comparing the pre- and post-enrollment earnings of graduates would violate the statutory prohibition against a student unit-record system under section 134 of the HEA.

Changes: None.

Covered Institutions and Programs

Comments: One commenter suggested that the Department maintain the exemption of institutions located in U.S. Territories and the Freely Associated States from the earnings premium test. The commenter was concerned that data used for the earnings benchmark thresholds for the territories do not reflect actual earnings in those territories in the same field.

Discussion: The Department disagrees with the commenter for several reasons.

First, in the 2023 FVT/GE final regulations, the Department supported

its decision to exempt institutions in these regions by arguing that there are limited sources of earnings information for these areas and that the coverage rate of the Puerto Rico Community Survey (PRCS) is significantly lower than that of the ACS. However, after conducting additional research and analysis, we do not believe that the exemption in the previous regulations was appropriate and, may in fact, have reduced the integrity of the title IV, HEA programs with respect to the FVT/GE framework.

Second, most generally, in the NPRM the Department indicated that eliminating the exemption for institutions in the U.S. Territories and the Freely Associated States would result in a regulation that included a greater number of eligible institutions and a wider range of programs, which would benefit students and the public by providing useful and comparable information across institutions and programs. We continue to believe that holding a greater number of programs accountable for the earnings of their graduates is appropriate and beneficial to both students and taxpayers.

Third, since the 2023 regulations were published, the WFTCA was passed, and that law requires the Department to implement an earnings premium test for all undergraduate degree programs and all graduate programs, including programs at colleges in U.S. Territories and the Freely Associated States. We do not have the statutory authority to fully exempt institutions in these areas. Congress specifically called on the Department to use data from the Census Bureau, and the only such data that could accomplish this is the ACS and PRCS. The Department believes the WFTCA's requirement to apply an earnings test to undergraduate degree programs, and all graduate programs supersede the Department's prior decision to give certain programs in U.S. Territories and Freely Associated States an exemption.

Fourth, the Department believes the ACS and PRCS are reliable as long as there are a sufficient number of survey respondents to determine an earnings threshold. The threshold the Department considers sufficient is 16 or more, which aligns with the thresholds used in the privacy protocols of this Department and in other Federal agencies. Thus, the Department believes that the PRCS can be utilized in certain cases as long as a sufficient number of survey respondents are available to calculate an earnings threshold.

Fifth, certain programs in certain U.S. Territories will continue to receive an exemption. This exemption would not apply simply because the programs are

located in a U.S. Territory or a Freely Associated State, but because Census data are not available to calculate the earnings threshold. For example, bachelor's degree programs at in-state serving institutions in Guam will be exempt from the earnings premium metric because U.S. Census data are not available to calculate the in-state (*i.e.*, in-territory) earnings threshold in which this program would be judged against. The Department estimates that approximately 300 programs will qualify for an exemption for this reason.

Finally, the Department believes that this change closes a potential loophole in the prior regulations that would have allowed an institution, particularly an institution offering distance education programs, to relocate to one of the U.S. Territories or Freely Associated States in an effort to avoid the consequences of the regulations. Especially in cases where institutions offer only distance education programs from a main location that is only an administrative location, such a move would not change the students they are able to recruit for online enrollment, but would still result in an exemption from the consequences of the earnings premium measure. We believe that eliminating this blanket exemption will limit the opportunities for avoiding the consequences of the earnings premium measure by relocating to a U.S. Territory or a Freely Associated State.

Changes: None.

Comments: One commenter recommended that a distinction between career tech/vocational, corporate, and independent schools be identified in the earnings premium measure.

Discussion: The new earnings test compares the earnings of program graduates to an earnings benchmark. There are six earnings benchmarks. The benchmark earnings data come from the U.S. Census Bureau. The data includes the median earnings of working 25–34-year-olds, with the relevant credential level, the relevant geographic area, in the relevant field of study.

Changes: None.

Earnings Accountability

Scope of Accountability

Comments: Many commenters supported the expansion of the accountability framework to include all sectors and credential levels, including undergraduate nondegree programs. One commenter praised the Department's effort to consolidate previously fragmented accountability and disclosure frameworks including FVT, GT, and the WFTCA

accountability framework into a single, more coherent earnings-based standard. Another commenter concurred and stated that by including undergraduate certificate programs within a single unified framework, the Department has created a more consistent and equitable system in which all students, regardless of the credential they pursue, benefit from the same transparency and protections. A few commenters pointed out that Congress did not prohibit the Department from continuing to regulate GE programs under longstanding GE authority, but instead explicitly left the Department GE authority intact. One commenter reasoned that the Department should not exempt certificate programs from accountability because even if they were not included directly in the WFTCA legislation, it was Congress's documented intent that certificate programs be held accountable, with the understanding that they were already subject to a similar earnings threshold under the Department's existing GE rule. One commenter pointed out that no version of the WFTCA would have removed accountability requirements for undergraduate certificate programs, noting that an earlier House-led version would have removed GE authority but applied an accountability framework directly to these programs, while the subsequent Senate-led version instead maintained GE authority, which applies to undergraduate certificate programs. One commenter noted that the concept of an earnings accountability framework falls within the boundaries of Section 454 of the HEA; that the Direct Loan program exists to provide students with access to capital for higher education on terms that assume repayment is realistic; and that programs that repeatedly leave students with earnings outcomes below appropriate benchmarks do not provide assurances that the institution is serving students, that borrowers are left in a position to repay their loans, that institutions are meeting the objectives of Federal programs, and that Federal resources are being used consistently for their intended purposes.

One commenter estimated that, while undergraduate certificate programs make up only 8 percent of overall "Federally aided enrollment," they enroll 52 percent of Federally aided students enrolled in low-earning programs that would fail the earnings threshold. A few commenters remarked that students in every sector deserve protection from low-earning outcomes, and that protecting students from spending their limited title IV, HEA

eligibility on programs that fail to deliver economic value, including undergraduate certificate programs, is an essential issue of equity. One commenter noted that the title IV, HEA programs are funded by U.S. taxpayers, and that taxpayers want an appropriate return on this investment. One commenter observed that, regardless of credential level or sector, students should not be left worse off than if they had never attended a postsecondary program and that institutions receiving taxpayer dollars have a responsibility to provide sufficient economic value to continue to access title IV, HEA funds. One commenter characterized the earnings premium standard as a low bar, and observed that certificate programs would only fail the metric if they leave graduates worse off than the median high school graduate.

One commenter expressed support for the Department's approach to harmonize the way different programs are treated for accountability purposes, maintaining that it is critical to hold all institutions and all programs accountable when they lead to unacceptably poor earnings outcomes. This commenter urged the Department to maintain the proposed rule as written.

One commenter commended the Department for expanding the accountability framework to include programs in U.S. Territories and Freely Associated States, noting that the expanded scope of accountability will promote greater transparency and comparability for students when evaluating program options.

Discussion: We thank the commenters for their support.

Changes: None.

Comments: Numerous commenters objected to the inclusion of undergraduate certificate programs in the earnings accountability framework. Many commenters argued that because the WFTCA did not specifically include undergraduate certificate programs, including these programs in the accountability framework would circumvent Congressional intent. Many commenters speculated that Congress intentionally chose not to include undergraduate certificate programs in the WFTCA accountability framework because the earnings test was designed for degree-granting programs, not shorter-term skills-based programs that lead directly to licensure and employment. One commenter further speculated that including undergraduate certificate programs in the accountability framework contradicts the Trump administration's regulatory priorities and its goals for career

education. One commenter further claimed the Department did not sufficiently explain in the NPRM the decision to apply the earnings accountability framework to undergraduate certificate programs.

Several commenters opined that the accountability framework does not adequately consider different functions and outcomes of nondegree certificate programs as compared to degree programs, and observed that career and technical certificate programs are designed to deliver an immediate licensable skill set in a shorter timeframe to enter a fundamentally different labor market than degree holders.

Numerous commenters demanded that the Department exempt undergraduate certificate programs from the accountability framework entirely. Many commenters suggested that the Department exempt such programs from sanctions under the accountability framework but retain the earnings premium measure, reporting, and informational disclosure requirements for such programs for transparency and disclosure purposes. A few commenters proposed that the Department provide undergraduate certificate programs a "safe harbor" alternative compliance pathway if the program's median cumulative Federal student loan debt for the most recently calculated cohort period falls below a specific threshold, with a few commenters suggesting exempting a program with median debt less than \$10,000 (adjusted annually for inflation).

One commenter suggested that if the Department retains an accountability framework for undergraduate certificate programs, it should restore the more flexible standards of the 2019 GE Rule rather than the earnings premium measure.

One commenter predicted that many short-term credential programs would fail the same earnings test applied to degree programs and noted that exempting them from the accountability framework while restricting degree programs in humanities, education, and social services would channel students into a narrow band of government-sanctioned occupations and away from occupations that produce higher long-term earnings and mobility.

Another commenter opined that the accountability framework may create a troubling precedent wherein the Federal government indirectly pressures institutions to steer students toward only fields and career pathways that produce the highest immediate earnings, regardless of public value, cultural importance, or student

autonomy, thereby working against the principles of a free and open labor market.

Discussion: As stated in the "Authority for This Regulatory Action" section of this document, the Department maintains that the WFTCA, Section 410 of the GEPA, title IV of the HEA, and the Secretary's unambiguous authority to establish procedures and requirements relating to the administration of title IV, HEA programs, provide the Secretary authority to amend the regulations governing institutional eligibility, general provisions regulations, and the Direct Loan Program. We believe that the inclusion of undergraduate certificates in the earnings accountability framework is needed to harmonize the implementation of the WFTCA with the existing FVT/GE regulatory framework. The Department's resolute goal is to provide students, families, institutions, and the public with meaningful and comparable program information and to promote consistency in the treatment of programs across all credential levels and institutional sectors. This goal is best advanced through the establishment of a single metric that would be calculated for nearly all programs eligible for title IV, HEA funds and that has the same program eligibility consequences for failure of GE and eligible non-GE programs alike. It will also result in consistent and comparable program information disclosures for students.

The Department seeks to reduce unnecessary regulatory burden on institutions as part of our broader effort to implement Executive Order 14192, entitled "Unleashing Prosperity Through Deregulation." We reiterate that applying the value-added earnings premium test to all programs will effectively ease institutional burden and advance the Executive Branch's policy to deregulate under Executive Order 14192. As discussed more fully below in the RIA, applying the WFTCA earnings test to undergraduate certificate programs will result in fewer of those programs failing the metric and facing eligibility consequences compared to under the outgoing FVT/GE regulations.

The Department acknowledges the different functions and outcomes of nondegree certificate programs as compared to degreed postsecondary education programs, but central to this regulatory action and to the statute that prompted it is the notion that all title IV, HEA-eligible programs must lead to improved earnings outcomes for graduates. We believe that comprehensive disclosures on program outcomes are necessary so that any

student, regardless of chosen academic program or future occupation, will be more fully informed about costs and potential returns on their investment.

The Department believes a “safe harbor” exemption based on relatively low cumulative Federal student loan debt would be contrary to the intent of a uniform accountability framework and declines this suggestion. In addition, Congress did not provide any such exemption in the WFTCA, and such an exemption based on loan debt would be completely unrelated to the earnings outcomes Congress emphasized in the WFTCA.

The Department reiterates that this accountability framework is not intended to pressure institutions to steer students to any particular career pathway but—to the extent that a program participates in title IV, HEA—to incentivize institutions in every sector of higher education to offer programs at all levels that deliver economic value, to enhance data accessibility for students, and to protect taxpayers and students through stronger oversight and comprehensive disclosures on program outcomes. Most importantly, the Department seeks to establish a commonsense, functional, implementable accountability framework that will withstand legal scrutiny, endure future changes in political winds, and—above all—yield actual results after the Department’s four previous attempts at GE regulations, which spanned well over a decade and did not hold a single program accountable. An accountability framework that exempts undergraduate certificate programs, or that treats such programs preferentially, simply would not accomplish those goals.

Changes: None.

Comments: One commenter suggested that the Department exempt programs from eligibility consequences in disciplines where many students pursue a higher-level credential during the earnings measurement window and where documented enrollment in graduate programs accounts for a cohort shortfall in years three through five.

Discussion: We believe the regulations already accomplish these suggestions. Under § 668.403(c)(2), a student is excluded from the earnings premium calculation if the student was enrolled in any other educational program at the institution or at another eligible institution during the calendar year for which the Department obtains earnings information under. In addition, for undergraduate programs, § 668.403(c)(3) excludes a student from the earnings premium calculation if the student completed a higher credentialed

undergraduate program at the institution after completing the program. Similarly, for graduate programs, § 668.403(c)(4) excludes a student from the earnings premium calculation if the student completed a higher credentialed graduate program at the institution after completing the program. The definition of *Cohort period* under § 668.2(b) expands the completer cohort until it includes at least 30 graduates who are not excluded for reasons such as those described above, and if the fully expanded cohort still does not reach a minimum of 30 graduates, the Department does not perform the earnings premium calculation for that award year. In sum, we believe these provisions address the circumstances to which the commenter refers.

Changes: None.

Comments: One commenter argued that, because the general consequence for a low-earning outcome program is a loss of that program’s Direct Loan eligibility, the Department should exempt from the accountability framework institutions that have not participated in the Direct Loan program since before July 1, 2026, as their educational programs are not at risk of losing Direct Loan eligibility.

Discussion: We acknowledge the commenter’s concerns, and upon consideration, have made changes to the rule in response, though we have adopted a slightly more targeted approach. As explained above in the “Department Authority (Including GE and Quality Assurance Authority)” section, the Department will exempt institutions from the consequences of the earnings premium measure if they have not participated in the Direct Loan program for the five most recently completed award years prior to the year during which the earnings premium measure is calculated. The metric will still be calculated for such programs, but the programs will not be subject to a loss of eligibility for title IV, HEA programs due to the new administrative capability test in 34 CFR 668.16(t). Also, we provide a similar exception if the institution agrees not to permit students to borrow Direct Loan funds in that program under the provisions in 34 CFR 685.203(m)(2) for at least five award years.

Changes: None.

Certification Requirements

Comments: A few commenters characterized the use of four-digit CIP codes linked to any matching SOC code for purposes of precluding institutions from seeking Direct Loan eligibility for new programs that are substantially

similar to programs that lost Direct Loan eligibility under the earnings accountability framework as an overly restrictive approach that risks negatively affecting an institution’s ability to offer distinct and unrelated academic programs. Commenters noted that for some CIP–SOC crosswalk combinations, despite shared secondary linkage, programs can have distinct curricula, competencies, labor market outcomes, and, in some cases, separate programmatic accrediting bodies, so poor performance in one program should not limit an institution’s ability to begin another program within the broader four-digit CIP category. Several commenters suggested that the Department adopt a more granular methodology, such as the use of six-digit CIP codes or limiting to primary SOC mappings only.

A few commenters argued that prohibiting an institution from adding programs that share the same four-digit CIP code and overlapping SOC codes as a program subjected to a two-year loss of eligibility determination may, especially for small, specialized institutions, limit thoughtful program development, curriculum refinement, and educational innovation. They noted this may happen even where revised or newly developed programs differ meaningfully in educational structure, emphasis, delivery model, or professional focus, because broad CIP and SOC classification categories may not adequately distinguish between materially different educational models. A few commenters urged the Department to narrow the restriction to programs sharing the same six-digit CIP code and credential level, rather than relying solely on broader four-digit CIP classifications. One commenter suggested tailoring the restriction to programs sharing the same six-digit CIP code, credential level, and a substantially similar educational and professional focus. Another commenter recommended that the Department also consider providing an exception or review pathway for programs that have been evaluated and approved by a specialized accrediting agency with demonstrated expertise in the profession, particularly where those programs reflect material differences in curriculum, clinical training, educational model, or professional emphasis.

One commenter contended that the classification systems do not keep pace with workforce needs, given that the latest updates to CIP and SOC codes occurred in 2020 and 2018, respectively, and argued that tying program eligibility to outdated codes limits higher

education's ability to launch programs that meet current employer demand.

Discussion: We disagree with the commenters who argued that prohibiting an institution from adding programs that share the same four-digit CIP code and overlapping SOC codes as a program subjected to a two-year loss of eligibility determination is too restrictive. This provision is designed to prevent institutions from evading consequences for programs producing inadequate earnings outcomes by voluntarily discontinuing a program before Direct Loan consequences apply based on the earnings premium, and from bringing back a program that is failing or at risk of failing under a similar CIP code with few changes. While six-digit CIP codes within some four-digit CIP categories may have some more variation than others, there are still sufficient common elements to programs within a four-digit CIP category to raise concerns that an institution with one failing program within the category should wait and reassess elements such as program design and market demand before establishing a new eligible program within the same category. We also note that the protections against adding similar programs are less restrictive than those under the outgoing FVT/GE rule in that (1) unlike under FVT/GE, we consider whether the programs have overlapping SOC codes; and (2) the earnings accountability framework uses a less stringent two-year minimum period of ineligibility, as compared to three years under FVT/GE.

The Department does not believe that an exception or review pathway for programs that have been evaluated and approved by a specialized accrediting agency would be supported under the WFTCA. Even were this not the case, such an exception or review process would likely be costly and burdensome for the Department, institutions, and accrediting agencies.

With regard to the updating of SOC codes, we note that the Department of Labor maintains and updates the listing of SOC codes, and we cannot regulate another Federal agency. The Department of Education updates the list of CIP codes every 10 years, and we believe this regular review is sufficient to track developments in academic fields. We disagree that tying program eligibility to CIP and SOC codes stifles an institution's ability to respond to workforce demand.

Changes: None.

Comments: A few commenters expressed concern that prohibiting an institution from adding programs that share the same four-digit CIP code and

overlapping SOC codes as a program subject to a two-year loss of eligibility determination is an overly lenient approach, which an institution could game by simply making minor alterations to its program. The commenters were concerned that the institution would be able to continue to market, offer, and receive financial aid for a low-earning program, that, in substance, would be a reiteration of a previously failed program, and requested that the Department strike the SOC overlap provision. One commenter further suggested that the Department additionally provide, in sub-regulatory guidance, that an institution may petition for an exception where it can demonstrate with clear and convincing evidence that the new program is meaningfully distinct from the failed program in academic content, length, and delivery—placing the burden of proof on the institution rather than on the Department.

One commenter cited as examples that a medical insurance coding program (51.0713), which leads to medical records specialists (29–2072) or health IT and medical registrars (29–9021) occupations, could instead reopen as a medical insurance specialist/medical biller (51.0714), which leads to a different set of occupations (healthcare support workers [31–9099] and medical secretaries and administrative assistants [43–6013]); and that a cosmetology program (CIP code of 12.0401) could instead begin a barbering program (12.0402), as both have distinct listed occupations. The commenter claimed that the Department has not adequately explained the shift away from the definition of a substantially similar program under the FVT/GE regulations.

Discussion: We disagree that prohibiting an institution from adding programs that share the same four-digit CIP code and overlapping SOC codes as a program subjected to a two-year loss of eligibility determination is an overly lenient approach. As discussed above, other commenters argued that it is too restrictive an approach that stifles an institution's ability to develop programs to meet market demand and advocated for restricting programs sharing the same six-digit CIP code only.

We believe the fairest and most reasonable approach is a middle ground between restricting at the six-digit CIP level only, which we see as too permissive and susceptible to the types of gaming the commenters described, and restricting at the four-digit CIP more broadly, which we perceive as too strict. Although we appreciate the suggestion to allow an institution to petition for an exception where it can demonstrate

with evidence that the new program is meaningfully distinct from the failed program, such a reconsideration process could not be conducted based on administrative data and would be costly and burdensome both for the institution and the Department.

We disagree that the NPRM did not sufficiently explain the shift away from the substantially similar program definition under the outgoing FVT/GE rule. As we noted in the NPRM, the concept of substantially similar programs as described in the FVT/GE regulations does not comport with the Department's earnings accountability framework. The outgoing definition used a different restriction on establishing new programs with subject matter overlapping programs that were voluntarily discontinued or lost eligibility following failing metrics. The exemption from reporting for substantially similar program groupings under FVT/GE did not have an equivalent provision in the WFTCA statute, nor was a similar provision added in negotiated rulemaking. Therefore, due to changes in statute and proposed regulatory changes related to the new accountability metric, the Department determined, and the AHEAD Committee agreed, that the previous substantially similar program definition was no longer necessary.

Changes: None.

Comments: One commenter suggested that the Department consider requiring institutions seeking to reestablish eligibility for a previously failed program to provide evidence of material changes to the program, such as a revised curriculum, strengthened employer partnerships, improved support structures for program completion, or a demonstrated increase in labor market demand.

Discussion: The Department declines this suggestion. A process requiring evidence of material changes to the program could not be based on administrative data sources and would require costly and burdensome manual review by the Department. In addition, we are concerned that such a process would overstep the Department's role in the regulatory triad, and we believe that matters concerning academic program design and administration are best overseen by an institution's accrediting agency.

Changes: None.

Comments: One commenter suggested that the Department implement provisional certification requirements for programs that regain eligibility after losing eligibility, noting that students enrolling in restored programs may continue to face elevated risk

necessitating additional oversight in the initial years following reestablishment of eligibility.

Discussion: The Department declines this suggestion. The outgoing GE regulations did not include a mandatory provisional certification requirement for programs that regain eligibility after losing eligibility, and we believe it is appropriate to maintain a consistent approach under the earnings accountability framework. We further note that the existing regulations at § 668.13(c)(1)(i)(D) provide that the Department may provisionally certify an institution if the institution seeks to be reinstated in a title IV, HEA program after a prior period of participation in that program has ended.

Changes: None.

Comments: One commenter claimed that the requirement to provide the certification described in § 668.604(c) would place a substantial and unnecessary administrative burden on institutions but did not further elaborate upon the supposed burden. The commenter asked the Department to reconsider this requirement, particularly for nondegree and new programs.

Discussion: We disagree that providing the certification in § 668.604(c) unduly burdensome. The certification requirement is generally consistent with the one institutions provided for GE programs under the outgoing FVT/GE framework, and only requires the institution to provide through the Partner Connect system a certification, signed by its most senior executive officer, that each of its currently eligible GE and non-GE programs are approved by a recognized accrediting agency or is otherwise included in the institution's accreditation by its recognized accrediting agency, and that the institution agrees to comply with the requirements of the STATS framework in part 668, subpart Q, and the earnings accountability framework in part 668, subpart S. An institution's signed Program Participation Agreement (PPA) satisfies the requirement except in circumstances where the Department has reason to believe that a program is not accredited by a recognized agency or, if the institution is a public postsecondary vocational institution, the program is not approved by a recognized State agency for the approval of public postsecondary vocational education.

Changes: None.

Low-Earning Outcome Programs and Direct Loan Ineligibility

Comments: One commenter expressed support for program eligibility

consequences for low-earning outcome programs. One commenter recognized that the tuition charged by some institutions is disproportionate to the actual earnings in the field, and that by implementing an earnings accountability framework with program eligibility consequences the Department will prompt institutions to improve by requiring these institutions to align costs with market realities and to invest in instructional expenses rather than predatory marketing and recruitment.

Discussion: We thank the commenter for their support.

Changes: None.

Comments: One commenter noted that numerous State and Federal programs rely on the Department's statistical benchmarks to determine funding allocations, eligibility criteria, and program survival, and expressed concern that if the earnings accountability rule causes shifts in key metrics there is a danger that important programs may be cut or eliminated. This commenter requested that methodological updates should not trigger a loss of program eligibility unless there is a documented, real-world improvement in the underlying community conditions.

Discussion: The earnings accountability framework is a set of statutory and regulatory requirements that determine whether a program will be permitted to continue participation in the Direct Loan program based on performance on an earnings premium measure. The Department believes that the application of this metric to all programs eligible for Direct Loan program funds will improve accountability in postsecondary education while also expanding the data available to State and Federal policymakers. We believe this is a positive impact of the changes to the law and regulations, and in any event cannot control the reaction of other government bodies to the introduction of this new earnings accountability framework.

Changes: None.

Comments: Several commenters opined that institutions should not be held accountable or lose funding based on what graduates do following program completion. These commenters argued that institutions should not be penalized for factors the institution cannot directly control, such as which fields graduates choose to enter, how much graduates earn, how many hours graduates choose to work, whether graduates choose to take time away from work to raise children, what information graduates choose to report to the IRS, or how graduates manage their finances

including debt repayment. One commenter further claimed that the tax information graduates report to the IRS is the responsibility of the IRS, not institutions.

Discussion: The Department disagrees with commenters who assert that institutions should not be held accountable based on the earnings of their graduates. One of the functions of postsecondary education is to prepare students to enter the larger world, and to the extent that many or most of a program's graduates earn less than individuals with only a lower-level credential, the Department believes that the program has not been successful. Congress also indicated a similar belief when it established the earnings accountability framework in the WFTCA.

Additionally, in order to carry out the wishes of Congress and to improve the accountability of institutions with respect to the economic success of their graduates, the Department must use the best possible source of data on earnings. We believe that only Federal agencies maintain valid, reliable, and consistent earnings data for individuals across the country, and plan to rely on those agencies to provide the earnings information needed to perform the earnings premium calculation.

Changes: None.

Comments: Several commenters objected to limiting the general consequences for low-earning outcome GE programs only to a loss of Direct Loan Program eligibility. These commenters argued that the sanctions will be too weak to drive institutional reform or student choice, that allowing programs with recorded poor earnings outcomes to retain access to Pell Grants leaves vulnerable and low-income students exposed to the risk of inadvertently exhausting their limited lifetime Pell Grant eligibility on worthless credentials, and that for many programs, specifically at proprietary institutions, the loss of Direct Loan eligibility is an insufficient penalty because Department data shows that approximately 40 percent of students in failing GE programs rely solely on Pell Grants to attend.

Several commenters argued that allowing a low-earning outcome GE program to retain Pell eligibility appears inconsistent with the HEA requirement in Sec. 101(b) for such programs to lead to gainful employment in a recognized occupation, as the statutory language does not suggest that the Department has the discretion to pick and choose which of the title IV, HEA programs the requirements apply to and, rather, applies broadly to any of the programs

under title IV, HEA. The commenters further contended that the Department has historically interpreted the HEA GE requirement in that manner. Commenters also claimed that the use of HEA Section 454 to create a loan-only accountability regime improperly rewrites the statute because it does not authorize the Department to redefine the consequences Congress attached to failure to satisfy statutory GE requirements elsewhere in the HEA.

A few commenters argued that the broader eligibility consequences under § 668.14(h) are insufficient to protect students because poor performers may be able to game the 50 percent threshold and, even in cases where they do not, an institution's low-earning outcome programs would only lose Pell Grant eligibility a full year after the programs lost Direct Loan eligibility.

One commenter postulated that because other provisions under the WFTCA allow institutions to reduce or zero out the loan limits of students in a given program, institutions will be able to evade all Earnings Accountability sanctions if sanctions are limited to Direct Loan eligibility only.

One commenter opined that with Workforce Pell expanding the universe of programs eligible for Pell Grant funds, the Department must ensure that failing programs do not consume grant aid that should support high-quality short-term credentials. One commenter argued that providing Pell Grant access to low-performing undergraduate certificate programs is inconsistent with the value-added earnings framework for Workforce Pell programs.

Discussion: The Department disagrees with these commenters. We believe the sanctions will be sufficient to drive institutional reform and to preserve student choice, and that it would present a fundamental issue of fairness if the Department imposed stricter consequences on undergraduate certificate programs than on every other category of program.

Although commenters are rightly concerned that allowing programs with recorded poor earnings outcomes to retain access to Pell Grants could leave vulnerable and low-income students exposed to the risk of inadvertently exhausting their limited lifetime Pell Grant eligibility on credentials that do not lead to strong earnings outcomes, this rule — as thousands of other commenters have complained — does not stop at limiting the consequences for poor earnings performance to cessation of Direct Loan participation only. An institution that fails the administrative capability requirement at § 668.16(t) by deriving more than 50 percent of its title

IV, HEA funding or recipients from low-earning outcome programs will lose all title IV, HEA eligibility for all such programs—including the loss of Pell Grant eligibility sought by these commenters. It makes no difference if a substantial portion of students in failing GE programs rely solely on Pell Grants to attend, as the Department will conduct the earnings test for each GE program and eligible non-GE regardless of which title IV, HEA programs the institution offers for the program, disclosures about earnings outcomes will be available to students in every such program, and the administrative capability test will identify and remedy the poorest performing programs and institutions while incentivizing institutions to rethink their program offerings to promote better earnings outcomes.

For the reasons above we disagree with the commenter who contended that because other provisions under the WFTCA allow an institution to reduce or eliminate the borrowing limits of students in a given program, an institution could evade all Earnings Accountability sanctions. Such a program would nonetheless be subject to the earnings premium calculation and disclosure, and through the administrative capability requirement the institution's low-earning outcome programs are ultimately subject to consequences that impact the other title IV, HEA programs as well.

We firmly disagree with claims that applying sanctions for GE programs consistent with those for eligible non-GE programs is unsupported by or improperly rewrites statute. As we explain more fully in the "Authority for This Regulatory Action" section, we believe that the Department has authority under Section 454 of the HEA, as well as the GE provisions in Section 102, to require GE programs to comply with the earnings premium standard, and that the appropriate remedy for programmatic noncompliance is the loss of eligibility for Direct Loans for such programs that fail the earnings premium measure except when a large number of an institution's programs fail. Section 454 provides significant flexibility in designing the quality assurance system, and that includes the option to tailor the remedy for noncompliance to a program-by-program basis to protect the interests of the United States. We believe it would not be in the interest of the United States to disqualify all programs at an institution from access to Pell Grants if only a small portion of the institution's programs are not performing, because students in high performing programs would also lose

access to programs that are adding value.

We believe that the administrative capability threshold will be resistant to the sort of gaming anticipated by commenters, in part because an institution must meet more than one threshold (*i.e.*, 50 percent of title IV, HEA revenue and 50 percent of title IV, HEA recipients). In addition, as we further discuss below in the "Consequences for Failure to Demonstrate Administrative Capability" section, we believe that imposing a full loss of title IV, HEA eligibility after a single-year failure of the administrative capability requirement would be inappropriate, and that a two-of-three standard is appropriate not only to reduce the possibility of adverse consequences attaching in borderline cases where an institution may actually have passed the 50 percent threshold, but also to protect both institutions and students from sudden disruptions in the availability of other title IV, HEA programs such as Pell Grants and to provide institutions one additional opportunity to improve their program offerings.

We concur that with Workforce Pell expanding the number of programs eligible for Pell Grant funds, the Department must see to it that failing programs do not consume grant aid that should support high-quality short-term credentials. We note, however, that eligible workforce programs are subject to even more oversight than most other programs, in that not only are such programs subject to the earnings premium calculation and administrative capability requirements and consequences that pertain to other GE programs and eligible non-GE programs, but also the value-added earnings calculation under § 690.95. We believe that these frameworks, together, meet statutory requirements and sufficiently safeguard Pell Grant funds from low-quality short-term credentials.

Changes: None.

Comments: Many commenters speculated that a loss of Direct Loan eligibility would cause institutions to close and would reduce choices available to students as well as the number of licensed or credentialed professionals entering the workforce. Many commenters argued that the accountability framework would remove health and safety standards from licensed professions such as cosmetology. One commenter speculated that loss of eligibility for two failures in three years is not a meaningfully more flexible standard than loss of eligibility with one failure but the institution can choose to teach

out, because when faced with a need to pass the earnings premium calculation in the next two years alongside issuing warnings to students, almost all institutions would choose to teach out the program after the first failure.

Many commenters postulated that accountability measures may pressure institutions to transition to degree-only models or restrict enrollment to mitigate risk in programs that serve students who benefit most from career education, including women, parents, caregivers, minorities, immigrants, low-income students, first-generation students, students with prior convictions, students with disabilities, and other historically underserved students. A few commenters warned of a chilling effect that could cause institutional leaders to make curricular decisions not on the basis of educational value or community need, but instead on the basis of whether a program's graduates can be expected to out-earn a benchmark group.

Several commenters predicted that loss of eligibility under the accountability framework would force institutions to lower tuition to accommodate students' financial limitations.

Many commenters presumed that a program's loss of eligibility for one or more title IV, HEA programs would inevitably lead to reduced choice and opportunities for students.

Discussion: As a different commenter noted, low-earning outcome programs need not shut down entirely. The rule allows these programs to continue to operate; they simply cannot enroll students using Direct Loans. There are many institutions, particularly in the nondegree space, which do not rely on title IV, HEA assistance and often charge lower tuition. Failing programs can lower their prices so their students do not need to take on Federal debt. Institutions could also allow their students to work for pay while enrolled to help cover their tuition, which many cosmetology schools effectively prevent their students from doing today. An important feature of applying accountability at the program level is that students can choose different programs at the same institution or at a nearby institution that might provide a better return on investment.

Changes: None.

Comments: One commenter appeared to take issue with the terminology used in the accountability framework, objecting to labeling programs as "low-earning degree" programs when some such programs may lead instead to a certificate or other nondegree credential.

Discussion: This commenter appears to have misunderstood the terminology used in § 668.603, which in both the NPRM and in this final rule categorize programs that fail the earnings premium measure in two out of three award years as "low-earning outcome programs," not "low-earning outcome degrees." The "low-earning outcome program" language directly reflects the wording Congress provided in Section 454(c)(2) of the HEA as revised by the WFTCA, and the Department believes it is appropriate to retain this language given the application of the accountability framework to programs across credential levels.

Changes: None.

Comments: Several commenters suggested phased implementation timeline or a longer period of time before a program loses eligibility, arguing that institutions should have an opportunity to review and validate data and to implement program improvements before sanctions take effect because program improvements cannot affect measured earnings outcomes for several years due to cohort timing and the four-year earnings measurement period. A few commenters suggested a two-year phase-in during which EP measure results would be published for transparency but would not trigger ineligibility or institutional status changes.

One commenter argued that loss of eligibility after failing the earnings metric in two out of three award years may provide insufficient protection against systemic misclassification for professions characterized by delayed workforce entry, graduate practice development, and self-employment.

A few commenters argued that sanctions punish programs by measuring income during predictable periods of practice building, and suggested delaying sanctions until a program fails the earnings premium measure in three out of five years.

One commenter suggested that the Department first place a program on a probational status with technical assistance before imposing sanctions.

A few commenters requested that institutions be evaluated only using prospective data created following the effective date of the regulations, rather than relying on historical data. One commenter postulated that making program eligibility determinations based on metrics calculated using data from years that precede the effective date of the rule would constitute impermissible retroactive rulemaking, arguing that it is unfair to sanction institutions based on program decisions that were made prior to the effective date of the new

regulations and that cannot be reversed or impacted in any way in an effort to comply with the new regulations.

Discussion: For the majority of programs covered by the earnings accountability framework, the Department does not have the authority to alter the timeline for earnings measurement established by Congress. Additionally, the Department continues to strongly believe that it is appropriate to apply the same statutory methodology to undergraduate certificate programs, resulting in a fairer and more consistent approach to accountability throughout postsecondary education in the United States.

The Department does not believe it is appropriate to delay the implementation of the regulations, in part because of statutory requirements that cannot be waived by the Department, but also because the Department believes it is important to implement these accountability requirements as soon as possible to ensure that students and taxpayers receive the maximum possible benefit from the changes.

Changes: None.

Comments: One commenter encouraged the Department to resist requests for an extended transition period in which EP determinations are reported on an informational-only basis without eligibility consequences, noting that the original GE rule has been promulgated four times since 2011 and no program has ever lost eligibility under any version of it, and that extended informational-only periods undermine the goal of accountability.

Discussion: We agree with the commenter and thank them for their support.

Changes: None.

Comments: A few commenters opined that the Department did not adequately explain the change from a three-year period of ineligibility under the FVT/GE rule to a two-year period of ineligibility under the earnings accountability framework, because the Department had previously justified the three-year ineligibility period as one that most closely aligns with the ineligibility period for failing the cohort default rate, and recommended that the Department extend the limitation from the proposed two years after losing eligibility to three years for all low-earning outcome programs.

Discussion: The Department is shifting to a two-year period of ineligibility for degree programs and graduate certificate programs because the statute requires us to do so. For undergraduate certificate programs, the Department believes that the

ineligibility period described in statute for the earnings accountability framework is significantly more appropriate than the period of ineligibility for the cohort default rate, particularly since the latter rate measures different outcomes for a different population of students.

Changes: None.

Comments: One commenter argued that characterizing the period of ineligibility as a two-year prohibition is inaccurate, arguing that the practical result of the restriction on seeking eligibility for a program that was previously determined to be a low-earning outcome program until the program has not failed the earnings premium calculation for the most recent two award years is an indefinite period of ineligibility with a two-year minimum. The commenter further opined that making this clarification would remind institutions that their programs will continue to be evaluated under the earnings premium test even during the ineligibility period.

Discussion: The Department thanks the commenter for making this point and will emphasize in training and guidance to institutions that the period of ineligibility is an indefinite period of ineligibility with a two-year minimum.

Changes: None.

Comments: A few commenters argued that students who entered a program in good faith should not lose access to title IV, HEA programs midstream because of a retrospective earnings calculation, and urged the Department to protect currently enrolled students partway through a program by allowing them to retain eligibility after the program is determined to be a low-earning outcome program.

Discussion: The Department disagrees with the commenter for several reasons. First, the statute prevents the Department from permitting an extension of student eligibility if they are enrolled in degree programs or graduate non-degree programs. Second, the Department wishes to harmonize the requirements for undergraduate certificate programs with those of all other programs eligible for title IV, HEA program funds. Finally, the Department does not believe it is appropriate for a student to continue receiving title IV, HEA funds in a program that has demonstrated that it does not confer adequate financial value. Institutions are required to warn students that they will lose Direct Loan eligibility when a program has failed the metric for at least one year, and this will allow students to make their own informed decision about whether to remain enrolled in the

program or seek to transfer elsewhere or discontinue enrollment.

Changes: None.

Comments: One commenter opined that the NPRM did not make apparent when the termination of a program's Direct Loan eligibility actually takes effect, particularly in the event the termination action concluded in the middle of a term, and requested that the Department clarify that a program's Direct Loan eligibility termination would not take effect until the beginning of the term after the term in which the Department completes the eligibility termination.

Discussion: As described in the "Termination Mechanism and Appeals Process" section, the Department has amended its policy for ending program eligibility when a program has failed the earnings premium measure in two out of three consecutive award years. The Department will now rely on any available mechanism to end the eligibility of a program, which could include a limitation action under 34 CFR Subpart G, a partial revocation action under 34 CFR 668.13, or a refusal to include the low-earning outcome programs on an institution's Eligibility and Certification Approval Report (ECAR) when it recertifies the institution.

Changes: None.

Orderly Program Closure

Comments: Several commenters praised the inclusion of the orderly program closure provisions, noting that allowing a program to wind down over a reasonable period of time rather than facing immediate loss of program eligibility provides institutions and students a more orderly transition process, promotes continuity of student access to academic resources, and allows students to complete their studies without sudden disruption. One commenter additionally expressed support for requiring an institution to provide students the academic and financial options to continue their education in another program when conducting an orderly program closure.

Discussion: We agree with the commenters and appreciate their support.

Changes: None.

Comments: A few commenters expressed concern that the orderly program closure provision would reduce overall accountability benefits and protections for students under the earnings accountability framework by extending the timeline for a failing program to continue receiving title IV, HEA funds while creating risk for students who remain enrolled where

better options may exist. A few commenters recommended that the Department eliminate the orderly program closure provision. If the Department retains the provision, commenters suggested limiting it to a single year, which would provide time for a student to transfer to another program if his or her program is longer than two years or the student is enrolled less than full time, and prohibiting programs longer than three years from accessing an orderly program closure.

Discussion: We appreciate the commenters' concern about the well-being of students but we maintain that, on balance, the orderly program closure option improves, not reduces, student protections and we decline the suggestion to remove it.

We note that during an orderly program closure institutions must provide an enhanced warning to students that discloses the status of the program and provides information about options to transfer to another program at the institution or at another institution. With regard to students currently enrolled in a program that has failed the earnings premium calculation and opts for an orderly program closure, we believe that students fundamentally have a right to make choices about where to complete their education, and such disclosures will provide the information necessary to inform and support that decision. The Department trusts that postsecondary students are sufficiently mature and competent to make wise enrollment decisions when provided with the relevant information at the point in time when that information would be most meaningful. If a student, who has been seen the required disclosures, makes the informed decision to finish his or her program of study during an orderly program closure, we believe that the Department and the institution should honor that decision and the student should have the opportunity to continue in that program until the student graduates or for the limited duration of the orderly program closure (*i.e.*, up to three years or the length of the program, whichever is shorter).

Moreover, the orderly program closure process requires the institution to immediately cease enrolling new students in the program, thereby benefiting prospective students and taxpayers by incentivizing institutions to cease enrolling new students in at-risk programs one year earlier than the program would otherwise lose Direct Loan program eligibility if determined to be a low-earning outcome program.

Changes: None.

Comments: One commenter argued that many supposedly precipitous institutional closures of large for-profit chains were foreseeable because of these institutions' questionable admissions practices, inferior pedagogy, and failure to consider the employability of their students or their ability to repay student debt. The commenter observed that such programs do not operate in the best interest of students, and therefore suggested that the Department limit the orderly program closure option to programs where graduates are repaying their loans.

Discussion: We concur that precipitous institutional closures are both undesirable and problematic, but we do not believe that further limiting criteria for an institution to qualify for the orderly program closure option would address the issues described by the commenter. Conversely, we believe that allowing an institution to commit to an orderly program closure will reduce the likelihood of a precipitous institutional closure and improve the likelihood that a student, who makes an informed decision to do so, will be able to complete his or her program of study without the sudden disruption that is characteristic of a precipitous closure.

Additionally, we are concerned that adding a repayment rate criterion could undermine the legal sustainability of the earnings accountability framework, given that the original 2011 GE rule was vacated by a court on the basis of its loan repayment rate metric, and that the WFTCA does not prescribe a repayment rate calculation.

Changes: None.

Comments: One commenter posited that the Department should not prevent an institution from accessing the orderly program closure option solely due to being subject to the heightened cash monitoring 2 (HCM2) or reimbursement method of payment, and that the Department should consider the underlying reasons the institution was placed on a restrictive method of payment. This commenter noted that the decision to place an institution on a restrictive method of payment is a risk mitigation tool at the discretion of the Department, and theorized that the Department could therefore simply change an institution to a less restrictive method of payment momentarily to approve an orderly program closure agreement. The commenter also contended that not all institutions on a restrictive method of payment are in that status for reasons that should in every instance preclude the approval of an orderly program closure—for instance, under § 668.175(h)(2)(iii) the Department may offset an institution's

title IV, HEA draws to fund a financial protection, a process that can involve HCM2. The commenter also reasoned that the Department has tended to keep institutions on HCM2 for a period after an administrative problem has been resolved for a school to demonstrate a positive pattern of compliance through several successive compliant HCM2 payment request submissions, inferring that such institutions may not be able to access the orderly program closure option despite having resolved the administrative or compliance issue for which the institution was initially placed on a restrictive method of payment. The commenter further suggested that if an institution was placed on HCM2 due to an accrediting agency action or a state agency action, approving an orderly program closure could be advantageous for beginning an orderly winddown of an institution that may otherwise be in danger of precipitously closing, and highlighted that in such instances the Department could use the HCM2 submission requirements to ensure that the institution complies with the requirements of the orderly program closure agreement.

Discussion: We appreciate the commenter's concern, but in the Department's view placement on the HCM2 method of payment always represents a response to a significant risk to taxpayer funds, and any such risk is important enough to warrant precluding the orderly program closure option. Even in the example the commenter described under § 668.175(h)(2)(iii) where the Department may offset an institution's title IV, HEA draws to fund a financial protection, the fact remains that a financial protection is required and a financial stability risk exists. The Department will consider the effects of HCM2 on this provision, among various other issues, when it decides whether to keep an institution on that method of payment.

Changes: None.

Comments: One commenter speculated that although the Department presented the orderly program closure option as a compassionate accommodation, in reality once an institution decides to undertake an orderly program closure faculty will depart, students will transfer, donor support will evaporate, and the program will collapse before the limited window of eligibility expires.

Discussion: We disagree with the commenter, and we do not believe that it is a foregone conclusion that an institution or program voluntarily undergoing an orderly program closure

will experience a sudden collapse in the manner the commenter described. We believe that allowing an institution to commit to an orderly program closure will reduce the likelihood of a sudden collapse and will improve the likelihood that the institution will take the appropriate steps to retain faculty and support students through the program closure process.

Changes: None.

Comments: A few commenters expressed confusion about the interaction between the orderly program closure option and the regaining eligibility framework, as under proposed 34 CFR 668.604(b)(2) an institution could not add a program with the same four-digit CIP code if it shares any of the same SOC codes as one that was voluntarily discontinued (including via an orderly closure) or became ineligible, while under proposed 34 CFR 668.603(c)(4) failing programs could be permitted to continue their loan eligibility in the context of an orderly closure, but (per proposed 34 CFR 668.603(c)(4)(G)) must agree not to restart that program or a program in the same four-digit CIP code for at least two years without specifying any SOC code provisions. One commenter further recommended elimination of the orderly program closure provision.

Discussion: We acknowledge the inconsistency between the criteria for establishing the eligibility for a similar program in these two different contexts. The criterion for adding programs that are similar to one that the institution has opted to orderly close is more restrictive than for low-earning outcome programs that ceased Direct Loan participation. Because an institution voluntarily chooses whether to offer an orderly program closure and is aware of the conditions of doing so, we do not believe the stricter requirement for adding similar programs is unreasonable.

Changes: None.

Comments: One commenter expressed concern that limiting entry to the orderly program closure option to shortly after the first year a program fails the earnings premium measure would not meaningfully benefit undergraduate certificate programs which are typically shorter than one calendar year, because the population of currently enrolled students at any given point is small relative to annual program revenue, so the institution will in most cases lack sufficient revenue to continue operating through the completion of an orderly program closure for those remaining students. The commenter concluded that the

practical consequence would be an abrupt closure rather than an orderly teach-out, harming the very students the provision is designed to protect, and urged the Department to either change the timing for programs with normal lengths of less than one academic year or permit continued new enrollment during teach-out, subject to appropriate student disclosures.

Discussion: We disagree with assertions that limiting entry to the orderly program closure option to shortly after the first year a program fails the earnings premium measure would not meaningfully benefit undergraduate certificate programs. We further disagree that it is a foregone conclusion that any institution will lack sufficient revenue to continue operating through the completion of an orderly program closure for remaining students in a certificate program. Resources and staffing vary from institution to institution, and while in some cases an institution may determine that it is not feasible to offer an orderly program closure for a certificate program, other institutions will readily do so and their students will benefit from the option to finish the program.

We also note that, as a general ongoing condition of title IV, HEA participation, institutions must demonstrate financial responsibility, which includes the requirement to have operating funds sufficient to pay title IV, HEA credit balances; satisfy payroll obligations; make refunds under its own refund policy (as applicable); return unearned title IV, HEA funds for which it is responsible; and more generally to provide students with the programs and services that the institution marketed to them. Broad claims that an institution offering a certificate program could not benefit from an orderly program closure based on revenue concerns suggest that the institution was not meeting financial responsibility requirements even before the program failed the earnings premium calculation.

Changes: None.

Comments: A few commenters pointed out that the regulatory text does not explicitly exempt programs undergoing an orderly program closure from continued earnings premium calculations and opined that there is ambiguity regarding whether such a program can accumulate a second failure during the wind-down period, thereby becoming a low-earning outcome program and counting toward the 50 percent administrative capability threshold. One commenter encouraged the Department to explicitly exempt programs from continued earnings premium calculations if the institution

chooses to undergo an orderly program closure.

Discussion: The regulatory text at § 668.603(d)(4)(i) provides that when an institution agrees to amend its program participation agreement to carry out an orderly program closure, the Secretary allows such program to continue participation in the Direct Loan program under the conditions of the agreement. In essence, upon the countersigning of an orderly closure agreement, the program is set aside and, for the limited duration of the orderly closure process, is not considered a low-earning outcome program and does not count toward the 50 percent administrative capability threshold.

Changes: None.

Student Warnings and Acknowledgments

Comments: Many commenters argued that the implementation of student warnings after a single metric failure may cause reputational harm, enrollment disruption, and program closure, even in cases where programs remain viable and aligned with state licensure requirements.

Discussion: The Department disagrees with the commenters that stressed a warning would cause irreparable harm and an industry-wide closure of viable institutions. The statute requires institutions to actively warn prospective and current students when an eligible non-GE program may become ineligible for the Direct Loan program based on its earnings premium measure in order to help the student make educated decisions on where to invest their time and money in pursuit of higher education. The Department is applying the same set of requirements to both GE and eligible non-GE programs consistent with its intent to harmonize all earnings accountability requirements and establish a better understood and more uniform framework for providing consumers with information about failing programs. The Department believes these changes are necessary to incentivize institutions to offer programs that deliver appropriate return on investment, enhance data accessibility for students, and protect taxpayers and students.

Changes: None.

Comments: Several commenters requested the ability to add contextual information to the student warnings such as specific labor-market data, program improvement plans, that four-year snapshots are not predictive of lifetime earnings in fields with demonstrated long-term growth, or otherwise state that educational quality

and student outcomes may not be measured solely through earnings data.

Discussion: The Department acknowledges the concerns raised by commenters, but is concerned that including additional information on the warning could detract or confuse students from the critical content of the warning. The Department clarifies that institutions may provide supplemental information and explanations to accompany the warnings, but these must be separate from and in addition to the warning itself, as the warning content specified in the regulation must be the only substantive content of that communication. The Department reiterates that no supplemental information or explanations that accompany the warnings may dilute, obfuscate or otherwise downplay the Department's efforts and intentions to inform and protect taxpayers and students.

Changes: None.

Comments: A few commenters argued against the elimination of required alternate language student warnings. These commenters stressed that institutions serving populations in which a significant percentage of students or their families are non-English speaking would be more effective in conveying information to them.

Discussion: The Department acknowledges these concerns but declines to make a change due to the administrative burden imposed by the requirement. Institutions must provide the warning in English but may additionally provide a separate warning in an alternate language if they wish.

Changes: None.

Comments: A few commenters stressed that warnings would be detrimental to students from lower income backgrounds, who may be disproportionately dependent on federal loans to pursue higher education or otherwise more sensitive to regulatory signals about program risk. The commenters expressed the warnings would act to deter these students from enrolling.

Discussion: The Department believes that more robust and comprehensive disclosures are needed to protect all students, especially those from lower economic backgrounds, from low-earning outcome programs. If a student chooses not to enroll in an at-risk program based on a warning, we believe that is one outcome that indicates the warning is working as the statute and the regulations intend, in that the student made an informed enrollment decision based on timely information about the program. Another student

might choose to enroll nonetheless after receiving a warning, but in both cases the warning empowers the student to make a more informed decision. The Department reiterates that all higher education programs should deliver economic value and warnings will help convey important information about the potential earnings and economic benefits of a program when those benefits are in question.

Changes: None.

Comments: Other commenters stated that warning and acknowledgment requirements could disproportionately impact smaller institutions.

Discussion: The Department reiterates that all higher education programs, including those at smaller institutions, should deliver economic value and the warnings would help convey important information about the potential earnings and economic benefits of a program.

Changes: None.

Comments: Several commenters shared various suggestions regarding the content and process of the warning and acknowledgements required under 34 CFR 668.605. Some of the comments were to strengthen the warnings and acknowledgments with additional information, repeated warnings after failure, and an active acknowledgment process. Other commenters were against including remaining Pell Grant eligibility on the acknowledgments, arguing that so much information is unnecessarily burdensome.

Discussion: The Department appreciates the commenters' suggestions and enhancements. We believe the revised 34 CFR 668.605 strikes the appropriate balance of critical and optional information needed for consumer information related to the performance of their program. Regarding student acknowledgments of the warnings, the Department believes that the value of timely and relevant information regarding Direct Loan and Pell Grant eligibility justifies any administrative burden to institutions subject to the warning.

With respect to additional information that could be included in student warnings, the Department believes that the introduction of the administrative capability process in 34 CFR 668.16(t) requires that additional information be provided to students whose programs are in danger of losing all title IV, HEA program eligibility because at least half of the institution's revenue or students are associated with low-earning outcome programs. Therefore, in that circumstance we are adding a requirement for an institution to provide additional information to that effect in a student warning.

Changes: The Department added a new paragraph (iii) at the end of § 668.605(c)(1) to establish an additional requirement for an institution that has failed to comply with the requirements of 34 CFR 668.16(t) in at least one of the three most recent consecutive award years. Such an institution would also be required to include in student warnings an explanation that students enrolled in a low-earning outcome program could also lose access to the other title IV, HEA programs.

Appeals

Basis for Appeals

Comments: A few commenters expressed support for limiting the basis for appeals, noted that the Department's obligation is to use IRS data as the best available data, and recalled that the broader appeals process under the 2014 GE rule yielded flawed earnings surveys that inflated alternate earnings estimates about 73 percent higher than earnings reported in SSA data under the GE calculations for all programs (and this inflated survey data was even more pronounced for cosmetology programs at 82 percent). One commenter surmised that allowing institutions to appeal based on alternative earnings measures or similar methodologies would likely lead to lengthy disputes, create incentives for manipulation that would disadvantage students, while continuing to direct funding to programs that provide little or no meaningful earnings benefits to graduates.

Discussion: The Department agrees with these commenters, and we thank them for their support.

Changes: None.

Comments: Many commenters claimed that the earnings accountability framework lacks a meaningful and transparent appeal process. Several commenters opined that limiting appeals to mathematical errors in calculating the earnings premium measure is too restrictive, rendering appeals an administrative formality. Several commenters postulated that an appeals process that does not allow substantive challenge to the data underlying the determination does not satisfy the intent of HEA Section 454(c)(5). A few commenters theorized that limiting the scope of appeals may depart from the Administrative Procedure Act, which considers sanctions lawful only if the institution has been given notice by the agency in writing of the facts or conduct which may warrant the action and the opportunity to demonstrate or achieve compliance with all lawful requirements.

One commenter expressed concern that the limited basis for appeals means institutions may be unable to independently replicate, verify, or evaluate the determinations underlying a failing program designation.

A few commenters argued that the appeals process should allow institutions the opportunity to challenge the formula itself, such as when an institution receives a calculation that is technically accurate under the Department's methodology while the methodology itself is ill-suited to the realities of a particular profession such as acupuncture practice. One commenter advocated for a methodological appeal if the program prepares students for a self-employment-intensive licensure profession, if the cohort or earnings threshold fails specified sample-size or reliability thresholds established by the Secretary, or the Federal agency with earnings data applies privacy suppression techniques in a manner that materially alters the reported median earnings.

One commenter emphasized a need for robust mechanism to challenge punitive findings and urged the Department to consider a data appeals process that encompasses databases such as the Cal Pass dashboard that underscore persistent disparities in visual arts majors gaining employment in underserved California regions.

Several commenters maintained that a "one-size-fits-all" framework does not account for the diversity of educational models and workforce outcomes across industries, and one commenter advocated that there should be no limitations on what aspects institutions can appeal.

Discussion: The Department disagrees with claims that the earnings accountability framework lacks a meaningful and transparent appeal process and with claims that the appeals process does not satisfy the requirements of the WFTCA or the APA. The WFTCA provides that the Secretary shall establish an appeals process so that if a program is determined to be a low-earning outcome program, the institution may appeal that determination. The WFTCA did not instruct the Secretary to allow institutions to appeal at each step of the determination, including the reliability of the data set as to that program. It instead leaves the Department discretion to make a reasoned choice of the best available data on which to make the low-earning outcome determination. We considered the difficulty in verifying alternative data in a timely manner and believe that, even were it

accurate, alternative data is unlikely to have a significant impact on the overall calculation. With regard to commenter concerns about the Administrative Procedure Act, the threshold question for procedural due process purposes is whether a person has been or will be deprived of a property interest protected by the U.S.

Constitution, but institutions lack such a protected interest in continued eligibility to participate in Federal student aid programs. A unilateral expectation of benefits is insufficient, institutions are neither promised nor led to believe that they will receive a continuing stream of Federal support without change in student aid rules, and neither institutions nor programs are direct beneficiaries of title IV, HEA aid to students. The final rule's appeal process is fair, and the risk of error is low in the first place because the Department will use quality data on earnings from a Federal agency combined with other reliable information, including information supplied by institutions themselves. We do however agree that institutions should be provided with adequate information about the information used to calculate the earnings premium measure for their programs, and commit to providing that information to institutions at the time that we provide the annual notice of determination of the results of the metric.

We strongly disagree that the appeals process should allow institutions the opportunity to challenge the earning premium formula or methodology itself. We even more strongly disagree with the suggestion that there should be no limits on what factors an institution can appeal. The WFTCA did not provide a menu of options and alternatives for the Department to consider for different types of institutions and programs. While we recognize that one of the defining features of the American higher education system is its diversity of options to meet each student's needs, it would be both impracticable and inequitable for the Department to develop unique metrics and unique appeal mechanisms for each and every institution, occupation, locality, or sector. Through the WFTCA, Congress selected one earnings premium methodology to measure a program's economic value, and the Department cannot allow institutions to circumvent that methodology through the appeal process.

With regard to the commenter who requested the use of alternate earnings data from State data systems to address disparities in earnings outcomes for certain disciplines or localities, we

disagree and believe that the appeals process should apply to all programs consistently. We discuss more fully in the "Use of Alternate Earnings Data for Appeals" section other comments requesting the use of supplemental earnings data from State data systems.

Changes: None.

Comments: A few commenters suggested that an institution should be able to appeal a low-earning outcome program determination based on evidence of a program's civic and societal value, to account for the benefit of lower-paying fields that serve the public good and whose societal benefits may not be reflected by earnings.

Discussion: The Department disagrees with the commenter. Although postsecondary programs offer value in a variety of ways, including to students and society, these regulations and the earnings test set forth by Congress in the WFTCA specifically measure the economic value conferred by the program. The statute does not require consideration of civic or societal value, and in any event it would be impractical for the Department to accurately and consistently measure the civic or societal value of a postsecondary program.

Changes: None.

Comments: A few commenters claimed the Department's demonstration data contained inaccuracies including programs misassigned to institutions in fields they do not offer and that, without an earnings appeal process, institutions would be vulnerable to outcomes based on flawed inputs. One commenter representing several institutions claimed that in the Department's demonstration data, some institutions had programs listed with graduates in CIP codes for which no programs have ever existed at the institution, and the commenter highlighted the importance that institutions be able to appeal data errors of this sort. A few commenters more broadly contended that institutions should be able to appeal improperly constructed cohorts.

Discussion: The Department believes the appeal process already allows institutions to appeal and correct errors of this type. We remind commenters that the graduates included in the earnings cohort are based on data reported by institutions to the Department, and institutions are required to report accurate student-level title IV, HEA recipient information to the Department, including correct CIP codes for each recipient's program of study. Although institutions cannot directly challenge the administrative earnings data the Department obtains

from a Federal agency with earnings data, the regulations provide institutions the opportunity to review and correct the completers list for each program. In addition, institutions can through the appeals process review and challenge the completers list the Department uses to obtain graduate earnings data.

Changes: None.

Comments: A few commenters posited that the appeal process should include adequate notice, access to the underlying data and methodology used to establish cohorts and calculate earnings outcomes, and sufficient time for institutions to review and respond before consequences apply.

Discussion: We agree with the commenters that institutions should be provided with adequate information about the information used to calculate the earnings premium measure for their programs, and commit to providing that information to institutions at the time that we provide the annual notice of determination of the results of the metric.

Changes: None.

Comments: A few commenters called for additional specificity regarding the appeals process. One commenter broadly claimed that the appeals process is not clearly articulated. One commenter opined that the Department should specify the allowable grounds for challenge, the procedures and deadlines for submitting a challenge, the documentation institutions may provide, and the timeline within which the Department must respond.

Discussion: We agree with the commenters that additional specificity about the appeals process is warranted, and believe the changes that we made to Subpart S in response to a comment below provide greater clarity about the criteria that an institution may use to appeal a loss of Direct Loan eligibility. We decline to regulate the Department by providing complete information about the procedures and deadlines for submitting an appeal in the regulations, but commit to providing that information via sub-regulatory guidance prior to the first appeals submitted by institutions.

Changes: None.

Ability To Challenge Graduate Earnings Data

Comments: Many commenters emphasized that institutions should be able to examine and appeal underlying earnings data. Several commenters elaborated that earnings data appeals are appropriate because of limitations with IRS earnings that may not fully reflect self-employment, business income, tip

income, and an earnings measurement window that captures practice-development periods rather than longer-term earnings patterns. Several commenters suggested that the Department allow earnings appeals on the basis of alternative state wage data, graduate surveys including tipped income, or BLS occupational data for the relevant occupation and geographic area.

Discussion: The Department strongly disagrees with suggestions that we should allow appeals to substitute or modify the earnings data using alternative earnings data. We maintain, as discussed at length in negotiated rulemaking at in the NPRM, that it is inappropriate to accept appeals on the basis of alternative earnings for numerous reasons. IRS earnings data represent the highest quality and most accurate available data source and, accordingly, are also currently used for determining student and family incomes for purposes of establishing student title IV, HEA eligibility and determining loan payments under income-driven repayment plans. Moreover, past data submitted by institutions in alternate earnings appeals, such as graduate earnings surveys and employment verifications, was unreliable and was of considerably lower quality than the earnings data available from administrative data sources.

As discussed more fully above in the “Earnings of Program Completers—Use of IRS Data” section, tipped income is already included in Federal tax data, as it is legally required to be reported under the tax code. Given the use of median earnings data, the possibility of under-reported tipped income would only occur if program graduates were unlawfully not reporting tipped income *en masse* and over half of graduates from a program illegally under-report their tipped income for this purported issue to impact the median earnings value of a program. Such a large amount of illegal under-reporting of tipped income seems implausible, and the Department believes the “no tax on tips” policy included in the WFTCA will further reduce the prevalence of any potential underreporting in tipped income. We also note that, as explained above in the “Earnings of Program Completers—Use of IRS Data” section, if a program is designed to prepare a student for gainful employment in a recognized occupation that qualifies for a deduction of tip income under IRS “No Tax On Tips” regulations, and 50 percent or more of individuals in the occupation receive income from tips, eligibility consequences will not apply in cases where earnings premium

calculation would use earnings data from 2025 or prior. Given that change, we believe that the results for tipped occupations will be significantly more reliable indicators of the true earnings of graduates, and therefore no further adjustment is necessary or appropriate though the appeal process to account for tipped income.

With regard to the earnings measurement window, we note that many, if not most, occupations are characterized by earnings that increase over time. Contrary to commenters’ assertions, that is a natural and expected function of career and economic growth over time, not an outlier unique to a particular program or field. In the WFTCA, Congress nonetheless specified a four-year earnings measurement window for all programs. Given the significant costs of higher education, we believe that students and taxpayers have a right to expect a timely return on their investment, and we do not believe it would be supportable or appropriate to contradict Congressional intent by offering a longer earnings measurement through the appeals process.

Changes: None.

Comments: One commenter cautioned the Department to avoid creating an appeals process that becomes overly burdensome for schools and the Department to process, noting that smaller institutions may not have the necessary staff and resources to track down former students, verify informal earnings reports, or assemble individualized documentation to support an appeal. The commenter also observed that even when graduates are working, some may be reluctant to provide employment information, and reasoned that if a graduate is not reporting income fully to the IRS, it is unrealistic to expect that graduate to report it to an institution for purposes of an appeal.

Discussion: We agree that documenting alternative graduate earnings data, such as by developing and administering graduate earnings surveys, would be time-consuming and burdensome both for institutions to administer, and for the Department to adjudicate. We also agree that such alternative earnings data is unlikely to be more complete or of better quality than administrative earnings data provided by the IRS or another Federal agency with earnings data. These are some of the reasons the Department believes it is necessary and prudent to thoughtfully limit the basis for appeals to errors in the earnings premium calculation based on supportable administrative data.

Changes: None.

Use of Alternate Earnings Data for Appeals

Comments: A few commenters suggested that the Department allow for appeals of graduate earnings data based on State longitudinal data systems. A few commenters claimed that many States have developed data systems that allow them to track information such as enrollment and completion data; program performance data; financial aid data; workforce data; and return on investment data that includes student debt, time to degree, and earnings of graduates by degree type, program, and institution, and contended that if an institution is in a State with a robust data system, the institution should be afforded the opportunity to submit State earnings data. One commenter speculated that using such state data systems would align with the Secretary’s broader aim of returning education to the States.

Discussion: We appreciate the commenters’ suggestion, but we do not believe such an approach would be fair or practical. Although some States may have developed relatively robust longitudinal data systems, which may in some cases include graduate earnings data, other States may not have done so. Even for those States where such systems may be available, the data available may not be consistent or comparable between different States, or even within different sectors or occupations within the same State, and the Department has no reason to believe that such earnings would be more complete or accurate than Federally sourced data. In addition, we believe it would be inconsistent and unfair for institutions located in some States to have access to appeals using alternative State administrative data, when institutions located in other States, as well as eligible foreign institutions, would not have access to a similar appeal option. Moreover, given that graduates may seek employment in States other than the one where an institution is located, even within a given institution or program the availability and applicability of State-level earnings data would be unreliable.

Changes: None.

Comments: Several commenters recommended that the Department establish an alternate earnings appeal process whereby religiously controlled institutions with a failing religious program could appeal and retain eligibility if the institution establishes that the earnings of graduates working in ministry-related positions exceed the earnings of workers in those same occupations with only a high school

diploma or equivalent (for baccalaureate programs) or with only a baccalaureate degree (for graduate and professional degree and graduate certificate programs).

Discussion: We decline to provide a unique earnings appeal process for a single type of institution. We continue to believe that alternate earnings appeals are both impracticable and result in less accurate information than that collected by Federal agencies. These concerns apply equally to all types of institutions, including religiously controlled institutions.

Changes: None.

Other Categories of Appeals

Comments: Many commenters noted that wages and living costs in rural areas are lower than in metropolitan areas, and requested that the Department add a local earnings appeal to allow programs offered in lower-wage areas to be evaluated based on local economic data rather than broader State or National data. Several commenters requested expanding appeal categories to allow regional cost-of-living adjustments. A few commenters further requested that the Department reconsider incorporating a “branch appeal” process similar to one submitted by a negotiator,²² which would compare graduate earnings to the median earnings of working adults where each individual campus is located, arguing that earnings for programs offered by institutions with campuses in several States will always be compared to the national benchmark, when some or all of the States where the institution is located may have lower median earnings than the national benchmark.

Several commenters suggested that the Department allow additional categories of appeals, such as an appeal for economically disadvantaged students based on the program’s percentage of Pell Grant recipients, an appeal based on low median graduate debt, loan repayment rates, an appeal based on licensure outcomes, completion outcomes, job placement outcomes, cohort demographics, part-time work, or self-employment. One commenter suggested that the Department allow institutions to present evidence of successful graduate outcomes, career advancement, entrepreneurship, and workforce participation. One commenter recommended that the Department allow institutions to appeal based on

caregiving interruptions to a graduate’s participation in the workforce.

A few commenters presumed that the earnings premium measure should reflect or replace the cohort default rate (CDR) as an accountability mechanism, opined that a program with low earnings is likely to also have high default rates, and suggested that institutions with low-earning outcome programs should have access to appeal categories similar to CDR appeals provided under § 668.189(a).

Discussion: We disagree that a local or branch appeal is necessary or appropriate. As we further discuss below in the “Summary of Comments from the NPRM” section of the RIA, the Department specifically considered the impact of the proposed regulation on programs in rural areas. The Department’s analysis shows that the regulation will result in only a slightly higher share of failing programs and students in rural areas relative to the current regulation. We remind commenters that both the graduate cohort earnings and the working adults threshold earnings include rural earners, and we note that the earnings threshold definition is predicated on the highly specific statutory requirement outlined in Section 84001 of the WFTCA, where Congress explicitly instructed the Department on how the earnings test would be conducted. Therefore, the Department does not believe it has the authority to alter the earnings test for programs located in rural areas.

The Department is unpersuaded by commenters’ requests for additional categories of appeals. An appeal for economically disadvantaged students based on the program’s percentage of Pell Grant recipients, or one based on cohort demographics, would be poorly targeted given the primary focus of the accountability framework on Direct Loan eligibility. In addition, we believe such an appeal option would lessen accountability for programs that serve the highest proportion of vulnerable students, which we believe would contradict the purpose of the accountability framework in protecting students and promoting strong economic outcomes.

An appeal based on low median graduate debt or high loan repayment rates, while better targeted toward Direct Loan-related issues, appears to exceed the scope of appeals contemplated in the WFTCA in describing “the opportunity to appeal the programmatic median earnings of students working and not enrolled determination.” If Congress wished to exempt such programs from the

accountability framework, it could have done so explicitly in the WFTCA.

While licensure, completion, job placement, workforce participation, and career advancement are important program outcomes, those factors are not the ones that Congress specified should be examined by the Department in the earnings accountability framework. Moreover, those factors already directly contribute to the ability of graduates to produce measurable earnings, which is the factor Congress emphasized in the WFTCA. We do not perceive strong licensure, completion, or placement results as a supplemental benefit or an unusual circumstance; such results constitute the absolute floor of acceptable program performance and are the Department’s expectation for all participating programs, not the exception.

We believe an appeal or adjustment to reflect part-time work or self-employment would be inappropriate. As discussed in more detail above in the “Earnings and Earnings Threshold” section, both the graduate earnings group and the working adults comparison group include part-time workers and entrepreneurs. It would not be appropriate to adjust only the graduate earnings side of the calculation without also adjusting the benchmark group. In addition, an appeal based on part-time work could not be based on administrative data sources, as the IRS does not capture whether filers worked full time or part time. Moreover, the WFTCA does not specify any adjustment for part-time work or self-employment on either side of the earnings premium calculation.

Although we understand the commenter’s concern about caregiving interruptions to a graduate’s participation in the workforce, such interruptions also impact the working adults comparison group. In addition, we believe that in passing the WFTCA Congress intended to incentivize graduate workforce participation and earnings, not caregiving.

While we certainly acknowledge the relevance and importance of the cohort default rate as an accountability mechanism, and we agree that a program with lower earnings is likely to also have higher rates of default, we do not believe that Congress intended these two metrics to be interchangeable or integrated. Section 435(a)(2)(D) of the HEA explicitly sets forth several categories of cohort default rate appeals and challenges for a variety of situations, demonstrating that Congress knows how to specify categories and criteria for appeals when it wishes to do so. Congress did not, however, choose to

²² <https://www.ed.gov/media/document/2025-ahead-2026-1-6-np-accountability-appeals-submitted-submitted-aaron-lacey-112961.pdf>.

employ those same appeal categories and criteria for the earnings accountability framework under the WFTCA, nor did it choose to specify other particular parameters for appeals. Absent such explicit directives, as discussed earlier in the context of the basis of appeals, the Department believes the best reading of the statute is to limit the basis of appeals to the earnings premium calculation itself.

Changes: None.

Comments: One commenter noted that some occupations in fields such as defense manufacturing require workers to obtain a security credential, which can in some cases take a year or more to obtain, and recommended that the Department amend the appeals process to recognize documented evidence of clearance-related employment delays as a basis for adjustment to the earnings calculation.

Discussion: The Department declines to create an exception for security clearances. We believe that the time between graduation and earnings measurement is sufficient to account for the time needed to obtain a security clearance.

Changes: None.

Comments: Several commenters urged the Department to expand the appeals process to allow institutions to appeal a low-earning outcome determination when the program prepares students for a documented Federal or State workforce shortage field, a profession named as an area of national need in the Public Service Loan Forgiveness program, or supports a public service workforce.

A few commenters recommended that the Department include a “force majeure” appeal option to protect programs from adverse consequences due to industry-wide disruptions such as strikes or regional economic shifts. One commenter elaborated that this determination should entail both Federal-level and State-level review, and that a Governor or designated State agency should be able to suspend, adjust, or waive earnings premium determinations.

One commenter suggested that the Department consider a “Primary Program Remediation Agreement” in lieu of automatic Direct Loan ineligibility after two EP failures for situations where a single six-digit CIP code program composes at least seventy-five percent of total enrollment, under which the institution would commit to tuition freezes, quarterly reporting of placement and gross receipts data, and enhanced financial literacy training for students for a defined period (e.g., five years), with transparent monitoring.

Discussion: The Department declines to add options for institutions to appeal on the basis of workforce shortages or areas of national need or in situations where an institution commits to taking steps to mitigate the potential harm to students such as tuition freezes or additional financial literacy training. It is not practical for the Department to determine, on an annual basis, whether a program is associated with an area of national need. In addition, such programs should support adequate earnings for students, perhaps even more so if the workforce is in need of skilled workers in such an area.

Similarly, we do not believe it is appropriate or practical to protect programs whose graduates could be affected by industry-wide disruptions such as strikes or economic changes. Very broad economic changes will affect both the earnings threshold value and the earnings of program graduates, whereas more localized issues such as strikes are unlikely to affect the earnings of individuals across the country, and the Department cannot account for nuanced changes in local or regional industries.

We also do not believe we have the authority to allow an institution to avoid the consequences of failing the earnings premium measure simply by taking remedial action to improve aspects of a program. We anticipate most institutions would take advantage of such an option, substantially reducing the cases where consequences would apply, which would be contrary to the statutory requirement.

Additionally, we do not believe such remedial action would adequately compensate for the lack of economic value conferred by the program, which is detrimental both to students and to the taxpayers whose funds supported those students’ enrollment in the program. Moreover, no objective and administrable data source exists to document and support appeals on the basis of remedial or curricular actions to improve a program, and therefore such an appeals process would necessitate costly and burdensome review by the Department of subjective evidence and criteria. For this reason, and for the reasons the Department has expressed repeatedly, including in the 2023 final rule and in the NPRM preceding this final rule,²³ the Department will not establish a burdensome appeal process that is more likely to generate inaccurate, unreliable, and inconsistent information about student earnings than

the data source the Department is using in the first place.

Changes: None.

Comments: A few commenters urged the Department to establish a waiver or appeals process for programs in career pathways where evidence has demonstrated delayed earnings growth beyond the four-year earnings measurement window, and suggested granting earnings measurement periods of up to 10 years for such programs based on a successful appeal.

Discussion: The Department declines to adjust the earnings measurement window for particular programs or occupations. As many commenters from a variety of fields and sectors have argued, most occupations are characterized by earnings that increase over time. In addition, many occupations require a period of postgraduate clinical or residency work or professional licensure before full employment or practice. In the WFTCA, Congress specified a four-year earnings measurement window for all programs, without exceptions for licensed or security-cleared professions. Given the increasing costs of higher education, we believe that students and taxpayers have a right to expect a much more timely return on their investment than the 10 years suggested by some commenters and, given the approach adopted by Congress in the WFTCA, we do not believe it would be supportable or appropriate to contradict Congressional intent by superimposing a longer earnings measurement window for particular occupations or professions.

Changes: None.

Comments: A few commenters acknowledged the Department’s concern about the low quality of past data submitted by institutions in alternate earnings appeals, but urged the Department to permit institutions to raise appeals challenging cohort inclusion decisions, including disputes regarding the accuracy of cohort expansion determinations.

Discussion: We appreciate the commenters’ support, and we also acknowledge the importance of permitting institutions to raise appeals challenging cohort inclusion decisions. In the final rule we have amended § 668.603 to clarify the factors an institution can appeal. Those factors include the individuals that are included in the list of completers, the determination of the appropriate version of the earnings threshold, the comparison of the median earnings determined by the Federal agency with earnings data and the earnings threshold for the program, and such other bases for appeal determined by the Secretary.

²³ See 88 FR 70004, 70095 (Oct. 10, 2023) and 91 FR 21114 (April 20, 2026).

Changes: The Department amends § 668.603 to specify the allowable bases for appeal, as described above.

Other Accommodations and Special Circumstances

Comments: One commenter thought that some cohorts that will be evaluated under the earnings accountability framework would include graduates from the 2020–2021 academic year, had experienced unusual labor market disruptions, and suggested that the Department provide an appeal option for cohorts whose early career outcomes were significantly affected by the COVID–19 pandemic.

Discussion: Although some early cohorts may include graduates from the 2020–2021 award year, we are not persuaded that an accommodation or exemption would be appropriate. The impact of the COVID–19 pandemic was most pronounced in 2020, and the labor market had largely recovered by 2022. Commenters made similar arguments regarding the FVT/GE rule, which used earnings data measured as soon as three years following graduation, and we note that under the new STATS framework the earnings premium calculation uses earnings data measured four years following graduation, providing graduates more time to secure employment and establish income and making the earnings measurement less susceptible to temporary market disruptions. We believe that even for graduates who entered the workforce during the 2020–2021 award year when the primary impact of COVID–19 occurred, a four-year measurement window allows ample time for graduates to demonstrate accurate earnings outcomes for a program of study.

Changes: None.

Program Eligibility During Appeals Process

Comments: A few commenters opined that any appeal should stay the effect of the Department's determination pending resolution of the appeal. One commenter urged the Department to explicitly state in the final rule that no program will lose eligibility until all appeal rights have been exhausted and argued that allowing programs to retain eligibility during an appeal protects students and avoids disruption to workforce pipelines.

Discussion: We agree that an appeal stays the effect of the Department's determination, pending the resolution of the appeal. Section 454(c)(5) of the HEA, as amended by the WFTCA, specifies as much, stipulating that “[a]n educational program shall not lose

eligibility . . . unless the institution has had the opportunity to appeal” the Department's determination. We note, however, that in cases where an appeal does not change the Department's determination, the effective date of the cessation of program participation is the date of the Department's initial determination, not the date the appeals concluded.

Changes: None.

Comments: A few commenters expressed concern that allowing a program to remain eligible during an appeal period creates a window in which borrowing and enrollment continues despite unresolved concerns about the program's outcomes.

One commenter reasoned that under Section 454(c) of the HEA, the Department has the discretion, but not the requirement, to permit programs to continue participating in the Direct Loan program during an appeal, and must only provide the opportunity for (but not the decision on) an appeal before a program loses Direct Loan eligibility.

One commenter suggested that the Department (1) impose reasonable time limits on the length of an appeal so that programs cannot indefinitely delay the effective date of sanctions while continuing to draw federal funds; (2) condition or limit Direct Loan eligibility during an appeal, such as by capping enrollment in the affected program, restricting new first-time borrowers, or treating the program as provisionally ineligible until the appeal is resolved; and require institutions to provide enhanced disclosures to any students enrolling in a program during an appeal period clearly explaining that the program has failed the earnings test, that its eligibility is under review, and that continued enrollment may carry elevated financial and repayment risk. One commenter cited the recent reductions in the Department's staff and efforts to transfer the Department's functions as a risk to the Department's capacity to administer timely appeals, and expressed concern that institutions may prolong the eligibility of poor performing programs by dragging out the appeal process, resulting in harm to students.

Discussion: We share the commenters' concern about protecting students from programs for which the earnings outcome and future funding availability are in question. However, as we noted in discussing the other comments immediately above, in cases where an appeal does not change the Department's determination, the effective date of the cessation of program participation is the date of the

Department's initial determination, not the date the appeals concluded. We believe this function serves to reasonably limit the appeals process and may discourage institutions from attempting to prolong access to Federal funds through appeals that are unlikely to succeed.

We disagree with the commenter who opined that Section 454(c) of the HEA provides the Department discretion to suspend participation during the appeal process. We believe Section 454(c)(5) of the HEA, as amended by the WFTCA, specifically requires that the Department permit an institution to continue program participation during an appeal. We similarly do not believe the WFTCA supports further conditioning or limiting eligibility during an appeal, including by capping enrollment, restricting new first-time borrowers, treating the program as provisionally ineligible, or requiring institutions to provide heightened disclosures.

With regard to the commenter who suggested that the Department impose time limits on the length of an appeal, while Department plans to provide institutions a limited window to decide whether to appeal an adverse determination and to submit an appeal if appropriate, the Department declines to regulate itself by enshrining a time limit to adjudicate a submitted appeal.

We appreciate the commenter's concern about the Department's capacity to administer timely appeals, and though we maintain that existing staffing and resources are sufficient to timely and effectively administer the appeals process described in the NPRM, as we explain below in the “Termination Mechanism and Appeals Process” section, in the final rule we have provided for an appeals process outside of part 668, subpart G, which we expect will result in timelier and more efficient consideration of appeals.

Changes: None.

Termination Mechanism and Appeals Process

Comments: A few commenters expressed concern that requiring a subpart G termination and appeals process in all cases could turn be unmanageable for the Department, and encouraged the Department to maintain the 2023 GE rule's approach to removing eligibility for failing programs based on the certification status of the program. One commenter cited the Department's termination of significant portions of the Office of the General Counsel and FSA, which together manage subpart G proceedings, along with other retirements and voluntary

departures, raising questions about whether the Department has the capacity to fulfill the process steps required to terminate program eligibility in a timely manner. One commenter suggested that standard FSA reconsideration processes can further provide an opportunity for recourse for provisionally certified schools or schools that are up for recertification. One commenter advised the Department to use an alternative and more streamlined appeals process instead of the process detailed in subpart G.

Discussion: We understand the commenters' concerns about the Department's proposal to administer all eligibility actions under the earnings accountability framework as termination actions and to administer all appeals under part 668, subpart G. We note that any action to limit or terminate the title IV, HEA eligibility of a program is ultimately subject to subpart G, so to an extent that process is unavoidable, and this was one of the reasons that the Department originally adopted the subpart G approach for the outgoing FVT/GE rule, as well as in the proposed STATS and Earnings Accountability rule. The Department concurs, however, that adding a separate appeals process prior to the subpart G process would reduce the number of instances where institutions would need to resort to an appeal and hearing under subpart G.

In response to these concerns, the Department will make several changes to the regulations in part 668, subparts Q and S. The Department will no longer limit to part 668, subpart G the method for adjudicating appeals of the results of the earnings premium calculation and will regulate the process for submitting an appeal in subpart S instead. This effectively means that the Department will now rely on any available mechanism to end the eligibility of a program, which could include a limitation action under 34 CFR Subpart G, a partial revocation action under 34 CFR 668.13, or a refusal to include the low-earning outcome programs on an institution's Eligibility and Certification Approval Report (ECAR) when it recertifies the institution. The notice of determination under § 668.405 now references the additional appeal process under subpart S. Additionally, as part of those new regulatory requirements in subpart S for submitting an appeal, the Department will stipulate that an institution has 30 days to appeal following a notice of determination that indicates that the program is a low-earning outcome program, which is consistent with 34 CFR 668.91(c). We will also specify the specific items on which an institution can base its appeal.

Changes: The Department amends the regulations in three ways. First, we revise 668.603(a) to revise the scope of the appeal process to not immediately invoke subpart G. We amend the policy for ending program eligibility when a program has failed the earnings premium measure in two out of three consecutive award years. Second, we revise § 668.603(b) to provide an appeal process under subpart S to institutions prior to eligibility consequences. Consistent with existing timeframes for limitation or suspension proceedings under § 668.91(c), institutions have 30 days from the date of the Secretary's determination to file an appeal. We also add § 668.603(c) to clarify the factors an institution can appeal under subpart S. Those factors include the individuals that are included in the list of completers, the determination of the appropriate version of the earnings threshold, the comparison of the median earnings determined by the Federal agency with earnings data and the earnings threshold for the program, and such other specific bases for appeal determined by the Secretary. Third, as a conforming change we amend § 668.405(b) to include information about the appeal process under part 668, subpart S in the notice of determination that will be sent to institutions following the calculation of the earnings premium measure.

Reporting and Disclosures

Reporting and Disclosures—General Comments

Comments: Many commenters argued that reporting and disclosure requirements already strain overburdened institutions. The commenters emphasized these requirements as excessive and costly and recommended that the Department reduce their number or eliminate them entirely.

Discussion: The Department is sensitive to these concerns and acknowledges that all institutional reporting requirements impose at least some administrative burden. However, we maintain that students, taxpayers, and the institutions themselves will benefit from these regulations in several ways that offset the burden associated with them. First, because the Department is eliminating some of the reporting requirements that were identified as duplicative or particularly burdensome, institutions will benefit from the reduced reporting requirements under the final rule relative to the reporting requirements under the existing FVT regulations. In total, the regulation reduces the number

of data elements that institutions are required to report by approximately 30 percent. Many of these are elements the Department determined it can calculate and report through its administrative data systems (e.g., withdraw dates) and the Department will continue to report this information publicly under STATS. Because institutions no longer need to calculate and report this information, they will incur reduced administrative costs to comply with the regulations. Furthermore, the Department estimates that fewer students will attend failing programs under these regulations relative to the prior regulations. This result is beneficial to students and taxpayers, but it will also result in fewer institutional warnings and disclosures, ultimately reducing the burden on colleges to comply with these regulations. In total, the Department estimates that approximately 85,500 fewer disclosures would need to be sent to students by institutions (Table 5.12). Second, some institutions offer programs that failed the accountability framework under the previous regulations but will pass under the final regulation and retain access to title IV, HEA funds. The Department estimates that this would primarily benefit programs at proprietary institutions and undergraduate and graduate certificate programs from all sectors. Lastly, many institutions that offer GE programs will benefit from the fact that failing the accountability framework under the final regulation results only in loss of eligibility for Federal student loans, as compared to all title IV, HEA programs under the outgoing GE regulations.

Changes: None.

Comments: Several commenters stressed the need for additional context to be included with the disclosures to explain details such as career earning trajectories, institution mission alignment, licensure requirements and board certification timelines.

Discussion: Revised 34 CFR 668.605(c) details what information must be included in student warnings. Revised 34 CFR 668.605(d) and (e) detail the delivery to enrolled and prospective students respectively. The Department continues to believe that the items described in the regulations include the most important information for students. Institutions are always able to provide supplemental information and explanations to help convey important information to students. However, these must be separate from (and in addition to) the student warnings itself, as the student warnings content specified in the regulations must be the only substantive content of that communication, and the disclosure

process must adhere to revised 34 CFR 668.605(d) and (e).

Changes: None.

Comments: Several commenters agreed with the Department that improved reporting and disclosures were needed for consumer transparency. These commenters concurred with the need for clear reporting and strong disclosures that are nonetheless simple and not complicated and expressed support for the Department's approach.

Discussion: The Department appreciates the commenters' support for improved reporting and disclosures related to transparency and earnings accountability.

Changes: None.

Comments: Several commenters requested that the Department align the reporting requirements with existing Integrated Postsecondary Education Data System (IPEDS) and FSA reporting definitions to avoid duplicative and inconsistent efforts.

Discussion: The Department agrees that such an approach would be more efficient in obtaining key data from institutions. However, the required reporting items included in the final regulations are dissimilar to other FSA reporting functions. For example, the IPEDS report collects institutional data on title IV, HEA recipients and non-recipients. The reporting requirements included in these regulations are specific to title IV, HEA recipients and are student specific.

Changes: None.

Comments: A few commenters opined that all the required reporting items were not necessary to calculate the earnings premium measure and therefore should not be required or reported. Another commenter remarked that institutions that have not been approved to participate in the Direct Loan Program on or before July 1, 2026 should be exempted from the reporting requirements. The commenter contended that because their educational programs are not eligible for Direct Loans and this reporting should not be necessary to assess the Direct Loan Program eligibility of these educational programs.

Discussion: The Department disagrees. First, because of the changes that the Department has made to 34 CFR 668.14, it is true that institutions not participating in the Direct Loan program would not be subject to a loss of title IV, HEA program eligibility. However, for these institutions reporting is still required for calculation purposes. The Department will still calculate the metric for programs at these institutions, but the programs would not lose eligibility for any title IV, HEA program

as a result of the earnings premium measure.

Additionally, the Department maintains that the purpose of the reporting is not simply to support the calculation of the earnings premium measure. Institutional reporting is also necessary for the Department to provide information to current and prospective students about the net price of postsecondary programs and other important factors about the financial value of such programs.

Changes: None.

Reporting Deadlines

Comments: Several commenters recommended that the reporting and disclosure framework should be delayed by one to two years or otherwise allow for a phased-in or transitional period of implementation. These commenters argued that this approach would ease institutional burden and allow for a more thorough understanding of required reported data items.

Discussion: First, the Department reiterates that the reporting and disclosure requirements under this regulation are reduced compared with the prior regulation. The Department disagrees with the suggestion to delay the implementation of changes to the reporting disclosure framework because of the statutory requirements to calculate the earnings premium measure and the necessity for the Department to obtain some of the information in the reporting requirements in order to perform that calculation.

Changes: None.

Data Elements Reported

Comments: Several commenters objected to the removal of the requirement for institutions to report, at a student level, the institutional debt that students owe after completing or withdrawing from programs. These commenters argued that students would be harmed by the removal of this requirement because information about institutional debt is critical for students to know.

Discussion: The Department disagrees with the commenters. There are several reasons the Department has removed this reporting requirement. First, the Department is sensitive to the significant administrative burden that calculating and reporting this particular data point has on institutions. As explained in the NPRM, we are removing the requirement for an institution to report the total amount of institutional debt the student may owe any party after completing or withdrawing from the program because it will no longer be needed for purposes

of the debt-to-earnings rate (which we are eliminating) and because of the complicated way that institutions were required to report this information, particularly for withdrawn students. We believe this change will reduce burden for institutions. We also believe that information on institution-related debt is not as important for students compared to the other information included in STATS, such as tuition and fees, private loan debt, and the institutional, Federal, and State financial assistance received by the student.

Changes: None.

Comments: Many commenters expressed that the reporting should include more information than is required in the proposed regulations. These commenters argued for disclosures of career outcomes (*i.e.*, salary outcomes) by occupational sectors, total income (not solely wages provided on the Form W-2), the typical earnings of individuals located in MSA and non-MSA areas, program completion rates and loan repayment rates.

Discussion: The Department agrees with the need for valuable information to be shared with students, but believes the reporting requirements detailed in revised 34 CFR 668.406 are appropriate without being unduly burdensome. In addition, we believe that overwhelming students with excessive or duplicative information would likely result in many students ignoring or only skimming the disclosures, ultimately proving less effective at informing enrollment decision than targeted, timely disclosures of the most relevant information at the time that information is most useful for students. The Department believes that the final rule strikes the appropriate balance with the reporting and disclosure of the most meaningful and relevant information.

In the future, the Department will continue to evaluate the efficacy of consumer disclosures under STATS and whether additional information can be obtained, either from institutions or elsewhere, that would supplement the information we currently plan to provide. Any changes to that process would only be made following consumer testing to determine the usefulness of the disclosures to the public.

Changes: None.

Removal of Transitional Reporting and Metric

Comments: A few commenters urged the Department to retain the debt-to-earnings metric, arguing it was helpful in preventing unmanageable debt and

reducing the risk of continued harm to students.

Discussion: As further discussed above in the “Elimination of the D/E Rate” section, the Department removes D/E rates because the statute provides for an earnings premium metric as part of the new accountability framework. Also, the former D/E metric neither on its own nor in combination with the earnings premium calculation definitively distinguishes between high-quality and low-quality programs; these are strictly measurements of a program’s debt and earnings outcomes, and through the WFTCA Congress expressed its preference for an earnings premium measurement. Further, calculation of D/E rates requires the use of a significant amount of data reported by institutions to the Department beyond what is normally necessary to administer the title IV, HEA programs. Although we continue to believe the resources needed to support the D/E rate were justified, the reduction in cost and burden for the government is an additional benefit of shifting our focus to the earnings premium, which was the clear preference of Congress. For these reasons we believe the new earnings premium measure will be more effective as a new accountability standard.

Disclosure Website

Comments: A few commenters remarked that the disclosures do not go far enough and should be strengthened to facilitate data transparency requirements. The commenters stressed that enhanced disclosures should be used to provide:

- Continued warnings after loss of eligibility (including during appeal periods)
- Warnings for potential loss of all title IV aid
- Additional information in warnings to assist students in decision making
- A Department-managed student acknowledgement tracking system

Discussion: The Department thanks the commenters and shares commenters’ concerns about ensuring that students are informed about their educational programs. However, we decline the commenters’ request because of the additional burden on institutions (this could double or triple the number of disclosures made), the WFTCA specially calls out student loans and therefore that is the title IV program that is specified for penalty. Further, because students must acknowledge they reviewed the disclosure, we feel confident the student will be aware the program is at risk. Finally, a Department-managed student

acknowledgement tracking system would not be feasible given the number of programs that are estimated to fail under the final regulation (Table 5.12). The Department has no plans to develop and manage a student acknowledgement tracking system.

Changes: None.

Comments: One commenter stressed that the disclosure link should be placed on the institution’s web page that shares cost of attendance information, not other general academic information.

Discussion: The final regulation will amend 34 CFR 668.43(d)(2) to no longer require institutions to provide a prominent link to the website maintained by the Secretary on any web page containing academic information about the program or institution. Institutions will still be required to provide a prominent link to a website containing cost, financial aid, or admissions information about the program or institution. The Department believes this will reduce burden on institutions, while still providing a link to relevant program information on pages where that link makes the most sense. The Department contemplated the broad usage and applicability of the term “academic information” and believes it is far too general in nature and would require a prominent link on every page and subpage of an institution’s website, likely hundreds of instances or more. The Secretary continues to reserve the right to require the institution to modify a web page if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.

Changes: None.

Comments: One commenter argued that the Department, rather than institutions, should manage and track the disclosure acknowledgement process. The commenter argued that the institution is expected to obtain an acknowledgement prior to a student enrolling in a program, but it is not required to document the acknowledgement. The commenter said that this runs the risk of institutions not complying with the acknowledgement and the Department being unable to conduct oversight. The commenter recommended the Department maintain this process to ensure students receive and acknowledge the information, which would reduce burden on institutions. The commenter stressed that if this is not possible, the Department should require that institutions document these acknowledgements from students.

Discussion: Institutions would no longer need to require student acknowledgments under 34 CFR

668.407, since the accountability framework in part 668, subpart S, including the student warning process in § 668.605, would now apply to both GE and non-GE programs. The separate student acknowledgement process is not required under the WFTCA framework, and it is duplicative with the warning process described in 34 CFR 668.605. Institutions are expected to maintain documentation of the student’s acknowledgement for review by the Department or by non-Federal auditors in the future.

Changes: None.

Disclosure Content

Comments: One commenter stressed that the disclosure requirements (extending the disclosure requirement to prospective students, requiring institutions to obtain a signed acknowledgment from each prospective student before enrollment in an affected program and requiring the disclosure to indicate the program’s failing status in language designed to convey program quality concern) would function as an enrollment-dampening mechanism, not as a neutral consumer information requirement.

Discussion: The Department disagrees. We believe these changes are needed to compel institutions to offer programs that deliver economic value, enhance data accessibility for students, and protect taxpayers and students through stricter oversight and comprehensive disclosures on program outcomes. Section 431 of the GEPA grants the Secretary authority to establish rules to require institutions to make data available to the public about the performance of their programs and about students enrolled in those programs. That section directs the Secretary to collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their intended purposes and also to inform the public about Federally supported education programs. Further, the WFTCA requires warnings for programs at risk of losing Direct Loan eligibility under Section 454(c)(6) of the HEA.

Changes: None.

Distribution and Linking Requirements

Comments: One commenter recommended that the Department streamline processes by publishing the program-level metrics on the College Scorecard in lieu of creating a separate program information website. The commenter opined this would avoid unnecessary confusion and duplication of information on multiple websites.

The commenter suggested institutions should be required to link to the program-level data in the College Scorecard, in place of the program information website, on any web page containing cost, financial aid, and admissions information about the program and institution. The student warnings should provide links to the program-level data on the College Scorecard, instead of the program information website.

Discussion: We thank the commenter for the suggestion and will consider it as we determine how to best implement this regulation. We note the definition of program information website could be any Department website, including the College Scorecard itself.

Nonetheless, the commenter's suggestion is an option that we will consider and may pursue in the future.

Changes: None.

Administrative Capability and Consequences

Administrative Capability Requirements

Comments: One commenter claimed that the Department's proposed approach to apply programmatic sanctions to low-earning outcome programs only if more than half of Federally aided students or title IV, HEA revenue are in such failing programs is inconsistent with the structure of the administrative capability framework under § 668.16, which applies more broadly at the institutional level rather than for particular programs or sets of programs.

Discussion: We disagree with the commenter. Although most of the other administrative capability criteria under § 668.16 encompass an institution as a whole, some of the other existing requirements apply more narrowly to a program or set of programs. For example, § 668.16(r) requires institutions to provide students, within 45 days of successful completion of other required coursework, geographically accessible clinical or externship opportunities related to and required for completion of the credential or licensure in a recognized occupation. That requirement could only apply to programs with licensure requirements. In addition, no provisions in the statute or regulations prohibit the Department from establishing an administrative capability criterion that applies only to particular programs.

Changes: None.

Comments: A few commenters characterized the 50 percent threshold for the administrative capability requirement at § 668.16(t) as an overly permissive loophole that would still

allow large institutions to continue operating predatory programs by cross-subsidizing or balancing them against a few high-earning programs, and suggested that the Department strengthen the administrative capability requirement by increasing the success threshold to require at least 75 percent of an institution's title IV, HEA recipients and funding not be from low-earning outcome programs.

A different commenter characterized the 50 percent threshold for the administrative capability requirement at § 668.16(t) as too strict for specialized institutions that offer only one or a few programs, and suggested that the threshold should be lowered to require that 25 percent of an institution's title IV, HEA recipients and funding not be from low-earning outcome programs.

Discussion: The Department notes that commenters differ on the appropriate percentage threshold for this requirement. The Department's goal with this provision is to identify the point at which an institution's inability to offer programs that lead to acceptable earnings outcomes shifts from being a program-level issue to instead represent a widespread issue that shows there is a more systemic problem with the way the institution operates. The Department proposed the 50 percent threshold, and the AHEAD Committee agreed to that threshold, because that is the point where an institution has more title IV, HEA recipients or revenue associated with low-earning outcome programs than there are with those that are demonstrating acceptable earnings outcomes. This metric also considers the students who might be enrolling in a poorly performing program but not completing it, and it makes sense to consider how such programs may be impacting the larger pool of students while also making the same comparison for students enrolling in the passing programs at the institution. At that point, more of the title IV, HEA funds or recipients going to the institution are for enrollment in low-earning outcome programs than for students enrolling in programs that are consistent with continued participation in the Direct Loan Program. That is an obvious warning sign for the institution, and the 50-percent threshold represents a logical and relatively familiar and easily understood measure that is reasonably related to the Department's regulatory concerns. At lower percentages of title IV, HEA funds or recipients at risk it is, in our judgment, relatively more likely the case that the issue is tied to program-specific challenges and a lesser threat to the institution as a whole. We must draw a line for this rule to be fairly

clear and administrable, and we have concluded that 50 percent reflects a reasonable balance of considerations based on available information.

Changes: None.

Comments: One commenter argued that the new administrative capability standard at § 668.16(t) creates a perverse financial incentive for institutions to eliminate borderline programs not because those programs are failing students but because retaining them risk triggering consequences that impact the institution more broadly, not merely the program in question. A few commenters contended that this dynamic would particularly impact programs at comprehensive public universities where administrators would be pressured to cut programs in disciplines such as anthropology, sociology, and other social sciences where graduates are likely to enter public service careers, which are characterized by lower compensation not because of poor outcomes or institutional failure but because they operate within public, nonprofit, or community-based systems with constrained wage structures. One commenter recommended that the administrative capability standard should exclude programs that meet a minimum enrollment threshold, demonstrate graduate employment rates above a minimum threshold, and document that graduates pursue advanced degrees or public service occupations at rates substantially higher than national averages.

Discussion: The Department disagrees with the commenters' assertions and suggestions. We believe it is fitting and beneficial for the administrative capability requirement to prompt institutions to thoughtfully consider the economic value of their program offerings for students, particularly for programs that benefit from Federal funds provided by U.S. taxpayers who, in turn, expect a reasonable economic benefit for that investment. With regard to programs where graduates pursue advanced degrees at a higher rate than other programs, the regulations already accommodate such programs both by excluding from the earnings premium calculation students who have completed a higher-credentialed undergraduate program (for undergraduate programs) or a higher-credentialed graduate program (for graduate programs), and by excluding students who are enrolled during the year earnings would be measured for the student.

Changes: None.

Comments: One commenter opined that the phrase "failing program" in the NPRM was unclear in the context of the

administrative capability requirement at § 668.16(t). This commenter contrasted the Department's use of that phrase in the May 19, 2023 NPRM for FVT/GE, which the commenter characterized as a forward-looking rule that considered the future risk of a program or set of programs failing the metric in a second or subsequent year, against use of the phrase in the April 20, 2026 STATS and Earnings Accountability NPRM, which the commenter characterized as having changed over time. The commenter suggested that the Department clearly define the term "failing program" in its regulations.

Discussion: Although the Department appreciates the commenter's suggestion, we believe the revised regulatory text at § 668.16(t) is clear and unambiguous, obviating the need to define a "failing program" elsewhere in the regulations. Indeed, the new regulatory language at § 668.16(t) is arguably clearer than the outgoing language. Under the outgoing language, an institution that offers GE programs was administratively capable if at least of its total title IV, HEA funds were from programs that were not "failing" under part 668, subpart S, meaning that the program(s) in question did not fail either the D/E rates or the EP measure. The revised language stipulates that an institution is administratively capable if at least half of the institution's recipients of title IV, HEA funds and at least half of the institution's total title IV, HEA funds are not from low-earning outcome programs under part 668, subpart S, and § 668.603 under that subpart specifically defines a low-earning outcome program as one that has failed the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated. The definition of a low-earning outcome program at § 668.603 is clear and direct and, because the administrative capability criterion in question at § 668.16(t) directly cross-references that definition rather more obliquely referencing failing programs, there is no need to define separately "failing program" for the purposes of the administrative capability requirement at § 668.16(t).

Changes: None.

Comments: One commenter noted that not all title IV, HEA programs are processed through a single data system and questioned how the Department would efficiently collect data and determine whether at least half of an institution's title IV, HEA funds are not from low-earning outcome programs. The commenter suggested that the Department only measure whether at least half of an institution's Pell Grant

and Direct Loan funds are from low-earning outcome programs for the purpose of the administrative capability criterion because doing so would enable the Department to use more unified existing reporting systems that could be more easily adapted for this purpose.

Discussion: We understand and appreciate the commenter's concern. In sub-regulatory guidance under the outgoing FVT/GE framework, we noted that the Department currently does not maintain information about an individual's receipt of Federal Work-Study (FWS), and therefore students who received only FWS funds for enrollment in a program could not be included on an institution's completer's lists.²⁴ We anticipate that will remain true going forward at least for a time under the STATS framework, however it remains possible that the Department's systems may eventually accommodate more granular reporting and tracking of FWS funds. We believe it is appropriate not to carve out particular programs from the administrative capability measurement to allow the calculation to consider FWS-only recipients if and when that becomes possible.

Changes: None.

Comments: One commenter objected to the administrative capability standard at § 668.16(t), claiming it is of a fundamentally different nature than the examples of administrative capability laid out in the HEA.

Discussion: We disagree with the commenter. Section 498(d) of the HEA provides the Secretary broad authority to establish procedures and requirements relating to an institution's administrative capability, including the authority to establish reasonable new procedures and requirements that will contribute to ensuring that the institution will be able to administer the title IV, HEA programs in a manner consistent with the goals of such programs. The statute does not limit the Secretary to promulgating only administrative capability criteria that closely resemble those examples that Congress may have specifically anticipated at the time the statute was adopted.

Changes: None.

Comments: One commenter sought clarification regarding the meaning of "at least half of the institution's recipients of title IV, HEA funds" for purposes of the administrative

capability requirement at § 668.16(t). The commenter requested that the Department confirm that, for purposes of § 668.16(t), the phrase "recipient of title IV, HEA funds" will be calculated based on students receiving title IV, HEA funds during enrollment in the specific program being evaluated, and noted that this interpretation would be consistent with the WFTCA which states that the new earnings test measures earnings "of the programmatic cohort of students who received funds under this title for enrollment in such program."

Discussion: We note that the definition of *Student* at § 668.2, for purposes of the earnings premium calculation, defines a student as an individual who received title IV, HEA program funds for enrolling in the program. Because the administrative capability determinations under § 668.16(t) are based on the earnings premium calculation, that definition would generally apply here as well. We also note, however, that § 668.2 relatedly defines an *eligible non-GE program* in such a way as to include all coursework associated with the program's credential level. Therefore, for GE programs, the measurement is based only on amounts associated with the program itself. For eligible non-GE programs, however, the measurement also considers amounts associated with other coursework the student completed at the same credential level.

Changes: None.

Consequences for Failure To Demonstrate Administrative Capability

Comments: Many commenters objected to the loss of title IV, HEA eligibility for all of an institution's low-earning outcome programs if the institution fails the new administrative capability requirement at § 668.16(t). Many commenters noted that the WFTCA specifies only a loss of Direct Loan program eligibility for low-earning outcome programs, and argued that loss of overall title IV, HEA eligibility for such programs would therefore overstep Congressional intent by depriving low-income students of Pell Grants or other forms of title IV, HEA funds. A few commenters observed that Section 401 of the HEA establishes Pell Grant eligibility, that Section 84001 of the WFTCA does not amend Section 401 of the HEA, and one commenter suggested that the Department limit consequences to provisional certification status only, which preserves the Department's regulatory leverage without categorical title IV, HEA elimination.

Discussion: The Department disagrees with the commenters who objected to

²⁴ See Q&A G-15 on FSA's FVT/GE frequently asked question page, available at <https://fsapartners.ed.gov/knowledge-center/topics/financial-value-transparency-and-gainful-employment-information/frequently-asked-questions>.

the loss of title IV, HEA eligibility for all of an institution's low-earning outcome programs if the institution fails the requirement at § 668.16(t). While the WFTCA mentions only a loss of Direct Loan program eligibility for low-earning outcome programs, that is the primary consequence at the individual program level of consistently failing the earnings premium metric. However, as noted in response to comments above, the Department believes that if more than 50 percent of an institution's title IV, HEA recipients or revenue are associated with programs that are demonstrated to lead consistently to low earning outcomes, it is likely that broader problems within the overall institution will impact its ability to administer the title IV, HEA programs consistent with the Congressional intent of those programs—to assist students in completing postsecondary education that will lead to improved employment and earnings outcomes. As we noted above, Section 498(d) of the HEA provides the Secretary broad authority to establish procedures and requirements relating to an institution's administrative capability, including the authority to establish reasonable new procedures and requirements that will contribute to ensuring that the institution will be able to administer the title IV, HEA programs in a manner consistent with the goals of such programs. In this case, we do not believe a mere disclosure to remind students about their limited lifetime Pell Grant eligibility would be sufficient to safeguard the interests of students, taxpayers, and the title IV, HEA programs.

Changes: None.

Comments: Several commenters posited that this provision particularly impacts institutions that are focused on preparing students for a particular job or employment sector, as such institutions frequently offer only one or a handful of programs, making it more likely that more than 50 percent of the institution's students would be enrolled in a single failing program, leading to a loss of both Direct Loans and Pell Grants. A few commenters predicted that this outcome would cause such institutions to close. A few commenters recommended that the Department more gradually phase in the administrative capability standard for these types of programs and institutions, such as an initial three-year period during which earnings metrics are used for disclosure and calibration only. A few commenters advocated for an exemption for highly specialized institutions. One commenter broadly advocated that institutions in general should only lose title IV, HEA eligibility

under § 668.14(h) for failing the administrative capability criteria at § 668.16(t) for three consecutive years, rather than in two out of three years.

Discussion: As discussed in the RIA, the Department estimated the impact of the final regulation on single-program institutions, and our analysis reveals that single-program institutions are better off under the final regulation than under the outgoing FVT/GE framework, since fewer of these programs are estimated to fail the accountability framework relative to the baseline.

Changes: None.

Comments: Many commenters opined that this provision disproportionately impacts religious institutions and exacerbates the rule's burden on religious exercise, because graduates of religious degree programs may earn relatively modest incomes (despite delivering other important societal benefits), pressuring institutions to stop offering religious degree programs because all low-earning outcome programs at such institutions could become ineligible for all title IV, HEA programs, not just the Direct Loan Program. A few commenters noted that such programs tend not to participate in the Direct Loan program and maintain low tuition rates to reduce the need for student borrowing. A few commenters suggested that the Department protect programs in this category by revising the administrative capability requirement at § 668.16(t) to exempt programs for which no students borrowed Direct Loan funds since July 1, 2021. A few commenters requested a general religious exemption from the administrative capability requirement.

One commenter expressed concern about the impact of these provisions on institutions located in rural or remote areas, including Tribal Colleges and Universities which generally do not participate in the Direct Loan program but 69 percent of whose students rely on the Pell Grant program.

Discussion: As discussed above in the "Legal Authority/Department Authority" section, we do not believe the rule unfairly burdens religious institutions or programs. We also do not believe that the rule unfairly burdens Tribally Controlled Colleges and Universities, and we maintain that it would be inappropriate to exempt certain institutions or sectors.

However, the Department understands the commenters' point regarding institutions that historically have not participated in the Direct Loan Program. In the final rule, we exempt an institution from the automatic loss of title IV, HEA eligibility under § 668.14(h) if the institution does not

currently participate in the Direct Loan program and has not participated in the Direct Loan program for the five most recently completed award years. In addition, under the final rule we will also exempt a program from automatic loss of title IV, HEA eligibility under § 668.14(h) if the program is not yet determined to be a low-earning outcome program and the institution and the Department agree to amend the institution's program participation agreement to prevent students from borrowing for the program using the institution's authority under 685.203(m)(2) for a period of at least five years.

Changes: No changes based on these comments; however, as described in the "Legal Authority/Department Authority" section, the Department amends proposed § 668.14(h) by adding paragraphs (3) and (4) to provide the exemptions for institutions or programs that do not participate in the Direct Loan program described in that section.

Comments: A few commenters explained that an effective institution could fail the administrative capability requirement for reasons that are not the fault of the institution, such as if the institution is located in an area with a lower cost of living and wages below those elsewhere in the state.

Discussion: As we further discuss below in the "Summary of Comments from the NPRM" section of the RIA, the Department specifically considered the impact of the proposed regulation on programs in rural areas. The Department's analysis shows that the regulation will result in only a slightly higher share of failing programs and students in rural areas relative to the current regulation. We remind commenters that both the graduate cohort earnings and the working adults threshold earnings include rural earners, and we note that this earnings threshold definition is predicated on the highly specific statutory requirement outlined in Section 84001 of the WFTCA, where Congress explicitly instructed the Department on how the earnings test would be conducted. Therefore, the Department does not believe it has the authority to alter the earnings test for programs located in rural areas.

Changes: None.

Comments: One commenter opined that the consequences for failure to meet the 50–50 administrative capability standard extend far beyond those that generally attach to an institution that is found to not be administratively capable. This commenter claimed that § 668.14(h) is superfluous because § 668.14(b)(6) already requires

institutions to agree to comply with the administrative capability standards under § 668.16. The commenter cited 668.16(m) as an opposing example where an administrative capability criterion involves specific consequences but those consequences are specifically rooted in the HEA.

Discussion: We disagree. We believe that each of the administrative capability requirements under § 668.16 are necessary criteria for any well-functioning institution that administers the title IV, HEA programs. Although most of the administrative capability criteria provide the Department reasonable discretion to administer appropriate corrective action based on the institution's circumstances, other administrative capability criteria necessitate a more specific and coordinated response. The example cited by the commenter of the cohort default rate-related requirement at § 668.16(m) includes consequences specified in the HEA, but nothing in the statute or regulations prevents the Department from applying a specific remedy for other factors of administrative capability.

Changes: None.

Comments: Many commenters expressed general support for continued access to Pell Grants and concern about the potential loss of Pell Grant eligibility for institutions that fail the administrative capability requirement, noting that grant assistance makes higher education and workforce education available to students who otherwise could not afford it. One commenter claimed that maintaining Pell eligibility would reduce barriers to access for low-income students while still enforcing accountability for borrowing outcomes. One commenter suggested that maintaining the student notification requirement about remaining lifetime Pell eligibility while limiting institutional sanctions only to loss of Direct Loan eligibility would be an appropriate compromise.

Discussion: The Department appreciates and shares the commenters' concern about the importance of Pell Grants to students who otherwise could not afford postsecondary education. It is precisely because of our concern for the best interest of students that we believe it is necessary that an institution which derives over 50 percent of its title IV, HEA funding or recipients from programs that are demonstrated to lead to low earning outcomes must cease disbursing Pell Grants to students who enroll in such programs. As discussed above in response to other comments, failure to meet this administrative capability requirement calls into

question the institution's overall operations and ability to administer the title IV, HEA programs in the way that fulfills Congress's intentions—*i.e.*, to help students enroll in programs that lead to improved employment and earnings outcomes. In cases where an institution consistently cannot achieve that objective, the Department believes that students would be best served in preserving their limited title IV, HEA eligibility to enroll in other better-performing programs that the institution may offer, or to enroll at another institution where such programs are available. We do not believe a mere disclosure to remind students about their limited lifetime Pell Grant eligibility would be sufficient to safeguard the best interests of students.

Changes: None.

Comments: One commenter recommended that a case-by-case review, distinct from the Direct Loan eligibility determination, should be required prior to loss title IV, HEA eligibility for an institution's low-earning outcome programs under § 668.14(h).

Discussion: The determination under § 668.14(h) that an institution has failed to meet the administrative capability requirement at § 668.16(t) in two out of three years will be made separately from the Direct Loan eligibility determination under § 668.405. In addition, an institution facing a cessation of title IV, HEA participation for all of its low-earning outcome programs under § 668.14(h) would be able to separately contest that action under part 668, subpart G.

Changes: None.

Comments: One commenter advocated for the removal of title IV, HEA eligibility after failing the administrative capability standard in any one year, rather than in two years out of three.

Discussion: The Department appreciates but declines this suggestion. Although we recognize that failure to meet the administrative capability requirement at § 668.16(t) is a serious concern, we do share the concern expressed by numerous other commenters that ceasing title IV, HEA participation for all or a substantial portion of the institution's educational programs would significantly impact most institutions. Imposing that consequence after a single-year failure could result in a number of programs ceasing all other title IV, HEA program participation at the same time they cease Direct Loan Program participation. We believe that a two-of-three standard is appropriate under § 668.14(h) for the same reasons a two-of-three standard is

needed for the individual Direct Loan eligibility determinations under § 668.603. For such a significant consequence, it is prudent to wait until the institution has failed the requirement in two out of three years, not only to reduce the possibility of adverse consequences attaching in borderline cases where an institution may actually have passed the 50 percent threshold, but also to protect both institutions and students from sudden disruptions in the availability of other title IV, HEA programs such as Pell Grants and to provide institutions one additional opportunity to improve their program offerings.

Changes: None.

Other Public Comments

Other Issues

Comments: A few commenters asked about what occurs for students who double majored in college and obtained a single degree. The commenters inquired if the earnings of that person would apply to one of the programs or to both.

Discussion: The Department clarifies that students who double major, including students who fulfill the course requirements for two separate programs but receive a single degree, would have their earnings counted in both programs they completed. Similarly, students who earned *dual degrees*, *i.e.*, separate degrees for each program of study that they completed, also have their income counted toward both degrees they complete. The Department further notes that institutions will have the ability to review program completer lists prior to the point in which the median earnings value is determined, giving colleges the opportunity to ensure that students who fall into such categories are appropriately counted in both program completer lists. This review process mitigates the concern that commenters raised about how certain students may mistakenly be excluded from the completers list where they should be included.

Changes: None.

Comments: One commenter was concerned about the substantial role that third-party servicers play in the administration of the title IV programs and asked that the Department explicitly acknowledge that institutions may rely on such servicers for accountability-related functions.

Discussion: This final rule does not diminish the role that third-party servicers play in the administration of aid. Their activities continue to include "performing any function required by

any statutory provision of or applicable to Title IV of the HEA, any regulatory provision prescribed under that statutory authority, or any applicable special arrangement, agreement, or limitation entered into under the authority of statutes applicable to Title IV of the HEA” as explained in the definition under § 668.2. This would encompass functions relating to these new STATS and earnings accountability regulations.

Changes: None.

Comments: One commenter asked that the Department add a cross-reference to comprehensive transition and postsecondary (CTP) programs where they appear in the list of students excluded from the earnings premium measure calculation in § 668.403(c) and that the Department specifically state in the regulations that we will not publish an earnings premium measure for CTP programs.

Discussion: We decline to make these changes to the regulations as they are unnecessary. There is no cross-reference to prison education programs in the list of exclusions either, and because students in CTP programs are excluded from the earnings premium measure, there will be no metric to publish.

Changes: None.

Comments: One commenter was concerned about the implications under the earnings premium measure and accountability rule for Prison Education Programs or PEPs. Even though under § 668.403(c) students enrolled in PEPs are not counted in the metric calculation, it is possible that a school might have a non-PEP program with the same 6-digit CIP code and credential level, and if it is designated a low-earning outcome program, the PEP version could be swept up in that. Although PEPs are only eligible for Pell Grants, that aid can be endangered when the school meets the 50 percent thresholds for number of students or amount of title IV dollars involved in low-earning outcome programs. If a small PEP that has few students gets rolled up with other programs at more general CIP code levels, the PEP could be associated with programs that are dissimilar.

Discussion: As the commenter noted, students in approved PEPs are not counted in the earnings premium measure calculation, and PEPs are not eligible for Direct Loans; therefore, there is no danger of the Department ending those programs’ participation in the Direct Loan program. Also, as noted elsewhere in this final rule, programs that do not participate in the Direct Loan Program will not be subject to potential loss of Pell eligibility. And as

with CTP programs above, there will be no metric calculated for PEPs, so the negative outcomes associated with the metric will not apply. Finally, when taking action to end the title IV, HEA participation of a program under the administrative capability penalty, the Department will ensure that any denial of participation applying to a program that includes students who are enrolled in a PEP or CTP program will not apply to those students.

Changes: We have amended the language of the PEP and CTP exclusions in § 668.403(c)(5) and (6) to remove the present tense and clarify that students in those programs, regardless of when they were enrolled, will not be included in an earnings premium measure calculation.

VIII. Regulatory Impact Analyses

1. Regulatory Planning and Review, Including a Regulatory Impact Analysis

Executive Orders 12866 and 13563

Under Executive Orders (E.O.) 12866, the Office of Management and Budget (OMB) must determine whether a regulatory action is “significant” and, therefore, subject to the requirements of the E.O. and subject to review by OMB. Section 3(f) of E.O. 12866 defines a “significant regulatory action” as an action 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, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impacts 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 stated in the E.O.

The Department estimates the net budgetary impacts to be \$1,517 million from changes in transfers between the Federal Government and student loan borrowers and transfers of \$8,782 million between the Federal Government and Pell Grant recipients resulting from replacing the current regulations with the accountability framework. Annualized, these transfers are estimated at \$871 million and \$862 million for Pell Grants and \$149 million and \$147 million at 3 percent and 7 percent discounting, respectively. Quantified benefits include a net

reduction in costs of compliance with paperwork requirements (\$113.4/\$103.7 million) while quantified costs include administrative updates to Government systems (\$2.4/\$2.8 million), implementation staffing and contract costs (\$1.4/\$1.6 million), long-term staffing costs (\$0.9/\$0.9 million), and ongoing contract costs (\$1.9/\$1.8 million) at 3 percent and 7 percent discounting, respectively. Therefore, based on our estimates, the Office of Information and Regulatory Affairs (OIRA) has determined that this proposed rule is “economically significant” under section 3(f)(1) of E.O. 12866 and subject to OMB review.

We have also reviewed these regulations under E.O. 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in E.O. 12866. To the extent permitted by law, E.O. 13563 requires that an agency:

- (1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);
- (2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and considering, among other things, and to the extent practicable, the costs of cumulative regulations;
- (3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);
- (4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and
- (5) Identify and assess available alternatives to direct regulation, including economic incentives, such as user fees or marketable permits, to encourage the desired behavior, or provide information that enables the public to make choices.

The E.O. 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OIRA has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

This final rule is considered an E.O. 14192 deregulatory action. We estimate that this rule generates \$111.3 million in annualized cost savings at a 7% discount rate, discounted relative to

year 2024, over a perpetual time horizon. E.O. 14192 directs agencies of the executive branch to be prudent and financially responsible in the expenditure of funds, from both public and private sources, and to alleviate unnecessary regulatory burdens placed on the American people.

Consistent with OMB Circular A–4, we compare the final regulations to the current regulations. In this regulatory impact analysis, we discuss the need for regulatory action, potential costs and benefits, net budget impacts, and the regulatory alternatives we considered.

Elsewhere in this section under *Paperwork Reduction Act of 1995*, we identify and explain burdens specifically associated with information collection requirements.

In this RIA, we discuss the need for regulatory action, the summary of comments and changes from the NPRM, the impact of the final regulation on institutions and programs, the costs and benefits of the final regulations, the net budget impacts, and the regulatory alternatives we considered in cases where the Department had discretion. Unless otherwise noted, throughout this RIA we compare the effects of the final regulation relative to a pre-statutory baseline where the WFTCA has not been enacted. This baseline includes the current Financial Value Transparency and Gainful Employment regulation (enacted October 10, 2023).

Defining Key Terms

Key terms used throughout this RIA are defined as follows:

- “Current Regulations”—refers to the current Financial Value Transparency and Gainful Employment regulations that were enacted on October 10, 2023 (88 FR 70004);²⁵
- “Accountability framework”—refers collectively to the debt to earnings (D/E) and earnings premium (EP) tests in the context of the current regulation, or to the revised EP test in the context of the final regulation;²⁶

- “GE programs”—refers to programs that are subject to the gainful employment rule and the accountability framework under the current regulations, which includes all non-degree programs and all types of programs offered at proprietary institutions;

- “Non-GE programs”—refers to programs that are not subject to the gainful employment rule and accountability framework under the current regulations, which includes degree programs offered at public and non-profit institutions.

2. Need for Regulatory Action

These final regulations are needed to implement certain provisions of the WFTCA that affect students and program participants in the Federal student loan programs authorized under title IV of the HEA. The WFTCA amended the HEA to create new eligibility criteria for programs of study at institutions to receive title IV loans. These changes establish an accountability framework for all undergraduate degree programs and all types of graduate programs that participate in the Direct Loan program. The final regulations are also needed to align existing accountability framework under the current FVT/GE rule (88 FR 70004) with those in the WFTCA.

The Department has limited discretion in implementing many of the provisions contained in the WFTCA. Many of the changes included in these final regulations simply modify the Department’s regulations to reflect statutory changes made by the WFTCA. In some cases, the Secretary has exercised her limited discretion to implement certain provisions of the WFTCA. Areas of limited discretion include:

- General definitions (§ 668.2), including how earnings would be measured and defined;
- The student tuition and transparency system framework

(§ 668.402), including the specific reporting requirements for institutions;

- The method for calculating the earnings premium (§ 668.403), and whether the Department should adjust or exempt certain programs for various reasons;

- The appeals process (§ 668.603), including the usage of alternative earnings data from State data systems; and

- The scope and purpose of the earnings accountability framework (§ 668.601), including whether certain undergraduate certificate programs should be exempted, whether accountability framework should be delayed for certain programs, and whether the sanction for failing programs should be the removal from participation in all title IV, HEA programs.

These areas of limited discretion are discussed in the “Alternatives Considered” section below. In general, where the Secretary had discretion, she sought to align the accountability framework in Section 84001 of the WFTCA with the accountability framework under the current regulations such that all postsecondary programs are covered by the same accountability framework. In addition to the reasons stated earlier in the “Department Authority (Including GE and Quality Assurance Authority)” section, this alignment reduces complexity, burden, confusion, and compliance costs for both institutions and the Department. Additionally, the Secretary sought to reduce reporting burden under the STATS framework while maintaining the disclosure of relevant information on college costs and outcomes to students and families.

3. Summary of Comments and Changes in the Final Rule

Table 3.1 provides a summary of changes from the NPRM to the final rule.

TABLE 3.1—SUMMARY OF KEY CHANGES IN THE FINAL REGULATIONS

Provision	Regulatory section	Description of final provision
STATS and Earnings Accountability		
Updating application information	§ 600.21(a)(11)	The final regulation is updated to clarify that the requirement for institutions to report to the Department certain changes to eligible programs now applies both to GE and eligible non-GE programs.
General definitions	§ 668.2(b)	The final regulation revises the definition of <i>Cohort period</i> to streamline the cohort expansion procedures.

²⁵ Financial Value Transparency and Gainful Employment, 34 CFR parts 600 and 668 Docket ID ED–2023–OPE–0089. www.federalregister.gov/documents/2023/10/10/2023-20385/financial-value-transparency-and-gainful-employment.

²⁶ The EP and D/E metrics are defined in the “Methodology for Current Regulation Calculations” and “Methodology for Final Regulation Calculations” subsections below. In the context of the final regulations, “accountability framework”

also includes the final revisions to the standards of administrative capabilities, discussed in the “Department Authority (Including GE and Quality Assurance Authority)” section above.

TABLE 3.1—SUMMARY OF KEY CHANGES IN THE FINAL REGULATIONS—Continued

Provision	Regulatory section	Description of final provision
Program participation agreement	§ 668.14(h)(3) and (4)	It also revises the definition of <i>Earnings threshold</i> to establish a minimum benchmark of one dollar in cases where the Census Bureau data necessary to perform the calculations is unavailable. The final regulation adds two exceptions to the loss of title IV, HEA eligibility for all of an institution's low-earning outcome programs for failure to comply with the administrative capability requirement at § 668.16(t) in two out of three years. First, an institution's low-earning outcome programs are not subject to an automatic loss of eligibility for title IV, HEA funds if the institution is not participating in the Direct Loan program and has not participated in that program for the five most recently completed award years. Second, the program is not subject to the loss of title IV, HEA funds if the institution agrees in an amendment to its PPA to use its authority under § 685.203(m)(2) to prevent students from borrowing Direct Loans in the program for at least five years. This exception will continue to apply for as long as the institution continues to prevent Direct Loan borrowing in the program.
Initial and final decisions	§ 668.91(a)(3)(vi)	The final regulation clarifies that the agency's action against a low-earning outcome program could be either a limitation or termination action.
Student tuition and transparency system framework.	§ 668.402(b)	The final regulation, for a GE program designed to prepare students for employment in a recognized occupation that qualifies for a deduction of tip income under IRS "No Tax on Tips" regulations and 50 percent or more of individuals in the occupation receive income from tips, will not consider the program to have passed or failed the earnings premium measure for any award year in which the graduate cohort earnings data includes earnings from 2025 or prior.
Earnings accountability scope and purpose.	§ 668.601	The final regulation exempts from the accountability framework programs at institutions that enroll only individuals with a documented Specific Learning Disability or Autism, as defined under 34 CFR 300.8.
Low-earning outcome programs	§ 668.603	The final regulations provide that an institution may appeal within 30 days the Secretary's determination that a program is a low-earning outcome program through a process described by the Secretary separate from the limitation and termination proceedings under Part 668 Subpart G.
Student warnings	§ 668.605(c)(1)(iii)	The final regulation adds warning content to notify students about a program's potential loss of overall title IV, HEA eligibility under § 668.14(h).

4. Summary of Comments From the NPRM

The Department received hundreds of comments related to the Regulatory Impact Analysis in the NPRM. This section responds to these comments. Many commenters submitted alternatives that were substantially similar to remarks submitted by other commenters; in these cases, we grouped those comments and responded to them collectively.

Impact on the Economy

Comments: Some commenters expressed concern that the regulation will reduce economic activity and economic growth because the earnings test will lead to fewer educational opportunities as programs and colleges will be forced to close. Commenters noted this could reduce the supply of workers in critical fields, prevent individuals from starting new businesses, harm rural and local economies where college close, and lead to a less educated workforce, harming the nation's competitiveness internationally.

Discussion: The Department notes that the overall impact of the rule is estimated to increase the number of eligible educational programs (weighted by enrollment) and increase title IV, HEA disbursements relative to the current rule (Tables 5.12 and 5.15). While the final rule applies an earnings test to all degree programs for the first time, it also replaces the current Gainful

Employment rule (implemented in 2023) with a new earnings test under which fewer programs fail. The net effect, as is shown throughout the Regulatory Impact Analysis, is an increase in program eligibility and a net increase in title IV, HEA volume for programs and students between 2027 and 2036 relative to current regulations (Tables 5.15, 7.1A, 7.1B).

The Net Impact Budget Impact reflects an increase in outlays of \$1,517 million in Direct Loan cohorts 2027 to 2036 and \$8,782 million in Pell Grants in FYs 2027 to 2036. On an annual basis, the Department estimates that an additional \$1.2 billion in title IV, HEA loans and Pell Grants will be disbursed to students relative to the baseline (Table 5.15).

Overall, the Department's analysis shows that approximately 85,500 additional students will gain access to title IV aid under the proposed regulation (Table 5.12) because fewer programs fail the earnings test. Under the current regulations, the programs that these students attend would lose eligibility for all title IV, HEA program assistance, negatively impacting their ability to afford college. Under the final rule, failing programs usually only lose eligibility for title IV Federal student loans (unless the failing program is also at an institution that fails the Standards of Administrative Capability requirements).

The Department's estimates also show that the earnings test could result in higher earnings for graduates of

associates degree programs (Table 6.1) because the regulations reduce the number of low-earning associates degree programs that may receive Title IV aid (many of which were previously exempt from the accountability framework). Put another way, the associate degree programs that are available to students will, on average, lead to higher earnings among students earning these degrees. The earnings for associate degree programs that pass the earnings test in the proposed rule but fail in the current rule are approximately \$7,000 higher, on average, than programs that pass the earnings test in current regulation and fail under the proposed regulation. This is because the WFTCA applies an accountability framework to all degree programs (including associates degrees) at all types of institutions whereas the prior rule did not apply to associates degree programs offered at public and private non-profit institutions. In short, more associates degrees are subject to an accountability framework under the final rule, reducing the number of programs that lead to low earnings.

Ultimately, the Department's analysis shows that the assertions made about the harmful effects this regulation would have on the economy are misguided. In fact, when compared against the baseline Gainful Employment regulation, this final rule will result in fewer students being negatively impacted by program closures due to failing the earnings test, and it will therefore have a smaller

effect on worker shortages and the local economies who depend on such workers.²⁷

Changes: None.

Comments: Some commenters expressed that the regulation would harm the economy because it would negatively impact state budgets. Commenters expressed that the regulation would result in the closure of many types of programs, including cosmetology programs. Commenters stated that this will result in fewer students taking state licensure exams, ultimately reducing state revenues from licensure examination fees.

Discussion: The Department evaluated the impact of the final rule on programs, students, and title IV, HEA student financial assistance. The Department's analysis indicates that fewer students will be impacted by the earnings test in the final rule relative to the share of students impacted under the current policy (Table 5.12). To the extent that the commenters' concerns about state budget are accurate, the Department's analysis implies that the final regulation would result in an increase in state revenue because more students will be anticipated to take state licensure examinations relative to the baseline policy.

Changes: None.

Impact on Small Businesses

Comments: The Department received many comments about the effects the regulation would have on small businesses, particularly with respect to cosmetology businesses. Commenters explained that because the earnings test would cause cosmetology programs to lose access to title IV, HEA program assistance, there will be fewer cosmetologists, a group that tends to own and operate their own small businesses. Others noted that barber shops, salons and spas are small businesses that rely on trained and licensed cosmetologists as their employees. Cosmetology schools themselves are often small businesses, as some commenters noted.

Discussion: The Department disagrees with the commenters' assertions. We assessed the effects of the rule on cosmetology programs, single-program institutions (which are often cosmetology schools), and small

institutions of higher education in the Regulatory Flexibility Act analysis. In each of these analyses, we find that when compared with the current Gainful Employment regulation, fewer programs are expected to fail the earnings test under this final rule (Tables 5.17, 5.18, 5.19, and 5.20). Relative to the baseline policy, the Department estimates the earnings test will reduce the negative effects on small businesses commenters have raised.

Although a smaller share of cosmetology programs are expected to fail under the final rule relative to the baseline policy, the Department does acknowledge that a high share of cosmetology certificate programs are likely to fail under this final rule (approximately 93%), and that the smallest institutions of higher education are more likely to have a high share of failing programs. The Department is, however, concerned that these fields and credentials do not produce adequate earnings to support student debt. The Department believes that institutions of higher education, employers, and state and local policymakers will have stronger incentives as a result of the earning premium measure to create or modify programs so that they lead to higher earnings, or reform employee pay policies, or credentialing requirements.

Lastly, the Department notes that many cosmetology programs do not participate in title IV, HEA programs. One study found that just 14 percent of barber and cosmetology programs in Texas participate in federal student loan and grant programs. Moreover, many of these non-federally funded programs charge lower tuition prices and have similar outcomes than cosmetology programs subsidized by taxpayers.²⁸ These non-federally funded cosmetology programs will have incentives to increase their enrollment if fewer programs are eligible for title IV, HEA student aid, helping to supply the cosmetology workforce. As a result, it is possible that students benefit from this rule if they switch from more-expensive, Federally funded cosmetology programs to less expensive, non-Federally funded programs.

Changes: None

Impact on Consumers

Comments: Some commenters stated that the regulation will impact consumers by making the price of

haircuts more expensive. Commenters stated that the rule would result in the closure of many cosmetology programs, creating a shortage of barbers and therefore resulting in an increase in the price of haircuts.

Discussion: The Department specifically examined the estimated impact of the regulation on cosmetology programs (Table 5.17, 5.18, 5.19, 5.20, 5.27, and 5.28). Relative to the current Gainful Employment regulation, the final rule is estimated to result in fewer failing cosmetology programs. As a result, this means there will likely be fewer cosmetology program closures as a result of this regulation, helping to blunt the possible shortage of barbers that would otherwise occur under the baseline policy. The Department also notes that there are hundreds of cosmetology programs participating in the title IV, HEA programs that will not be covered by the accountability framework in this regulation, further mitigating the extent to which the regulations contribute to a worker shortage (Table 5.27).

Changes: None.

Comment: Commenters expressed that the regulation would harm consumers in the particular context of cosmetology. Some commenters expressed that the rule would result in the closure of many cosmetology programs, which would therefore create negative effects on health, safety, and sanitary conditions because more services would be provided in homes and in unlicensed or uninspected facilities.

Discussion: The Department notes that cosmetologist licensure and facility inspection are areas regulated and enforced at the State and local levels, not at the Federal level. The Department trusts the appropriate State and local entities to maintain appropriate standards for health and safety within their jurisdiction. Furthermore, as shown in the Department's analysis (Tables 5.17, 5.18, 5.19, 5.20, 5.27, and 5.28), fewer cosmetology programs are expected to fail the earnings test under the final rule relative to the current gainful employment regulation. Therefore, the Department believes this final rule reduces the health, safety, and sanitary concerns expressed by the commenters because it is likely that more cosmetology programs will remain open relative to the baseline policy.

Changes: None

Impact on College Enrollment

Comments: Commenters expressed that the regulation would result in a decline in college enrollment, arguing that many students will no longer be able to afford to attend higher education

²⁷ Consequently, some students who attend programs that failed under the current regulation but now pass under this regulation may be harmed by the ability to attend passing programs that have relatively lower-earning programs. However, it is difficult for the Department to estimate this possibility because we lack counterfactual earnings data for what the students' earnings outcomes may have been had they not attended college at all.

²⁸ Cellini, S.R., & Onwukwe, B., (2022). Cosmetology Schools Everywhere: Most Cosmetology Schools Exist Outside of the Federal Student Aid System. Washington, DC: PEER Center. www.american.edu/spa/peer/upload/peer_cosmetology_b.pdf.

without access to title IV, HEA student aid programs. Commenters further noted that the decline in college enrollment will negatively impact the nation's economy, competitiveness, and entrepreneurialism.

Discussion: The Department is concerned about the low-earnings outcomes found in certain programs, and believes that students will be economically harmed by attending such programs. Students will have access to other title IV-eligible programs and can continue receiving grants and loans to attend non-failing programs.

Furthermore, the Department notes that fewer students will be impacted by the final rule relative to the current policy (Table 5.12). Therefore, to the extent that the commenters' concerns are accurate, we note that this rule will enhance the ability for students to remain enrolled in college, thereby benefiting the nation's economy, competitiveness, and entrepreneurialism.

Changes: None.

Impact on Specific Student Groups

Comments: Numerous commenters expressed concern about the impact the proposed rule would have on under-represented and disadvantaged student populations, including those from racial/ethnic minority groups. Some commenters stated opposition to the regulation because they believed it would disproportionately harm these groups, and requested the Department conduct an analysis to examine this issue. Some commenters expressed that the regulation would disproportionately harm certain types of institutions, such as Historically Black Colleges and Universities (HBCUs), Tribally Controlled Colleges and Universities (TCCUs), and other minority-serving institutions (MSIs).

Discussion: The Department specifically examined how the rule may impact individuals from different racial/ethnic backgrounds, shown in Table 5.21. For all racial/ethnic groups, the Department estimates that smaller shares of students will attend failing programs under the proposed regulation relative to the current regulation. We therefore disagree with these commenters, as this analysis shows that students from racial/ethnic minority groups will be less impacted overall by the proposed regulation relative to the way these students would be impacted under the current Gainful Employment regulations.

Furthermore, the Department estimated how the regulation would impact HBCUs, TCCUs, and other MSIs in Table 5.10. Relative to the current

regulations, we estimate the final rule would result in a slight to moderate increase in the share of students and programs at HBCUs and MSIs that fail the earnings test. This is largely because of the statutory requirement to hold all programs accountable for their earnings outcomes, whereas the existing regulation only applied to non-degree programs and for-profit institutions.

Although a marginally higher share of programs and students at HBCUs and MSIs will be impacted by the final rule, the Department remains concerned that these programs regularly provided students with very low earnings after graduation, leaving them unable to afford their student debt burden and other financial expenses. The Department believes this final regulation will therefore benefit these students who otherwise would have attended these low-earning programs. Because of the final rule, some of these students may now consider attending other higher-earning programs that are not impacted by these final regulations, possibly resulting in higher earnings for students.

Changes: None.

Comments: Many commenters expressed concern that the regulation will negatively impact women. Commenters stated that many of the programs that will fail the earnings test—including education programs, social work programs, arts programs, cosmetology programs, and childcare programs—serve larger shares of women, resulting in a disproportionate impact on this student population.

Commenters also stated that programs that serve larger shares of women will be disproportionately impacted by the regulation because women are more likely to have family obligations and work part-time, downwardly skewing the median earnings value of the programs they attend. Many commenters expressed that this issue was particularly common among women in the cosmetology sector, where it is very common for women to work part-time as they manage other family obligations.

Discussion: The Department's analysis shows that fewer women will attend failing programs relative to the current baseline (Table 5.21). Under the final regulation, the Department estimates that only 5.5 percent of women who receive title IV, HEA funds would attend programs that are expected to fail the earnings test. Under the current Gainful Employment regulation, 6.4 percent of women who receive title IV, HEA funds attend programs that are estimated to fail the accountability framework. Some women may therefore

benefit from this regulation due to the greater educational choices afforded to them, along with the greater amount of title IV, HEA funds they are eligible to receive.

The Department does acknowledge that certain women may not benefit, if they experience low earning outcomes after attending programs that remain open under this regulation but would have failed (and therefore likely closed) under the prior regulation. On net, the Department's analysis suggests there will be a greater number of students who attend programs with relatively lower-earning outcomes relative to the prior rule (Table 5.12). However, it is difficult for the Department to estimate if students benefit or are harmed by this provision because we do not have the ability to determine students' earning outcomes had they not attended such programs.

Furthermore, many of the programs listed by the commenters—including cosmetology programs, social work programs, and education programs—have lower fail rates under the accountability framework in this final regulation relative to the fail rates under the current regulation (Table 5.18 and 5.19). Again, this means certain women may benefit if they value the greater amount of educational choices and opportunities that will be available to them under this rule relative to the prior regulation. In summary, the Department disagrees with the commenters' assertions because our estimates show that relative to the current baseline, more female students and the programs they attend are likely to have access to title IV funding under the proposed rule, which may benefit certain female students.

Changes: None.

Comments: Some commenters expressed concern that the proposed regulation will negatively impact low-income students. The commenters stated that fewer low-income students will enroll in college as a result of the regulation because they will have less access to the title IV, HEA student aid programs they depend on. Commenters believed that low-income students would therefore be disproportionately harmed because they will have no other way to afford postsecondary education, forcing them to drop out of college or skip higher education entirely.

Discussion: Relative to the current Gainful Employment regulation, the Department estimates that fewer students will attend failing programs (Table 5.12). Additionally, students will continue to receive Federal Pell Grants, even if they attend failing programs. This is because the failing programs in

the final rule will usually only lose access to Federal student loans, which differs from the current Gainful Employment regulation, where students at failing programs would lose access to all types of title IV, HEA aid. This means low-income students who attend failing programs under the final regulation will usually have access to higher amounts of Federal student financial assistance relative to the amount they would have access to under the current policy. To the extent that low-income students pay less tuition as a result (due to the Federal title IV, HEA aid they can receive under this regulation), they may benefit.

Changes: None.

Comments: Some commenters stated that the regulation would harm formerly incarcerated individuals, veterans, and the family members of veterans because these individuals rely on cosmetology programs to re-enter the labor force. The commenter argued that the rule would result in the closure of many cosmetology programs, creating a disproportionate impact on these populations.

Discussion: The Department does not have data to evaluate how the rule would impact veterans, the family members of veterans, and formerly incarcerated individuals. However, the Department specifically examined the estimated impact of the regulation on cosmetology programs (Tables 5.17, 5.18, 5.19, 5.20, 5.27, and 5.28). Relative to the current Gainful Employment regulation, the final rule is estimated to result in fewer failing cosmetology programs. As a result, there will likely be fewer cosmetology program closures as a result of this rule. This may benefit formerly incarcerated individuals and veterans who may desire to enroll in these programs because they will enjoy greater educational choice as a result of this regulation. Therefore, while the Department is unable to evaluate the specific concerns raised by commenters, we believe that the rule will enhance the ability for students to attend cosmetology programs due to the overall reduction in the rule's impact on cosmetology programs.

Changes: None.

Comments: Commenters expressed concern that the proposed regulation would disproportionately impact first-generation college students, asserting that the earnings test will result in the closure of programs that serve these students.

Discussion: The Department notes that assessing the degree to which first-generation students are impacted by the rule is difficult and that commenters provided no data or analysis to support

their concerns. While the Department does not have comprehensive data to directly estimate the impact of the regulation on first-generation students, we estimate the impact on less-than-two-year institutions and two-year institutions, which prior research has found could be more likely to enroll first-generation students.²⁹ The results are mixed. ED's analysis (Table 5.7) shows that fewer programs at less-than-two-year institutions will fail the earnings test under the proposed regulation when compared against the current regulations but programs at two-year institutions will fail at slightly higher rates under the proposed rule. Additionally, some first-generation students may benefit from the rule in the form of higher earnings, if those students instead enroll in programs that have higher earnings outcomes as a result of this regulation.

Changes: None.

Impact on Rural Communities

Comments: Many commenters expressed concern about how the regulation will impact programs in rural areas and communities. Commenters suggested the rule will negatively impact programs in these areas for factors that are outside of their control, including lower costs of living and localized labor market conditions.

Discussion: The Department addressed these comments above in the "Earnings Threshold—Geographic Scope of Data" section. To briefly reiterate, the Department specifically examined the impact of the Regulation on rural colleges, and notes that the regulation will have a slightly larger impact on rural programs and the students who attend them relative to the current regulation (Table 5.10). The Department clarifies that this increased impact on rural communities is driven by the statutory requirement to hold degree programs offered at public colleges accountable for earnings outcomes.

Changes: None.

Comments About RIA Methodology

Comments: Some commenters stated that the Regulatory Impact Analysis did not explain how the earnings test would impact programs and colleges and suggested that terms were not well defined. Other commenters expressed that the Department's analysis in the RIA is confusing, inaccurate, and misleading.

²⁹ PNPI (2025). First Generation Students in Higher Education. Washington, DC: Postsecondary National Policy Institute. https://pnpi.org/wp-content/uploads/2025/05/FirstGenStudents_FactSheet_Apr25.pdf.

Discussion: The Department disagrees with the commenters' assertions. The commenters did not provide any specific details on which parts of the Department's analysis they found confusing, inaccurate, or misleading. The Department notes that it clearly explained the data and methods used to produce its estimates, which are shown in Tables 5.7 to 5.21 in the Regulatory Impact Analysis.

However, to further enhance transparency in the Department's analysis, we included two new tables in the RIA, Tables 5.1 and 5.2. These tables explain how the Department used the PPD:2026 data to create an analytic sample of programs for which its estimates are based on. Furthermore, these tables list which types and number of programs that are anticipated to be covered by the accountability framework in this regulation. All subsequent tables were re-numbered to account for the inclusion of these new tables.

Changes: None.

Comments: Some commenters stated that the income definition used in the Department's analysis in the RIA was unclear. Commenters stated that the definition used to calculate the earnings benchmarks—personal income from wages and salary and personal income from self-employment and farm income—is an incomplete measure of individual income.

Discussion: The Department disagrees with the commenters' assertions. When calculating the earnings benchmarks, the Department includes personal income from wages and salary and personal income from self-employment and farm income. This is the most comprehensive measure of personal income available in the ACS, the dataset the Department will use to calculate the earnings benchmarks. Commenters who believed this measure was incomplete offered no alternative dataset or data that the Department could use as a better measure for earnings. In the absence of any other data, the Department will use the available data from the ACS.

Changes: None.

Comments About PPD:2026 Data

Comments: Some commenters expressed that PPD:2026, the dataset used for the Department's analysis, contained errors and inaccuracies. Commenters alleged that the dataset included programs at colleges that did not exist, and suggested that this data would be inappropriate to use for the accountability framework.

Discussion: The Department stated in the Regulatory Impact Analysis that

there are several important differences between the PPD:2026 data and the dataset that will ultimately be used to administer the final rule (Table 5.3). The Department used PPD:2026 for the analysis in this final rule because we will not have the data to implement the final rule until 2027. The Department reiterates that the estimates presented in the Regulatory Impact Analysis are the best available estimates based on currently-available data on programs and earnings.

In response to commenters who expressed the PPD:2026 dataset contained programs for which their college never offered, the Department notes that the Technical Data Appendix clearly explains the process used to include programs in PPD:2026. The data utilizes program-level information on enrollments and title IV, HEA disbursements from COD in a particular program during a particular period of time. Programs where there was at least one title IV enrollee in the program during the 2024 or 2025 award years were maintained in the analytic sample.

The Department reiterates that, to mitigate this concern when the final rule is implemented, all colleges will have an opportunity to review their program completer lists for each program they offer. During this process, colleges will be able to amend completer lists for each program to ensure that the college is held accountable for the correct set of program completers.

Changes: None.

Comments: One commenter representing a college expressed concern about the PPD:2026 data used to produce estimates in the Regulatory Impact Analysis. The commenter was concerned with the way federal loan disbursements were associated with programs, noting that they believed the data inaccurately apportioned federal loan disbursements to a program at their institution. The commenter argued that borrowers who graduated with loans from one program who then re-enrolled in another program were having their loans counted towards the second program. The commenter also expressed confusion regarding the pass/fail indicators in the PPD:2026 dataset.

Discussion: The Department disagrees with the concerns expressed by the commenter. The Technical Data Appendix clearly articulates how loans are tied to programs. Specifically, FSA data include information on which program students were enrolled in when the loan was disbursed and which program and college received the loan. This means loans are not double counted for individuals who enroll in a

new program and have loans from a prior program.

Furthermore, the Variable Codebook articulates which programs would pass or fail the proposed regulation; the variable “mstr_obbb_fail_cip2_wageb” indicates whether the program is estimated to pass or fail the earnings test in the proposed regulation. The Department further notes that institutions can reach out to us directly if they have specific questions about how to use the data we produce.

Changes: None.

Comments: One commenter indicated that of the 16 graduate Acupuncture and Herbal Medicine (AHM) programs in the Department’s own College Scorecard, 12 have earnings data suppressed due to privacy thresholds. Because of this, the commenter suggests that existing federal data infrastructure cannot produce reliable earnings estimates for the majority of AHM programs, and recommends using alternative data sources.

Discussion: The Department notes that prior data from the College Scorecard is not the dataset that will be used to determine program earnings. Rather, in conjunction with a Federal Agency with earnings data, the Department will assemble new program-level dataset on program earnings, and this newly-assembled data will have a more-robust cohort aggregation process to account for small programs. This will greatly reduce the concern raised by the commenter who believes that AHM programs will not be covered by the earnings test. We decline the commenter’s request to use alternative datasets because the earnings data must be pasted on program completers, not broad data based on the earnings of individuals with certain degrees.

Changes: None.

Comments: One commenter requested that the Department impute the earnings of programs with missing earnings data in PPD:2026. The commenter argued that this would provide a better comparison to estimate the potential impact of eliminating the D/E metric on programs.

Discussion: The Department declines the commenter’s request. The commenter did not offer a way in which the Department could feasibly impute the earnings outcomes for programs with missing data. In addition, the Department is concerned that the imputation of missing data could produce confusion, as some earnings values would be based on statistical estimates rather than the program’s actual earnings outcomes from a Federal agency with earnings data. The Department also notes that the specific

method used to impute missing earnings data could be highly sensitive to model specifications, further contributing to potential confusion and the possibility of misleading results.

Changes: None.

5. Impact of the Final Regulation

This section presents the Department’s analysis of the anticipated impact of the final regulations. For this analysis, the Department estimated which programs would fail the accountability framework in the final regulations relative to the current regulations, which is the baseline for the analysis. The Department also analyzed the characteristics of these failing programs and the characteristics of students who attend them. The following subsections describe the data and methodology the Department used and the estimated impact of the final regulation on students, programs, and institutions.

Data Description

Throughout this RIA, we use data from a modified version of the 2026 Program Participation Data (PPD:2026) that the Department compiled for the negotiated rulemaking sessions. This data was made publicly available on the Department’s website prior to the January 2026 negotiated rulemaking sessions, along with additional details. You may find the data at www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026.³⁰

PPD:2026 was assembled by combining data from a variety of public and private sources, including the Integrated Postsecondary Education Data System (IPEDS), the College Scorecard, the IRS, FSA, and the ACS. It includes information on enrollments, earnings, and title IV, HEA disbursements, among other variables.

The unit of analysis in PPD:2026 is the unique combination of institutional ID (*opeid6*), credential level (*credlev*), and four-digit classification of instructional program (CIP) code (*cip4*).^{31 32} When necessary, OPEIDs are

³⁰ U.S. Department of Education AHEAD Session 2 Program Performance Data Fact Sheet, <https://www.ed.gov/media/document/ahead-session-2-program-performance-data-fact-sheet-112902.pdf>; AHEAD Session 2 Program Performance Data Variable Codebook, <https://www.ed.gov/media/document/ahead-session-2-program-performance-data-variable-codebook-112904.pdf>; AHEAD Session 2 Program Performance Data Technical Appendix <https://www.ed.gov/media/document/ahead-session-2-program-performance-data-technical-appendix-112901.pdf>.

³¹ Programs are defined using the unique combination of institutional ID (OPEID6), credential

linked to UNITIDs using the UNITID of the main campus, identified using the College Scorecard crosswalk files.³³ The universe of programs in PPD:2026 includes all programs eligible for title IV, HEA funds that had at least one title IV enrollee reported to the National Student Loan Data System (NSLDS) during the 2023–24 or 2024–25 award years. In total, PPD:2026 includes information for 209,321 unique programs offered at 5,096 unique higher education institutions.

There are two key differences between the data used in this RIA and the public dataset available on the Department's website. First, the data used in this RIA contains information on the specific counts of enrollees regardless of program size. This differs from the publicly released version of PPD:2026, where student counts fewer than 20 are privacy-suppressed or perturbed. Estimates in this RIA may therefore differ slightly from those using the publicly released version of PPD:2026. Additional information is available in the technical documentation for PPD:2026 on the Department's website.³⁴ Second, the data used in this RIA contains additional variables from publicly available sources (such as IPEDS and the College Scorecard) that were not originally included in the

level, and 4-digit CIP codes. In almost all cases, 4-digit CIP code titles align with the 2010 CIP code taxonomy. In some cases, 4-digit CIP codes appear only in the 2020 CIP code taxonomy. In these cases, the 2020 CIP code taxonomy is used to title the program. Programs with CIP codes that do not appear in the 2010 or 2020 CIP code taxonomies are dropped. This removes fewer than 20 individual programs, representing less than 0.006% of all higher education programs in the final data set.

³² Credential levels are defined by the following eight categories: (1) Undergraduate certificate programs, (2) Associate degree programs, (3) Bachelor's degree programs, (4) Post-Baccalaureate degree programs, (5) Master's degree programs, (6) Doctoral programs, (7) First-Professional Programs, and (8) graduate certificate programs.

³³ UNITIDs are the unique institution identifiers used in IPEDS data.

³⁴ For more information, see: www.ed.gov/media/document/ahead-session-2-program-performance-data-technical-appendix-112901.pdf.

PPD:2026 data released by the Department in January. The Department needed to include these additional variables in its analysis of the final rule to estimate the impact of certain provisions, such as the provision allowing failing programs to voluntarily remove themselves from the Federal student loan program for a period of five years (discussed in the "Department Authority (Including GE and Quality Assurance Authority)" section).

Analytic Sample

The analysis in this RIA uses data from PPD:2026. These data include information on 209,321 individual programs. We then limit these data to exclude programs that the Department estimates are unlikely to be subject to the accountability framework in this rule. This includes:

- Programs located in U.S. territories with unavailable ACS data;³⁵
- Programs with no Federal loan participation from 2021–2025;³⁶
- Graduate programs in states where ACS data will likely be unavailable or unreliable;³⁷ and
- Programs that are estimated to not meet the minimum size requirement to generate a program earnings measure.³⁸

³⁵ This includes programs at institutions located in U.S. territories that primarily enroll in-territory students for which ACS data are unavailable.

³⁶ This restriction removes programs that received \$0 in Federal student loan disbursements for each award year between 2021 and 2025. This method slightly differs from the process outlined in this regulation, where programs at institutions that did not participate in the Federal student loan program for the prior five award years would not have an outcome calculated. This analysis uses program-level participation since we observe loan disbursement data at the program level.

³⁷ This includes graduate programs at colleges that primarily enroll in-state students located in states and fields where the ACS had fewer than 30 respondents used in the same-state, same-field earnings benchmark (see Table 5.5 for further explanation).

³⁸ To determine if a program would likely meet the minimum size requirement, we used PPD:2026 and summed the number of title IV completers from the 2021–22 to 2024–25 award years. Following the aggregation process described in the "Cohort

Table 5.1 reports the number of programs removed by each of these restrictions as well as the final set of programs included in the analysis. Approximately 30 percent of all programs are expected to be covered by the accountability framework in this final rule, and these programs enroll approximately 79 percent of all title IV, HEA students and receive 84 percent of all annual title IV, HEA disbursements (Table 5.2). The fail rates presented in the "Impact of the Final Regulations on Institutions" and "Impact of the Final Regulations on Programs" sections are therefore based on the roughly 61,900 programs in PPD:2026 that the Department anticipates will be subject to the accountability framework in this final rule.³⁹ The other programs in PPD:2026, which, based on the Department's analysis, are unlikely to be covered by the accountability provisions in this regulation, are not included in the numerator or denominator for fail rates displayed in these sections.

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Expansion" section, we summed together completers from the same college and credential level who shared the same four-digit or two-digit CIP code and completed within during the 2021–22, 2022–23, 2023–24 and 2024–25 award years. If this value did not exceed 30 unique title IV completers, we assume the program (defined at the OPEID6 x CREDLEV x CIP4 level) would not reach the minimum size requirement needed to be included under the final rule and therefore removed it from the sample. Additionally, approximately 160 cosmetology programs and massage therapy programs will receive two or more years of delay because they are small and additional cohorts of students with earnings under the "No Tax on Tips" policy will be needed for the cohort aggregation process (described in the "Earnings of Program Completers—Use of IRS Data" section). These small programs are excluded from the final sample of programs; however, we note that these programs will eventually be subject to the earnings test when their cohort sizes become large enough in future years, which would occur between 2030 and 2032.

³⁹ In other words, programs that are not expected to be covered by the accountability framework are not included in the pass rates or fail rates in the analysis presented in the "Impact of the Final Regulations on Institutions" section.

Table 5.1 - Sample Construction

Exclusions	Number of Programs Removed	Remaining Programs
Starting Sample of Programs (All programs in PPD:2026)	--	209,320
Exclude Programs in US territories with unavailable ACS data	310	209,010
Exclude Programs with no Federal loan participation from 2021-2025	28,280	180,730
Exclude Graduate programs in states with unavailable ACS data	2,650	178,080
Exclude Programs that will not meet minimum size requirements	116,200	61,880
Final Sample of Programs		61,880

Notes: See text and related footnotes for description of each of the exclusions. These programs are removed from the analytic sample because they are unlikely to be subject to the earnings test and will therefore not face accountability sanctions. The final sample represents the set of programs the Department estimates will be subject to the accountability framework in the final rule. Program counts rounded are rounded to the nearest 10.

Source: Department of Education calculations using PPD:2026.

Table 5.2 - Number of Programs, Students, and Title IV

Volume Covered by Final Rule

	All Programs in PPD:2026			Programs Subject to Accountability Framework		
	Number of Programs	Number of Title IV Students	Annual Title IV Volume (\$ Millions)	Number of Programs	Number of Title IV Students	Annual Title IV Volume (\$ Millions)
	(1)	(2)	(3)	(4)	(5)	(6)
Undergrad Cert	38,350	2,034,900	8,647	7,260	1,389,600	7,257
Associate	42,930	6,058,900	19,173	9,630	4,350,000	15,154
Bachelor	68,970	9,475,500	56,311	29,670	8,163,500	48,810
Post-Bacc Cert	3,470	42,200	50	120	9,400	12
Masters	33,640	2,057,700	19,866	12,140	1,750,100	17,511
Doctoral	11,860	484,800	6,462	1,640	295,100	5,147
Professional	1,650	311,700	11,904	640	229,100	9,434
Grad Cert	8,450	155,700	784	780	81,700	469
Total	209,320	20,621,400	123,197	61,880	16,268,500	103,794

Notes: This table reports the total number of programs, title IV enrollees, and title IV disbursements to all programs (columns 1-3) and to the subset of programs, title IV enrollees, and title IV disbursements to programs that the Department estimates will be covered by the accountability framework in the final rule (columns 4-6). The sample in columns 4-6 excludes programs that are estimated to have fewer than 30 title IV completers after the cohort aggregation process, programs located in US territories where ACS data are unavailable, graduate-level programs located in states where ACS data are unreliable, and programs that have not participated in the Federal loan program between 2021-22 to 2024-25. N sizes in columns 1 and 4 are rounded to the nearest 10. N sizes in columns 2 and 5 are rounded to the nearest 100. N sizes in columns 3 and 6 are rounded to the nearest million. N sizes may not sum to total due to rounding. Programs, title IV enrollees, and annual title IV volume correspond to the values in the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

Data Limitations & Assumptions

The data used in this RIA differ slightly from what the Department

would use to evaluate programs under the current regulations and these final regulations. These differences are summarized in Table 5.3. We make

several assumptions in our analysis to account for these differences and note that the estimates in this RIA may slightly differ from the actual rates.

**Table 5.3 – Comparison of PPD:2026 to Data to be Assembled
for the Current and Final Regulations**

	PPD:2026	Data used to Evaluate Programs Under Current Rule	Data used to Evaluate Programs Under Final Rule
Program Definition	Unique combination of OPEID6 by Credential level by 4-digit CIP.	Unique combination of OPEID6 by Credential level by 6-digit CIP.	Unique combination of OPEID6 by Credential level by 6-digit CIP.
Cohort Construction	A single, pooled cohort of Title IV completers from two award years.	Title IV completers for either two or four years of pooled award years, depending on program size.	Title IV completers from a single award year, unless the program does not meet the minimum size threshold.
Program Failure	For current regulations: Assumed to fail if the program fails the Debt to Earnings or the Earnings Premium metric after 1 year. For the proposed regulations: Assumed to fail if the program fails the Earnings Premium metric after 1 year.	Failing the Debt to Earnings metric in 2 out of 3 consecutive years, or failing the Earnings Premium metric in 2 out of 3 consecutive years.	Failing the Earnings Premium metric in 2 out of 3 consecutive years.
Missing Earnings Values	76% of programs have missing earnings values.	69% of programs are expected to have missing earnings values.	32% of programs are expected to have missing earnings values.

Notes: In the first column, the percent of programs with missing earnings data is calculated by dividing the number of programs in PPD:2026 with missing earnings data by the total number of programs in PPD:2026. In the second column, the percent of programs with missing earnings data is based on the number of programs in PPD:2026 that have fewer than 30 title IV completers from 2022-2025 divided by the total number of programs in PPD:2026. In the third column, the percent of programs with missing earnings data is based on the number of programs in PPD:2026 that have missing earnings data out of all programs in PPD:2026, excluding programs that are estimated to have fewer than 30 title IV completers after the cohort aggregation process described in the final regulation, programs located in US territories where ACS data are missing, graduate-level programs located in states where ACS data are unreliable, and programs that have not participated in the Federal loan program between 2021-2025. Source: Department of Education calculations using PPD:2026.

and final regulations because programs in PPD:2026 are identified by a unique combination of 6-digit OPEID, credential level, and 4-digit CIP code. However, in the current and final regulations, programs are identified by a unique combination of 6-digit OPEID, credential level, and 6-digit CIP code. We therefore assume that earnings outcomes of programs within the same 4-digit CIP code, credential level, and institution are equally distributed across (unobserved) 6-digit CIPs. Fail rates in this RIA may vary from the actual fail rates if different programs (defined at the 6-digit CIP level) nested within the same overarching 4-digit CIP have different earnings outcomes. Some research has shown that program earnings outcomes may vary across 6-digit CIP codes within the same 4-digit CIP code; however, the Department believes that any effect this has on our estimates should be small because approximately 83 percent of 4-digit CIP codes have only a single 6-digit CIP code nested within it.⁴⁰

Second, student completer cohorts in PPD:2026 are constructed differently than under the current and final regulations. Specifically, the cohort for earnings in PPD:2026 includes title IV completers from two pooled award years; these data were drawn from the College Scorecard for expediency and therefore use the cohort construction from that source. Under the current regulation, cohorts would include title IV completers from two or four pooled award years, depending on program size. Under the final regulation, cohorts will generally include title IV completers from a single award year unless the program does not meet the minimum size threshold (discussed in the “Cohort Expansion” section above), in which case cohorts will be aggregated with similar programs for up to three prior award years, until a statistically reliable cohort size is achieved. We therefore must assume that the cohort aggregation processes for the current and final regulations would result in

programs having similar earnings as the cohorts used in PPD:2026.

Third, our estimates use the earnings outcomes from the single pooled cohort of completers, but in the current and final regulations, programs face sanctions only if they fail the accountability framework in two out of three consecutive years.⁴¹ A single cohort is used for the analysis in this section because PPD:2026 does not include multiple, consecutive years of program-level earnings outcomes. This is another reason why our estimates may slightly overcount the share of programs that fail the accountability framework.⁴²

Fourth, our analysis in this section (“5. Impact of the Final Regulations”) assumes that students who attend failing programs will not switch to a different, non-failing program.⁴³ Program-switching is not accounted for in this section because the Department is unable to precisely estimate which programs individual students will select when switching. However, we expect this to have a minimal impact on our estimates because this assumption is applied consistently to our estimates of both the current and final regulations.⁴⁴

⁴¹ In the current regulation, GE programs that fail the D/E test in two out of three consecutive years or GE programs that fail the EP test in two out of three consecutive years lose access to *all* title IV, HEA funds. Under the final regulations, programs that fail the EP test in two out of three consecutive years lose access to title IV Federal student loans.

⁴² We anticipate this issue will be very small given that program earnings outcomes are based on completers who exited a program approximately six calendar years prior to the date in which earnings are measured. For this reason, there is little, if anything, colleges could do to alter the earnings outcomes of their former students. In other words, we anticipate that failing the earnings test one year will be highly correlated with failing the earnings test in the subsequent year.

⁴³ The Department’s analysis in the “5. Impact of the Final Regulations” section does not account for the possibility of program switching. This is because the analysis in this section is presented at specific fields of study and credential levels, and the Department is unable to predict how students may switch across specific types of fields of study and credentials. This differs from the assumptions made in the “7. Net Budget Impact” section, which does account for the possibility of program switching when estimating the budgetary impact of the final rule. The “7. Net Budget Impact” section can account for program switching because the estimates are derived with assumptions using broad volume-based groups that students may switch to; the budget estimates are not disaggregated by specific fields of study or credential levels.

⁴⁴ Our estimates could differ from the true impact of the final regulation if students would differentially switch programs under the final

Another caveat is that earnings are missing for many programs in PPD:2026, usually due to the IRS’s privacy protocols.⁴⁵ Earnings data will, however, be collected for many of these programs because cohorts will be aggregated to include more students under the final regulation. As discussed in the prior section, the Department anticipates that roughly 61,900 programs will be subject to the accountability framework in this final rule (Table 5.1). Approximately one third of these programs (32 percent) have missing earnings data in PPD:2026, but the Department expects these programs will have earnings data available when the final rule is implemented due to the expanded cohort aggregation process (Table 5.4). Rates of missingness are higher (approximately 59 percent) for GE programs covered by the accountability framework in the final rule (Table 5.4).

To estimate the pass and fail rates for programs in PPD:2026 where earnings data are missing, we assume that these programs fail the accountability framework at equivalent rates as similar programs with reported earnings data in PPD:2026. Specifically, using the subset of programs where earnings data are available, we calculate the fail rates within each sector, broad field of study, credential level, and institutional level. Using those rates, we then assume that programs with missing earnings data will fail the accountability frameworks under the current and final regulations at the same rate as programs with reported earnings data from the corresponding sector, broad field of study, credential level, and institutional

regulation relative to how they would switch programs under the current regulation. This could occur, for example, if under the current regulation students are more likely to drop out of college (due to losing access to both Pell Grant and Federal student loan eligibility) relative to the extent that students drop out of college (rather than switch programs) under the final rule, since under the final rule students would lose access to Federal student loans only.

⁴⁵ The IRS (which was the agency that provided the Department with earnings data used in PPD:2026) is usually unable to provide the Department with median earnings estimates for programs where there is a relatively small number of working title IV recipients with available tax records. In some cases, the IRS may be unable to provide the Department with median earnings estimates depending on the distribution of earnings within programs. This results in many small programs having unobserved (missing) program earnings.

⁴⁰ Blagg, K., (2026). *Measuring Program-Level Outcomes in Higher Education*. Washington, DC: The Urban Institute. www.urban.org/sites/default/files/2026-01/Measuring_Program-Level_Outcomes_in_Higher_Education.pdf; Soliz, A., & McCann, C., (2026). *Earnings of Programs Can Vary Widely—Even Within the Same Field of Study*. Washington, DC: PEER Center. www.peer-center.org/research/earnings-vary-widely-within-field.

level.⁴⁶ This method for estimating pass and fail rates slightly differs from the preliminary analysis presented by the

⁴⁶ This means our estimates may undercount the true share of programs that fail the earnings test in the final regulation if the earnings of small programs are systematically lower than the earnings of larger programs. Conversely, our estimates may overcount the true share of programs that fail the earnings test if the earnings of small programs are systematically higher than the earnings of large programs.

Department during the negotiated rulemaking sessions in January 2026

⁴⁷ In most cases, the Department's preliminary analysis presented during the negotiated rulemaking sessions in January 2026 are within a fraction of a percentage point from the estimates presented in this RIA. The marginal difference in estimates is because the preliminary analysis presented at the negotiated rulemaking sessions excluded programs with missing earnings, whereas the analysis in this RIA includes these programs and assumes they pass and fail the accountability

(available at: www.ed.gov/media/document/2025-ahead-results-of-earnings-test-and-ge-changes-112932.pdf) because that preliminary analysis excluded programs with missing earnings data.⁴⁷

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framework at equivalent rates as similar programs (programs in the corresponding sector, broad field of study, credential level, and institutional level) with observed earnings data.

**Table 5.4 - Share of Programs with No Earnings Data, by
Credential Level and Sector**

	All Programs Subject to Accountability Framework		GE Programs Subject to Accountability Framework	
	N	Percent with No Earnings Data	N	Percent with No Earnings Data
	(1)	(2)	(3)	(4)
A. Public				
Undergrad Cert	4,690	52.9	4,690	70.1
Associate	8,190	38.2	0	--
Bachelor	17,600	20.3	0	--
Post-Bacc Cert	80	69.6	80	87.3
Masters	6,600	35.2	0	--
Doctoral	810	45.2	0	--
Professional	340	19.5	0	--
Grad Cert	410	75.4	410	82.4
Total	38,710	31.8	5,180	71.3
B. Non-Profit				
Undergrad Cert	380	47.4	380	59.0
Associate	660	35.1	0	--
Bachelor	11,490	32.8	20	66.7
Post-Bacc Cert	40	75.0	40	97.2
Masters	5,190	35.2	0	--
Doctoral	740	48.3	0	--
Professional	290	25.6	0	--
Grad Cert	320	66.5	320	79.4
Total	19,110	35.0	750	69.7
C. Proprietary				
Undergrad Cert	2,190	23.2	2,190	35.1
Associate	770	28.6	760	40.8
Bachelor	570	27.7	520	44.8
Post-Bacc Cert	<10	100.0	<10	100.0
Masters	360	34.6	340	48.8
Doctoral	90	37.0	90	50.6
Professional	20	40.0	20	60.0
Grad Cert	60	62.5	60	71.4
Total	4,070	26.9	3,970	39.6
Grand Total	61,880	32.4	9,900	58.5

Notes: The sample is limited to programs that the Department estimates will be subject to the accountability framework under the final rule. This sample excludes programs that are estimated to have fewer than 30 title IV completers after the cohort aggregation process, programs located in US territories where ACS data are missing, graduate-level programs located in states where ACS data

are unreliable, and programs that have not participated in the Federal loan program between 2021–2025. Programs are counted as GE programs if they were ever classified as a GE program between the 2016 and 2025 award years. Earnings data used in column 2 are median 4-year earnings of working title IV completers from the pooled 2017–18 and 2018–19 award years, where earnings are measured in 2022 and 2023, respectively. Earnings data used in column 4 are median 4-year earnings of title IV completers from the pooled 2014–15 and 2015–16 award years. Throughout the analysis, these different earnings variables are used to account for the different definitions of earnings across the final and current regulations. N sizes in columns 1 and 3 are rounded to the nearest 10. N sizes may not sum to totals due to rounding.

Source: Department of Education calculations using PPD:2026.

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Lastly, the Department's analysis may slightly overestimate the share of programs and students that fail the accountability framework under the final rule because the Department is unable to accurately incorporate two policies into its analysis, both of which are described in the "Low-earning outcome programs (§ 668.603)" section above. First, the final rule includes a teach-out provision that allows institutions to continue receiving title IV, HEA funds if they agree to an orderly program closure. Failing programs that exercise this teach-out option can continue to receive title IV, HEA funds for the lesser of three years or the full-time normal duration of the program, meaning students currently enrolled in these failing programs would not be immediately impacted.

Second, the final rule includes an appeals process that allows institutions to appeal the Department's determination for failing programs. If institutions successfully appeal, those programs initially identified as failing would not lose eligibility for Federal student loans.⁴⁸ As estimated in the PRA, the Department anticipates that approximately 1,000 programs may appeal the determination annually. However, it is not possible for the Department to estimate how many of these appeals may be successful. Therefore, we are unable to account for the possibility that the appeals process reduces the program fail rates in this RIA.

Methodology for Current Regulation Calculations

Throughout the RIA, the Department estimates the share of programs that fail the accountability framework under the current and final regulations to determine the net-effects of the final

regulations relative to the baseline.⁴⁹ We first estimate which programs would fail the earnings premium measure and D/E metrics under the current regulations. Consistent with the current GE regulation, we count a GE program as failing if it failed either the earnings premium measure or the D/E metric according to our estimates of these measures using PPD:2026.

GE programs are counted as failing the earnings premium measure under the current regulation if the median earnings of program graduates is below the earnings threshold, which is defined as the median annual earnings of working individuals aged 25 to 34 whose highest level of educational attainment is a high school diploma (or equivalent) in the relevant geographic area.⁵⁰ For this calculation, we used the three-year median earnings of title IV program graduates in the labor market who completed during the 2014–15 and 2015–16 pooled award years, obtained from the IRS.⁵¹ To calculate the earnings

threshold, we used the median annual earnings of working high school graduates using the 2023 ACS 5-Year Estimates, obtained from IPUMS.⁵² All monetary values were adjusted to constant 2024 dollars using the CPI–U.

Next, we counted GE programs as failing the D/E metric if they failed either the Annual Earnings Rate measure or the Discretionary Earnings Rate measure under current regulation.⁵³ For this calculation the Department used program-level data on cumulative student debt from the College Scorecard for individuals who completed during the pooled 2017–18 and 2018–19 award years.⁵⁴ To

the current GE/FVT regulation. The Department does not have more recent data that match these requirements. Note that one of the measurement years for earnings was during the COVID–19 pandemic. Specifically, title IV completers from the 2014–15 award year had their earnings measured during the 2019 calendar year, and title IV completers from the 2015–16 award year had their earnings measured during the 2020 calendar year. Program graduates who were enrolled in postsecondary education at the time earnings were measured are excluded from this calculation. The median earnings value includes statistical noise added by the IRS to protect student privacy.

⁵² Earnings were defined as the combined sum of personal income from wages and salary (*incwage*) and personal income from self-employment and farm income (*incbus00*). The median earnings value is taken using individuals who live in the relevant geographic area (e.g., the corresponding state, or nationally), who have the relevant educational attainment level (e.g., those who only have a high school diploma or equivalent with no postsecondary education), who are between 25–34 years old (inclusive), and who have a positive, non-zero income. Appropriate survey weights were utilized to ensure estimates were representative at the national and state levels.

⁵³ The Annual Earnings Rate measure is defined as Annual Earnings Rate = (Annual Loan Payment)/(Annual Earnings); the Discretionary Earnings Rate measure is defined as Discretionary Earnings Rate = (Annual Loan Payment)/(Discretionary Earnings). Under current regulation, programs are counted as failing the D/E metric if the Annual Earnings Rate measure exceeds 8% or if the Discretionary Earnings Rate measure exceeds 20% in two out of three consecutive years.

⁵⁴ To calculate the Annual Loan Payment amount, the Department used the following amortization periods: undergraduate certificate, associate degree, post-baccalaureate certificate programs, and graduate certificate programs are amortized over 10

⁴⁸ The inability to account for these factors may ultimately result in a slight overestimate in the share of programs, students, and title IV, HEA student aid disbursements impacted under the final rule.

⁴⁹ While the baseline assumes the current regulations are in effect, we note that no program has actually failed the current regulations at the time this regulation is published because the EP and D/E metrics (as defined under the current regulations) have not yet been computed by the Department. However, in the absence of this final rule, these rates would be calculated, which is why we use the impact of the current regulation as the baseline to judge the impact of the final rule.

⁵⁰ Under the current regulations, for programs that enrolled more than 50 percent of their students from the state where the institution is located, the relevant geographic area is the state in which the college is located. For programs that enroll 50 percent or less of their students from the state where the institution is located, the relevant geographic area is the entire United States. In our analysis, we do not observe the share of enrollees in a program that are from out of State. We proxy for program-level in-State enrollment shares using institution-level data on the share of students across the entire institution who are from in-State. To determine whether an institution enrolls more than half its students from out-of-state, we use each enrolled student's address reported in the student's most recently reported FAFSA relative to the award year being evaluated.

⁵¹ These data were collected by the Department for the original version of the PPD during development of the current GE/FVT regulation. It is the only cohort of students for which readily available earnings data match the requirements of

calculate the annual loan payment amount (which is used in both the Earnings Rate Measure and Discretionary Earnings Rate measure), we assumed a 4.45 percent interest rate on loans for undergraduate programs and a 6.23 percent interest rate for graduate programs.⁵⁵ To calculate the denominator for the Annual Earnings Rate measure and the Discretionary Earnings Rate measures, we used the same program-level earnings measure described above. When relevant, we used 150 percent of the Federal Poverty Guidelines for a single person in 2024, which was \$22,590.⁵⁶

years; bachelor's and master's degree programs are amortized over 15 years; and doctoral and first professional degree programs are amortized over 20 years. These differing amortization periods account for the typical outcome that borrowers who enroll in higher-credentialed programs (e.g., bachelor's and graduate degree programs) are likely to have more loan debt than borrowers who enroll in lower-credentialed programs and, as a result, are more likely to take longer to repay their loans. The amortization rates mirror those used in the 2014 and 2023 prior rules.

⁵⁵ These interest rates were determined by taking a weighted average of the interest rates on Undergraduate Unsubsidized Stafford Loans, Graduate Stafford Loans, and Grad PLUS Loans between 2016 and 2019, which were the available interest rates on these loans around the time that borrowers completed their programs.

⁵⁶ The Federal Poverty Guideline is used to calculate the denominator of the Discretionary Earnings Rate measure.

Methodology for Final Regulation Calculations

The Department estimated which programs would fail the revised earnings premium measure under the final regulation using PPD:2026. Programs are counted as failing if the median earnings of *working* program graduates are below the relevant earnings threshold. For this calculation, we used the four-year median earnings (from the College Scorecard) of title IV program graduates who completed during the 2017–18 and 2018–19 pooled award years and were working at the time earnings was measured.⁵⁷

The relevant earnings thresholds for each program are listed in Table 5.5. There are six different earnings thresholds in which a program could be judged under the final regulation, including:

- *In-State High School (HS)*. The median earnings of individuals aged 25–34 in the state where the college is

⁵⁷ Specifically, title IV, HEA completers from the 2017–18 award year had their earnings measured during the 2022 calendar year, and title IV, HEA completers from the 2018–19 award year had their earnings measured during the 2023 calendar year. Earnings were inflation adjusted to 2024 using CPI–U. Program graduates who were enrolled in postsecondary education at the time earnings were measured are excluded from this calculation. Individuals are determined to be “working” if they had positive income reported to the IRS from wages, salary, or self-employment during the calendar year earnings were measured. The median earnings value includes statistical noise added by the IRS to protect student privacy.

located, who are working,⁵⁸ and have only a high school diploma or its recognized equivalent.

- *National HS*. The median earnings of individuals aged 25–34 in the entire United States, who are working, and have only a high school diploma or its recognized equivalent.

- *Same-State, Same-Field Bachelor's degree (BA)*. The median earnings of individuals aged 25–34 in the state where the college is located, who are working, and have a bachelor's degree in the same field of study.

- *Same-State BA*. The median earnings of individuals aged 25–34 in the state where the college is located, who are working, and have a bachelor's degree.

- *National Same-Field BA*. The median earnings of individuals aged 25–34 in the entire United States who are working and have a bachelor's degree in the same field of study.

- *National BA*. The median earnings of individuals aged 25–34 in the entire United States who are working and have a bachelor's degree.

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⁵⁸ For all six ETs in the final regulation, we determine an individual was working if the individual reported positive, non-zero personal income from wages, salary, or self-employment income (including farm income) during the year. Individuals who reported that they were currently unemployed (at the time they completed the survey) but had otherwise worked during other parts of the year (meaning they had positive personal income from wages, salary, or self-employment) are still counted as working.

Table 5.5 - List of Earnings Thresholds used in the Revised Earnings Premium Measure in the Final Regulation

	Earnings Thresholds Applied Under the Proposed Regulations	
	<50% Institution Enrollment from Out- of-State	≥ 50% Institution Enrollment from Out- of-State
	(1)	(2)
Undergrad Cert	In-State HS Median	National HS Median
Associates	In-State HS Median	National HS Median
Bachelors	In-State HS Median	National HS Median
Post-Bacc Cert	In-State HS Median	National HS Median
Masters	Lowest of: Same- State, Same-Field BA Median; Same-State BA Median; National Same-Field BA Median	Lowest of: National Same-Field BA Median; National BA Median
Doctoral	Lowest of: Same- State, Same-Field BA Median; Same-State BA Median; National Same-Field BA Median	Lowest of: National Same-Field BA Median; National BA Median
Professional	Lowest of: Same- State, Same-Field BA Median; Same-State BA Median; National Same-Field BA Median	Lowest of: National Same-Field BA Median; National BA Median
Grad Cert	Lowest of: Same- State, Same-Field BA Median; Same-State BA Median; National Same-Field BA Median	Lowest of: National Same-Field BA Median; National BA Median

Notes: See text for a definition of the earnings threshold names used in this table. Consistent with the final rule, out-of-state enrollment shares are determined using enrollment from the entire institution using the location of the main campus (defined by six-digit OPEIDs) and the students' home location based on the address reported on their most recently reported FAFSA relative to the award year being evaluated.

To calculate each of the six earnings thresholds, we used data from the 2023 ACS 5-Year Estimates, obtained from IPUMS. We defined earnings using the same approach described in the “Methodology for Current Regulation Calculations” section.⁵⁹ We computed each specific earnings threshold by using the corresponding group of individuals aged 25–34 who live in the relevant geographic area (*e.g.*, the corresponding state, or nationally), who

⁵⁹ Specifically, earnings are defined as the combined sum of personal income from wages and salary (*incwage*) and personal income from self-employment and farm income (*incbus00*), and are adjusted to 2024 dollars using CPI–U. Individuals with \$0 or non-positive earnings are omitted from the medians.

have the relevant educational attainment level (*e.g.*, high school diploma/recognized equivalent or bachelor’s degree in the relevant field of study), and who are not currently enrolled in college.⁶⁰

⁶⁰ Appropriate survey weights were utilized to ensure estimates were representative at the National and state levels. For institutions that enrolled fewer than 50 percent of their students from in-state, the relevant geographic area is the State in which the college is located. For institutions that enrolled 50 percent or more of their students from out-of-state, the relevant geographic area is the entire United States. To determine if students are from in-state or out-of-state, we use each enrolled Title IV student’s address reported in the student’s most recently reported FAFSA relative to the award year being evaluated.

A majority of programs are compared against the in-state earnings thresholds, reflective of the fact that most postsecondary students are in-state residents of the college they attend. Summary statistics on the share of programs that compared against the in-state thresholds are shown in Table 5.6. This reveals variation in the rate at which certain types of programs are judged against the in-state thresholds. For example, undergraduate Culinary & Personal Services programs are most likely to be compared to the in-state earnings threshold (96 percent), whereas graduate-level Religious Studies programs are least likely to be compared to the in-state earnings threshold (55 percent).

Table 5.6 – Share of Programs Compared to In-state and Out-of-state Earnings Thresholds, by Broad Field of Study and Credential Level

Broad Field of Study	Share of Programs with <50% Institution Enrollment from Out-of-State	Share of Programs with ≥50% Institution Enrollment from Out-of-State
A. Undergraduate Programs		
Business/Management	87.4	12.6
Computer/Information Science	85.1	14.9
Culinary & Personal Services	96.4	3.6
Education	90.7	9.3
Engineering/Math	84.0	16.0
Health-Related	91.8	8.2
Humanities/Liberal Arts	85.9	14.1
Life Sciences	83.4	16.6
Other Technical/Professional	87.8	12.2
Physical Sciences	86.3	13.7
Religious Studies	64.2	35.8
Social/Behavioral Sciences	81.4	18.6
Vocational/Technical	94.1	5.9
B. Graduate Programs		
Business/Management	77.8	22.2
Computer/Information Science	72.4	27.6
Culinary & Personal Services	100.0	0.0
Education	88.0	12.0
Engineering/Math	77.0	23.0
Health-Related	81.0	19.0
Humanities/Liberal Arts	76.7	23.3
Life Sciences	78.2	21.8
Other Technical/Professional	77.9	22.1
Physical Sciences	83.6	16.4
Religious Studies	55.4	44.6
Social/Behavioral Sciences	80.3	19.7
Vocational/Technical	78.6	21.4

Notes: Broad Field of Study Categories are based on categories used in the 2020 NPSAS using the variable MAJORS12_2010. The following adjustments were made to the field of study categories for conformability: Multi/Interdisciplinary Studies were combined with "Other Technical Professional"; Math was combined with "Engineering"; new categories were created for "Culinary and Personal Services" (CIP2=12) and "Religious Studies" (CIP2=38 or 39). Undergraduate programs include ungraduated certificate programs, associate degree programs, baccalaureate degree programs, and post-baccalaureate certificate programs. Graduate programs include master's degree programs, doctoral programs,

professional programs, and graduate certificate programs. Consistent with the final rule, out-of-state enrollment shares are determined using enrollment from the entire institution using the location of the main campus (defined by six-digit OPEIDs) and the students' home location based on the address reported on their most recently reported FAFSA relative to the award year being evaluated. Source: Department of Education calculations using PPD:2026.

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For the “*Same-State, Same-Field BA*” and “*National Same-Field BA*” earnings thresholds, we determined programs to have the same field of study if the graduate program shared the same 2-digit CIP as the bachelor's degree program.⁶¹ Monetary values were adjusted to constant 2024 dollars using the CPI-U. In a small number of cases we could not reliably calculate the “*Same-State, Same-Field BA*” earnings threshold due to the small number of individuals sampled in the ACS in the correct age range who had a bachelor's degree in a specific field and were located in the relevant state.⁶² In these cases, we removed these graduate programs from the analysis because they are expected to automatically pass the earnings test, consistent with the process described in the “Earnings threshold—Data Source” section.⁶³ The Department estimates that this removes approximately 2,650 graduate programs from the analysis (Table 5.1).

Programs are counted as failing the revised earnings premium test under the final regulations if the median earnings of program graduates were below the relevant earnings threshold in Table 5.5.

Accounting for Additional Provisions in the Final Regulation

The Department's impact analysis also accounts for four provisions that are included in this final rule. First, the final regulations modify the standards of administrative capability as described in the “Administrative Capability and Consequences” section. Under this provision, all programs (GE- and non-GE programs alike) that fail the revised earnings premium test will lose access

to Pell Grants (in addition to losing access to Federal student loans) if:

- More than half of title IV, HEA funds disbursed to an institution are to students attending programs that fail the revised EP test under the final regulations; or
- More than half of title IV students enrolled at an institution are in programs that fail the revised EP test under the final regulations.

To account for this provision, the Department used PPD:2026 to calculate the total amount of title IV, HEA funds (Pell Grants and Federal student loans) disbursed to failing programs during the 2024–25 award year. Then, we calculated the share of title IV students and title IV, HEA funds in failing programs at each institution. If either of those shares exceeded 50 percent, the institution is considered as failing the standards of administrative capability requirements, and its failing programs are counted as losing eligibility for both Federal student loans and Pell Grants.⁶⁴

Second, as described above in the “Department Authority (Including GE and Quality Assurance Authority)” section, the accountability framework in this rule will not apply to programs at institutions that have not participated in the Direct Loan program for the prior five award years. To account for this provision, the Department removed programs with \$0 in federal student loan disbursements between 2020–21 and 2024–25 from this analysis.

Third, as described in the “Department Authority (Including GE and Quality Assurance Authority)” section, the final rule allows colleges to voluntarily remove programs from the Federal student loan program for a period of five years after the initial year a program fails the revised earnings premium test. Voluntarily removing a

program from the Federal student loan program will mean the programs will not be at risk of failing the standards of administrative capability requirements. As a consequence, these failing programs can preserve their Pell Grant eligibility by pre-emptively opting out of the Federal student loan program after the first year they fail the revised earnings premium test.

The Department used PPD:2026 and supplemental data from IPEDS to estimate which failing programs would likely choose to opt out of the Federal loan program under this provision. For this estimate, we began by calculating which programs and institutions would fail the revised earnings premium test under the final rule and the standards of administrative capability requirements, respectively. Then, we used Pell Grant disbursement data from PPD:2026 to calculate the average Pell Grant award disbursed to Pell-recipients in each program during the 2024–25 award year (or from the 2023–24 award year, if data from 2024–25 is missing). Lastly, using institutional tuition data from IPEDS for the 2024–25 award year (or the 2023–24 award year, if data for 2024–25 were missing) we calculated the weighted average of the in-state and out-of-state average net tuition and fees.⁶⁵

For the subset of failing programs at institutions that also fail the standards of administrative capability requirements, we assume that colleges would voluntarily remove these programs from the Federal student loan program if their Pell Grant recipients received an average Pell Grant disbursement within 120 percent of the institution's weighted average tuition and fees. This is because these programs are likely able to continue operating on Pell Grant funding alone, given the relative closeness between the institution's tuition and fees and the average Pell Grant awards received by students in the failing programs. Ultimately, for this subset of failing programs, our analysis assumes those programs will only lose eligibility for Federal student loans because it is likely

⁶¹ We used the variable DEGFIELD from the ACS to crosswalk fields of study to two-digit CIP codes. To do so, we subtracted 10 from the value of DEGFIELD to match the corresponding two-digit CIP code. One exception was DEGFIELD=38 (Military Technologies), where we had to subtract 11 (rather than 10) to achieve the corresponding two-digit CIP code. For more information, see https://usa.ipeds.org/usa-action/variables/DEGFIELD#codes_section.

⁶² If an earnings threshold would be based on fewer than 30 individuals in the ACS, we did not calculate the earnings threshold because we believed it would not be statistically reliable or representative. As described earlier in this RIA, these programs are removed from the analysis.

⁶³ These programs are expected to automatically pass the earnings test because the earnings threshold they would be compared against is \$1.

⁶⁴ Our estimates may slightly overcount the share of programs that lose access to Pell Grants under the final regulation's revisions to the standards of administrative capabilities. This is because the revised standards in the final regulation apply to institutions after three years of failing the revised earnings premium metric. However, as described above, we do not observe multiple, consecutive years of program-level earnings data in PPD:2026. Thus, our estimates may slightly overcount the share of programs that are impacted by the final regulation's revisions to the standards of administrative capabilities since we assume they fail this standard after failing the accountability framework in a single year.

⁶⁵ We calculate an institution's average tuition as the weighted average of the in-state and out-of-state average net tuition price, where the average tuition and fees are weighted by the share of in-state and out-of-state students at the institution.

those programs will choose to opt-out of the Federal student loan program and therefore avoid the penalties associated with failing the standards of administrative capability requirements.

Fourth, as described in the “Earnings of Program Completers—Use of IRS Data” section, the final rule delays the implementation of the accountability framework for a subset of programs associated with predominantly-tipped occupations. The programs that qualify for the delay are listed in Table 5.22.⁶⁶ The Department accounts for this provision in the following manner. First, for our main analysis presented in the “Impact of the Final Regulations on Institutions”, “Impact of the Final Regulations on Programs”, and “Impact of the Final Regulations on Students” sections, these programs are included, meaning they are not counted as either passing or failing the earnings test. This is because the analysis in those sections assumes this rule is fully implemented (*i.e.*, it assumes the delay period has ended).⁶⁷ However, in the “Impact of

the Delayed Implementation for Certain Programs” section, we conduct a secondary analysis where we examine how “first-year” fail rates (*i.e.*, the fail rates of programs in 2028/29) are likely to differ from the fail rates when the delay provision has expired. In that analysis, we remove from the sample programs that qualify for the delay provision, thereby showing the rule’s impact on programs after those programs are excluded from the earnings test.

Impact of the Final Regulations on Institutions

Although the current and final regulations establish an accountability framework for individual programs, we considered their effects on institutions with two approaches: by estimating how many programs fail within each level of institution type, and how many institutions will see high and low rates

the delay period is over and most programs covered by the rule, including those listed in Table 5.22, have been subject to the accountability provisions in this regulation. One exception is 160 small cosmetology and massage therapy programs, which continue to be excluded from the main analysis because these programs will not be subject to the earnings test until a later year between 2030 and 2032.

of program failure. For this analysis, higher education institutions are categorized into levels by their predominant degree offered (Less-than 2-year; 2-year; 4-year; Exclusively Graduate-degree Granting).

Examining the rate of program failure within levels, we estimate that 30.2 percent of programs at the less-than 2-year level would fail under the current regulation, whereas only 23.7 percent are estimated to fail under the final regulation (Table 5.7). At the two-year, four-year, and graduate levels, we estimate an increase in the share of programs that fail the accountability framework under the final regulation. Overall, the Department estimates that slightly more programs will fail under the final regulation relative to the current regulation (5.2 percent vs. 4.6 percent), but these programs enroll fewer students than those that fail under the final regulation (4.2 percent vs. 4.7 percent), which contributes to a smaller loss in title IV disbursements (4.1 percent vs. 5.2 percent). This is consistent with the estimated net cost from the final regulation in the net budget impact section, as shown in Tables 7.1A and 7.1B.

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⁶⁶ See section “Earnings of Program Completers—Use of IRS Data” for an explanation of how this list of programs was assembled.

⁶⁷ In other words, that analysis assumes the rule has been in effect for at least four years, such that

Table 5.7 - Estimated Impact of the Final Regulation on Institutions, by Predominant Degree Awarded

Institution Level	Number of Institutions	Programs		Title IV Enrollments		Title IV Volume	
		Number of Programs	Share of Programs that Fail	Number of Students	Enrollment In Failing Programs	Annual Volume (\$ Millions)	Volume in Failing Programs
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
A. Current Regulations							
L/T 2-Year	1,620	6,800	30.2	1,990,500	25.4	10,181	33.6
2-Year	750	9,200	5.7	3,530,100	3.6	12,050	5.6
4-Year	1,630	45,400	0.5	10,648,300	1.3	77,934	1.7
Exclusively Grad	150	500	4.1	99,700	0.9	3,630	0.6
Total	4,150	61,900	4.6	16,268,500	4.7	103,794	5.2
B. Final Regulations							
L/T 2-Year	1,620	6,800	23.7	1,990,500	18.2	10,181	20.7
2-Year	750	9,200	7.2	3,530,100	4.8	12,050	5.4
4-Year	1,630	45,400	1.9	10,648,300	1.4	77,934	1.7
Exclusively Grad	150	500	12.7	99,700	5.0	3,630	3.4
Total	4,150	61,900	5.2	16,268,500	4.2	103,794	4.1

Notes: The sample is limited to programs that the Department estimates will be subject to the accountability framework under the final rule. This sample excludes programs that are estimated to have fewer than 30 title IV completers after the cohort aggregation process, programs located in US territories where ACS data are missing, graduate-level programs located in states where ACS data are unreliable, and programs that have not participated in the Federal loan program between 2021-2025. Programs with missing earnings data are assumed to fail at rates of similar programs with the same control, credential level, broad field of study category, and predominant degree of institution. N sizes in column 1 are rounded to the nearest 10; N sizes in columns 2 and 4 are rounded to the nearest 100; N sizes in column 6 are rounded to the nearest million. N sizes may not sum to totals due to rounding.

Source: Department of Education calculations using PPD:2026.

Next, we estimated how many programs within each institution would fail the accountability framework under the current and final regulations and then assigned institutions to one of five groups based on the degree to which students attend programs that fail (Tables 5.8 and 5.9). For this analysis we disaggregate institutions by level and sector (Public; Private Non-Profit; Proprietary).⁶⁸

This analysis shows that approximately 94 percent and 98

percent of public and private non-profit institutions, respectively, have 0 percent of their enrollment in failing GE programs under the baseline (Table 5.8). At the other end of the distribution, we find that less than 1 percent of public and private non-profit institutions have all (100 percent) of their enrollment in failing GE programs under the baseline.

These rates noticeably differ from shares estimated for the final regulation (Table 5.9). Sixty-nine percent and 81 percent of public and private non-profit

institutions, respectively, are unaffected by the final regulation (these institutions have 0 percent of their enrollment in failing programs). On the other end of the distribution, about 3 percent of private non-profit institutions have 100 percent of their enrollment in failing programs, which is four times the rate as the current regulation.

⁶⁸ Estimates for the current regulation are based on enrollments in GE programs with non-missing

earnings data, while estimates for the final

regulation are based on enrollments in all types of programs with non-missing earnings data.

Table 5.8 - Share of Enrollment in Programs that Fail the Current Regulation, by Sector and Predominant Degree Awarded

Institution Level	Number of Institutions	Share of Enrollment in Failing GE Programs, Conditional on Having Earnings Data				
		0%	0-25%	25-50%	50-99%	100%
	(1)	(2)	(3)	(4)	(5)	(6)
A. Public						
L/T 2-Year	370	87.4	9.6	1.1	0.5	1.4
2-Year	570	93.1	6.0	0.4	0.4	0.2
4-Year	540	99.6	0.4	0.0	0.0	0.0
Exclusively Grad	10	100.0	0.0	0.0	0.0	0.0
Total	1,490	94.1	4.8	0.4	0.3	0.4
B. Non-Profit						
L/T 2-Year	80	81.0	1.2	2.4	4.8	10.7
2-Year	80	96.2	2.5	1.3	0.0	0.0
4-Year	1,020	99.5	0.4	0.0	0.0	0.1
Exclusively Grad	120	100.0	0.0	0.0	0.0	0.0
Total	1,300	98.2	0.5	0.2	0.3	0.7
C. Proprietary						
L/T 2-Year	1,170	42.5	1.2	2.8	3.6	49.8
2-Year	100	64.4	8.9	5.0	6.9	14.9
4-Year	70	70.0	11.4	12.9	1.4	4.3
Exclusively Grad	20	84.2	0.0	0.0	0.0	15.8
Total	1,360	46.1	2.3	3.4	3.7	44.4

Notes: Institutions are classified by the predominant degree offered. The percentages in columns 2, 3, 4, 5, and 6 are computed by calculating the share of title IV institutional enrollment in failing GE programs (conditional on having earnings data) under the 2023 GE/FVT regulations out of all title IV institutional enrollment in programs that have earnings data that fall within the range listed in the column header. The percentages in columns 2, 3, 4, 5, and 6 may not sum to 100 percent due to rounding. The number of institutions in column 1 are rounded to the nearest ten. "L/T" = Less than. "Exclusively Grad" = Institution exclusively offers graduate programs. Enrollments include title IV enrollees during the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

Table 5.9 - Share of Enrollment in Programs that Fail the Final Regulation, by Sector and Predominant Degree Awarded

Institution Level	Number of Institutions	Share of Enrollment in Failing Programs, Conditional on Having Earnings Data				
		0%	0-25%	25-50%	50-99%	100%
	(1)	(2)	(3)	(4)	(5)	(6)
A. Public						
L/T 2-Year	370	71.8	23.0	3.0	0.8	1.4
2-Year	570	68.3	28.0	2.1	1.1	0.5
4-Year	540	67.5	32.1	0.2	0.2	0.0
Exclusively Grad	10	100.0	0.0	0.0	0.0	0.0
Total	1,490	69.1	28.1	1.6	0.7	0.5
B. Non-Profit						
L/T 2-Year	80	75.0	4.8	1.2	7.1	11.9
2-Year	80	86.3	6.3	1.3	2.5	3.8
4-Year	1,020	81.0	14.9	2.1	0.7	1.4
Exclusively Grad	120	82.1	4.9	0.8	0.8	11.4
Total	1,300	81.1	12.8	1.9	1.2	3.1
C. Proprietary						
L/T 2-Year	1,170	34.6	4.4	2.4	3.2	55.5
2-Year	100	76.2	8.9	2.0	4.0	8.9
4-Year	70	70.0	22.9	2.9	2.9	1.4
Exclusively Grad	20	89.5	0.0	0.0	0.0	10.5
Total	1,360	40.3	5.6	2.4	3.2	48.6

Notes: Institutions are classified by the predominant degree offered. The percentages in columns 2, 3, 4, 5, and 6 are computed by calculating the share of title IV institutional enrollment in failing programs (conditional on having earnings data) under the final regulation out of all title IV institutional enrollment in programs that have earnings data that fall within the range listed in the column header. The percentages in columns 2, 3, 4, 5, and 6 may not sum to 100 percent due to rounding. The number of institutions in column 1 are rounded to the nearest ten. "L/T"=Less than. "Exclusively Grad" = Institution exclusively offers graduate programs. Enrollments include title IV enrollees during the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

The Department also estimated the impact of the final regulation on special types of institutions and those with unique missions, including Historically Black Colleges and Universities (HBCUs), Tribally Controlled Colleges and Universities (TCCUs), Minority Serving Institutions (MSIs), religiously affiliated institutions, rural institutions, and institutions located in U.S. territories, and single-program institutions (Table 5.10). We find that a larger share of programs at HBCUs, MSIs, religiously affiliated colleges, rural institutions, and institutions in U.S. territories will be more negatively impacted by the final regulation relative to the current regulation. Single-program institutions are less impacted under the final regulation because fewer programs at these institutions are estimated to fail the accountability framework relative to the baseline.

**Table 5.10 - Estimated Impact of the Final Regulation on
Institutions with Specialized Missions**

Institution Type	Programs		Students		Title IV Volume	
	Number of Programs	Share of Programs that Fail	Number of Students	Enrollment In Failing Programs	Annual Volume (\$ Millions)	Volume in Failing Programs
	(1)	(2)	(3)	(4)	(5)	(6)
A. Current Regulations						
HBCUs	1,100	0.9	242,800	0.1	2,440	0.1
TCCUs	<100	<0.1	800	<0.1	2	<0.1
Other MSIs	15,500	2.4	5,102,800	2.0	26,319	1.5
Religiously Affiliated	9,700	0.3	1,335,000	0.4	11,958	0.2
Rural	5,400	3.4	1,198,700	1.3	6,369	1.2
Institutions in U.S. Territories	800	<0.1	179,000	<0.1	1,218	<0.1
Single-Program Institutions	800	80.5	157,600	80.6	1,313	66.7
B. Final Regulations						
HBCUs	1,100	3.1	242,800	4.1	2,440	2.4
TCCUs	<100	<0.1	800	<0.1	2	<0.1
Other MSIs	15,500	3.2	5,102,800	2.6	26,319	2.3
Religiously Affiliated	9,700	1.9	1,335,000	2.0	11,958	1.3
Rural	5,400	3.9	1,198,700	1.8	6,369	1.1
Institutions in U.S. Territories	800	2.0	179,000	1.0	1,218	0.4
Single-Program Institutions	800	76.0	157,600	79.5	1,313	68.2

Notes: "Other MSIs" include colleges with any of the following designations: PBI, AANAPII, HSI, and ANNHI. "TCCUs" refers to Tribally Controlled Colleges and Universities. "Religiously affiliated" institutions include colleges with any listed religious affiliation from any denomination. "Rural" institutions are institutions located in counties where 50 percent or more of the population in the county lives in a designated rural census tract. "Institutions in US Territories" include institutions of higher education located in any of the following territories: AS, FM, GU, MH, MP, PR, PW, VI. "Single-Program Institutions" are institutions that only have a single program (defined by credential level and four-digit CIP) at the college. Counts in columns 1 and 3 are rounded to the nearest 100. Counts in column 5 are rounded to the nearest million. Percentages in columns 2, 4, and 6 are computed prior to rounding. Enrollment includes title IV enrollees during the 2024-25 award year. Title IV volume is the annual title IV volume disbursed during the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

The Department also estimated the share of institutions that fail the standards of administrative capability requirements under the current and final regulations (Table 5.11). Overall, similar shares of institutions will fail the standard (15.4 percent and 14.5 percent under the final and current regulations, respectively). Although these are similar shares, the penalty for failing the standard is less under the final regulation. Under the final rule, only the subset of failing programs at institutions that fail the standards of administrative capability requirements

lose access to all title IV, HEA aid. This differs from the current regulations, where *all* programs at an institution that fails to meet the standard would lose access to all title IV, HEA funds.

Proprietary institutions are expected to fail the standards of administrative capabilities at the highest rates. Under the final rule, the Department estimates that approximately 43 percent of proprietary institutions are estimated to fail. One reason the proprietary sector has higher fail rates is because these institutions offer fewer programs, making it more likely that failing

programs will account for a majority of enrollment or title IV HEA funds at the institution. Less than two-year proprietary institutions offer an average of just 5 programs (Panel C, column 4). If just one or two programs at one of these institutions fails the accountability framework under the final regulations, the institution has a higher probability of failing the standards of administrative capabilities than other institutions that offer a broad range of programs where enrollments and title IV, HEA funds are more disbursed.

Table 5.11 - Percent of Institutions that Fail the Standards of Administrative Capability Requirements, by Sector and Predominant Degree Awarded

Institution Level	Number of Institutions	Percent that Fail the Standards of Administrative Capabilities		Average Number of Programs Per Institution
		Current Regulations	Final Regulations	
	(1)	(2)	(3)	(4)
A. Public				
L/T 2-Year	610	2.6	0.7	36
2-Year	650	2.0	<0.1	65
4-Year	550	0.5	<0.1	124
Exclusively Grad	10	<0.1	<0.1	15
Total	1820	1.7	0.2	73
B. Non-Profit				
L/T 2-Year	150	12.4	9.7	7
2-Year	130	1.6	2.4	12
4-Year	1180	1.1	1.4	54
Exclusively Grad	220	1.9	6.0	6
Total	1680	2.3	2.8	40
C. Proprietary				
L/T 2-Year	1380	49.3	48.9	3
2-Year	110	16.7	7.9	10
4-Year	80	14.5	3.6	27
Exclusively Grad	30	20.0	6.7	6
Total	1600	44.8	43.0	5
Grand Total	5100	15.4	14.5	41

Notes: In this analysis, programs with missing earnings data are assumed to pass the accountability framework under the current and final rule. The sample in this table includes all programs and institutions in PPD:2026. The N sizes (institution counts) in column 1 differ from the institution counts in prior tables because the counts in prior tables were based on the subset of programs that are estimated to be subject to the accountability framework under the final rule.

Source: Department of Education calculations using PPD:2026.

Impact of the Final Regulations on Programs

The Department estimated the share of programs by credential level that will be impacted by the final regulation (Table 5.12). We estimate the final regulation will result in a slight increase in the total share of programs that would fail the accountability framework, growing from 4.6 percent of all programs under current regulation to 5.2 percent under the final regulation (Panel A). This increase is driven by associate's, bachelor's, master's, and professional degree programs. Many of

these programs are offered at institutions that are exempt from the accountability framework under the current regulation but are now subject to it under the final regulation. In contrast, undergraduate and graduate certificate programs are expected to fail the accountability framework at lower rates under the final regulations. These reductions in fail rates, however, are not enough to offset the large increase in expected fail rates among associate's, bachelor's, master's, and professional degree programs, resulting in a net increase in the share of programs that fail.

In terms of students (Panel B), we estimate the final regulation will result in a slight reduction in the total share of students enrolled at programs that would fail the accountability framework, dropping from 4.8 percent of students under the current regulation to 4.2 percent under the final regulation. Even though a larger share of programs would fail under the final regulation relative to the baseline, those programs are smaller and enroll fewer students than programs that fail under the current regulation on average.

Table 5.12 - Estimated Share of Programs that Fail and Enrollment in Failing Programs, by Credential Level

Credential Level	N	Share that Fail	
		Current	Final
		Regs	Regs
	(1)	(2)	(3)
A. Program-Weighted			
Undergrad Cert	7,260	33.4	24.1
Associate	9,630	2.3	6.0
Bachelor	29,670	0.3	1.1
Post-Bacc Cert	120	<0.1	3.9
Masters	12,140	0.5	4.2
Doctoral	1,640	0.5	0.7
Professional	640	0.2	2.0
Grad Cert	780	5.0	2.0
Total	61,880	4.6	5.2
B. Student-Weighted			
Undergrad Cert	1,389,600	42.3	27.6
Associate	4,350,000	1.8	3.9
Bachelor	8,163,500	0.9	0.6
Post-Bacc Cert	9,400	<0.1	1.4
Masters	1,750,100	1.0	4.1
Doctoral	295,100	2.1	0.8
Professional	229,100	2.7	4.9
Grad Cert	81,700	7.3	2.8
Total	16,268,500	4.8	4.2

Notes: In Panel A, "N" refers to program counts. In Panel B, "N" refers to title IV enrollment counts. Ns are rounded to the nearest 10 in panel A and to the nearest 100 in panel B. Total Ns may not sum to their subcomponents due to rounding. Title IV enrollment corresponds to enrollment during the 2024-25 award year. "Final Regs"=Final Regulations. Source: Department of Education calculations using PPD:2026.

When looking at the effect of the final regulation on sectors (Table 5.13), we estimate that the public and non-profit sectors will experience a net-increase in the share of programs that fail. This is because many programs offered in these sectors are exempt from the accountability framework under the current regulation. Conversely, under the final regulations, we estimate that the proprietary sector will experience a reduction in the share of programs expected to fail—primarily driven by the reduction in failing undergraduate certificate programs. This is largely

because under the current regulations, undergraduate programs at proprietary institutions are subject to a more-punitive earnings premium measure relative to the final regulations.⁶⁹

We find this pattern holds when weighting by title IV enrollment (Table

⁶⁹ By "more-punitive", we mean the earnings premium metric under the current regulations uses median program earnings measured 3-years after completion and includes the earnings of non-working individuals. Conversely, the revised earnings premium metric in the final regulations uses median program earnings measured 4-years after completion and only includes the earnings of working individuals.

5.14). Under the final regulations, we estimate that 1.8 percent of students at programs in the public sector attend programs expected to fail the accountability framework. This is modestly higher than the estimated share who attended failing programs under current regulations (1.1 percent). The increase is driven by the large number of students who attended associate's, bachelor's, and master's degree programs at public institutions that would be subject to the

accountability framework but are currently exempt. This increase more than offsets the reduction in students attending undergraduate certificate programs at public institutions that are no longer expected to fail the accountability framework. A similar pattern exists for students who attend private non-profit programs (Panel B). While there is a reduction in the share	of students who attended failing certificate programs at those institutions, there are increases in the shares of students who attend failing programs in all other credentials, resulting in an overall increase in the share of students who attend failing programs. In the proprietary sector (Panel C), we estimate that fewer students attend	programs that fail the accountability framework in the final regulations relative to the current regulations (18.0 percent vs. 29.9 percent), mainly because the test was made slightly less punitive under the final regulation (program earnings are measured after 4-years and include only working individuals).
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**Table 5.13 - Estimated Share of Programs that Fail, by
Credential Level and Sector**

Credential Level	Number of Programs	Share that Fail	
		Current	Final
		Regs	Regs
	(1)	(2)	(3)
A. Public			
Undergrad Cert	4,690	16.0	10.5
Associate	8,190	0.0	5.5
Bachelor	17,600	0.0	0.9
Post-Bacc Cert	80	<0.1	<0.1
Masters	6,600	0.0	3.1
Doctoral	810	0.0	0.2
Professional	340	0.0	<0.1
Grad Cert	410	2.7	2.1
Total	38,720	2.0	3.4
B. Non-Profit			
Undergrad Cert	380	25.4	19.2
Associate	660	0.0	6.7
Bachelor	11,490	0.0	1.2
Post-Bacc Cert	40	<0.1	13.0
Masters	5,190	0.0	5.1
Doctoral	740	0.0	1.4
Professional	290	0.0	3.7
Grad Cert	320	6.8	1.5
Total	19,110	0.6	2.9
C. Proprietary			
Undergrad Cert	2,190	71.9	54.0
Associate	770	29.2	10.4
Bachelor	570	15.5	3.3
Post-Bacc Cert	0	<0.1	<0.1
Masters	360	17.7	13.3
Doctoral	90	9.1	<0.1
Professional	20	6.7	13.3
Grad Cert	60	11.6	3.9
Total	4,060	48.5	32.9

Notes: Ns are rounded to nearest 10. Total program counts may not sum to their subcomponents due to rounding. "Final Regs"=Final Regulations.
Source: Department of Education calculations using PPD:2026.

Table 5.14 - Estimated Share of Enrollment in Programs that Fail, by Credential Level and Sector

Credential Level	Title IV Enrollment	Enrollment in Failing Programs	
		Current	Final
		Regs	Regs
	(1)	(2)	(3)
A. Public			
Undergrad Cert	603,700	19.2	9.0
Associate	3,754,700	0.0	2.9
Bachelor	5,334,600	0.0	0.4
Post-Bacc Cert	6,800	<0.1	<0.1
Masters	770,500	0.0	1.6
Doctoral	94,200	0.0	0.1
Professional	108,600	0.0	<0.1
Grad Cert	37,100	1.2	1.3
Total	10,710,200	1.1	1.8
B. Non-Profit			
Undergrad Cert	64,900	49.0	36.4
Associate	236,700	0.0	16.6
Bachelor	2,140,400	0.0	0.8
Post-Bacc Cert	2,100	<0.1	6.2
Masters	721,700	0.0	3.8
Doctoral	151,400	0.0	1.4
Professional	107,900	0.0	4.5
Grad Cert	31,700	3.0	0.4
Total	3,456,800	0.9	3.3
C. Proprietary			
Undergrad Cert	721,100	61.1	42.4
Associate	358,500	21.4	6.5
Bachelor	688,400	11.2	1.3
Post-Bacc Cert	500	<0.1	<0.1
Masters	258,000	6.9	12.5
Doctoral	49,500	12.8	0.0
Professional	12,600	48.8	49.5
Grad Cert	12,900	35.5	12.8
Total	2,101,500	29.9	18.0

Notes: Ns are rounded to nearest 100. Total enrollment counts may not sum to their subcomponents due to rounding. Title IV enrollment corresponds to enrollment during the 2024-25 award year. "Final Regs"=Final Regulations.

Source: Department of Education calculations using PPD:2026.

The Department also estimated the share of title IV, HEA funds disbursed to students who attend programs expected to fail the accountability framework, disaggregated by credential level (Table 5.15).^{70 71} Overall, the Department estimates that failing programs under the final regulations would lose a smaller amount of title IV, HEA funds than failing programs under the current regulations (4.0 percent vs.

5.2 percent). Undergraduate certificate programs will experience the largest change. Under the current regulations, more than half (50.2 percent) of all title IV, HEA funds disbursed to undergraduate certificate programs are projected to be lost due to the accountability framework. Under the final regulations, only 29.4 percent is projected to be lost. This reduction is driven by the fact that programs lose

eligibility for only Federal student loans under the final regulation (unless the failing program is offered at an institution that also fails the standards of administrative capabilities, and the program is also estimated to not opt out of the federal loan program), and because undergraduate certificate programs face a less-punitive accountability framework.

Table 5.15 - Estimated Annual Title IV, HEA Program Volume and Share Disbursed to Programs that Fail, by Credential Level

Credential Level	Annual Title IV Volume (\$ Millions)	Volume to Failing Programs	
		Current Regs	Final Regs
	(1)	(2)	(3)
Undergrad Cert	7,257	50.2	29.4
Associate	15,154	4.5	4.1
Bachelor	48,810	1.4	0.6
Post-Bacc Cert	12	<0.1	1.3
Masters	17,511	1.2	4.4
Doctoral	5,147	2.1	1.6
Professional	9,434	0.4	2.9
Grad Cert	469	9.2	2.4
Total	103,794	5.2	4.0

Notes: Annual title IV volume (column 1) is the total annual title IV volume from Federal student loans and Pell Grants, rounded to the nearest million. Percentages in columns 2 and 3 are estimated prior to rounding. Total financial aid volume may not sum to its subcomponents due to rounding. Annual volume corresponds to disbursements made during the 2024-25 award year. "Final Regs"=Final Regulations.

Source. Department of Education calculations using PPD:2026.

When disaggregated by sector (Table 5.16), we estimate no net change in the overall amount of title IV, HEA funds disbursed to failing programs at public institutions. While undergraduate and graduate certificate programs in the public sector are expected to lose less Title IV, HEA aid under the final regulations (Panel A), most other credential levels at those institutions are

expected to lose more title IV, HEA aid, resulting in no net change in the title IV, HEA disbursements.

The Department's estimates suggest that there could be a sizeable reduction in title IV, HEA funds disbursed to the non-profit sector (Panel B) because all programs in this sector are now subject to an accountability framework. Under the current regulations, just 0.8 percent

of title IV, HEA funds disbursed to non-profit programs were to failing programs. Under the final regulations, that figure is estimated to increase to 3.9 percent, driven by failing associate's, bachelor's, master's, and professional degree programs. The proprietary sector (Panel C) demonstrates the opposite pattern. Under the final regulations, these programs will see an increase in

⁷⁰ Under the current regulations, lost title IV HEA funds includes both Pell Grants and Federal student loans. Under the final regulations, lost title IV, HEA funds include only Federal student loans, unless the program is at an institution that is estimated to

also fail the administrative capability standards—in which case, lost title IV HEA funds also includes Pell Grants for that program.

⁷¹ Our estimates on title IV, HEA student aid disbursements assume no program switching for

students who switch from a failing program to a passing program and therefore continue to receive title IV, HEA funds.

title IV, HEA funds relative to the baseline. This is because the accountability framework is (generally)

easier for these programs to pass, and the final regulation allows failing programs to continue receiving Pell

Grants (as long as the institution does not fail the standards of administrative capability requirements).

Table 5.16 - Estimated Annual Title IV, HEA Program Volume and Share Disbursed to Programs that Fail, by Credential Level and Sector

Credential Level	Annual Title IV Volume (\$ Millions)	Volume to Failing Programs	
		Current Regs	Final Regs
	(1)	(2)	(3)
A. Public			
Undergrad Cert	1,372	19.9	2.6
Associate	10,481	0.0	0.8
Bachelor	29,506	0.0	0.2
Post-Bacc Cert	6	<0.1	<0.1
Masters	6,165	0.0	1.6
Doctoral	1,109	0.0	0.1
Professional	3,990	0.0	0.0
Grad Cert	167	2.7	0.9
Total	52,796	0.5	0.5
B. Non-Profit			
Undergrad Cert	434	57.3	39.8
Associate	1,667	0.0	22.9
Bachelor	14,285	0.0	0.8
Post-Bacc Cert	6	<0.1	3.0
Masters	8,830	0.0	4.0
Doctoral	3,378	0.0	2.4
Professional	5,130	0.0	4.6
Grad Cert	224	5.2	0.5
Total	33,954	0.8	3.9
C. Proprietary			
Undergrad Cert	5,451	57.2	35.4
Associate	3,007	22.7	5.0
Bachelor	5,019	14.1	2.1
Post-Bacc Cert	1	<0.1	<0.1
Masters	2,517	8.2	12.3
Doctoral	661	16.5	0.0
Professional	314	10.5	11.1
Grad Cert	77	34.8	11.3
Total	17,047	28.6	14.9

Notes: Annual title IV volume (column 1) is the total annual title IV volume from Federal student loans and Pell Grants, rounded to the nearest million. Total volume may not sum to their subcomponents due to rounding. Title IV volume corresponds to total Federal student loans and Pell Grants disbursed during the 2024-25 award year. "Final Regs"=Final Regulations. Source: Department of Education calculations using PPD:2026.

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Next, we estimated how the final regulations would impact specific fields of study.⁷² The Department estimates that some undergraduate programs, such as Education programs (CIP=13), Humanities/Liberal Arts programs (CIPs=05, 16, 23, 24, and 50), and Religious Studies programs (CIPs=38 and 39) will fail at a higher rate relative to the baseline (Table 5.17). Other programs, such as Health-Related undergraduate programs (CIPs=51, 60, 34, and 61), Business/Management undergraduate programs (CIP=52), and Vocational/Technical undergraduate programs (CIPs=15, 41, 46, 47, 48, and 49), are estimated to fail at lower rates. Culinary & Personal Services undergraduate programs (CIP=12) will fail the accountability framework at the highest rates among all broad field of study categories, though the share that

⁷² The Department grouped programs into broad field of study categories using a slightly modified version of the field of study categories defined in the variable "MAJORS12" from NPSAS:2020. The following adjustments were made to the field of study categories for conformability: Multi/Interdisciplinary Studies was combined with "Other Technical Professional"; Math was combined with "Engineering"; new categories were created for "Culinary and Personal Services" (CIP2=12) and "Religious Studies" (CIP2=38 or 39). For more information, see <https://nces.ed.gov/datalab/codebooks/by-subject/157-national-postsecondary-student-aid-study-2020-undergraduate-students>.

they fail under the final regulation (77 percent) is slightly lower than the share under the current regulation (83 percent). This implies that certain types of institutions offering these types of programs will likely benefit because fewer of their programs will be at risk of failing the accountability framework under this final rule, relative to the current baseline.

A somewhat different pattern is observed when estimates are weighted by enrollment (Table 5.18). For example, approximately half as many students attend failing Religious Studies undergraduate programs under the final rule than under the current baseline (3.9 percent vs. 7.8 percent). One reason for this difference is because the final regulation does not apply the accountability framework to programs that received no Federal student loans during the five award years prior to the enactment of the Working Families Tax Cut Act—many of which are religious programs that would have otherwise failed the revised earnings premium test.

Similarly, undergraduate programs in Religious Studies are also estimated to lose fewer title IV, HEA funds under the final regulation (Table 5.19). These programs will lose about half as much title IV, HEA funds under the final rule relative to the amount they would lose

under the current regulations (2.9 percent vs. 8.1 percent). Again, this difference is driven by the provision in the final rule that exempts certain programs from the accountability framework if they are at institutions that received no Federal student loans during the prior five award years.

Other types of undergraduate programs, including Business/Management programs, Culinary & Personal Services programs, Health-related programs, Humanities/Liberal Arts programs, Other Technical/Professional programs, Social/Behavioral Science Programs, and Vocational/Technical programs also experience increases in title IV, HEA funding under the final rule relative to the current baseline (Table 5.19). Certain types of institutions offering these programs will likely benefit under the final regulation (relative to the baseline) because fewer of their programs will be at risk of failing the accountability framework. This is because the final regulation includes a less-punitive earnings test and because programs that fail the accountability framework lose access only to Federal student loan eligibility (unless the failing program is at an institution that fails the standards of administrative capability requirements).

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**Table 5.17 - Estimated Share of Programs that Fail, by
Broad Field of Study and Level**

Broad Field of Study	Undergrad.		Graduate	
	Number of	Share of	Number of	Share of
	Programs	Programs that Fail	Programs	Programs that Fail
	(1)	(2)	(3)	(4)
A. Current Regulations				
Business/Management	6,160	2.6	2,110	0.2
Computer/Information Science	2,250	0.8	470	0.0
Culinary & Personal Services	1,190	83.0	<10	<0.1
Education	2,070	2.1	3,270	0.2
Engineering/Math	2,490	<0.1	740	<0.1
Health-Related	8,180	12.6	3,800	1.4
Humanities/Liberal Arts	5,350	3.4	650	2.1
Life Sciences	3,540	0.3	830	1.3
Other Technical/Professional	6,880	2.3	1,790	0.4
Physical Sciences	720	<0.1	130	<0.1
Religious Studies	350	2.6	190	<0.1
Social/Behavioral Sciences	4,590	0.1	1,140	1.4
Vocational/Technical	2,910	4.5	100	0.0
Total	46,680	5.9	15,220	0.7
B. Final Regulations				
Business/Management	6,160	1.7	2,110	0.9
Computer/Information Science	2,250	0.9	470	1.9
Culinary & Personal Services	1,190	77.3	<10	<0.1
Education	2,070	6.2	3,270	0.3
Engineering/Math	2,490	<0.1	740	0.2
Health-Related	8,180	7.0	3,800	7.1
Humanities/Liberal Arts	5,350	8.0	650	21.0
Life Sciences	3,540	1.6	830	2.8
Other Technical/Professional	6,880	4.3	1,790	2.0
Physical Sciences	720	0.3	130	<0.1
Religious Studies	350	4.8	190	3.9
Social/Behavioral Sciences	4,590	1.5	1,140	3.7
Vocational/Technical	2,910	1.1	100	<0.1
Total	46,680	5.7	15,220	3.6

Notes: Program counts (columns 1 and 3) are rounded to nearest 10. Total program counts may not sum to the sum of their subcomponents due to rounding. Broad Field of Study Categories are based on categories used in the 2020 NPSAS using the variable MAJORS12_2010. The following adjustments were made to the field of study categories for conformability: Multi/Interdisciplinary Studies was combined with "Other Technical Professional"; Math was combined with "Engineering"; new categories were created for "Culinary and Personal Services" (CIP2=12) and "Religious Studies" (CIP2=38 or 39).

Source: Department of Education calculations using PPD:2026.

Table 5.18 - Estimated Share of Enrollment in Programs that Fail, by Broad Field of Study and Level

Broad Field of Study	Undergrad.		Graduate	
	Title IV	Share of	Title IV	Share of
	Enrollment	Enrollment in Failing Programs	Enrollment	Enrollment in Failing Programs
	(1)	(2)	(3)	(4)
A. Current Regulations				
Business/Management	2,156,400	1.2	417,000	0.3
Computer/Information Science	820,000	0.8	72,000	<0.1
Culinary & Personal Services	261,400	85.4	<100	<0.1
Education	540,400	1.2	471,500	<0.1
Engineering/Math	530,600	<0.1	42,800	<0.1
Health-Related	2,591,300	11.5	769,700	3.3
Humanities/Liberal Arts	2,648,400	2.8	38,900	4.1
Life Sciences	964,200	0.1	62,100	0.7
Other Technical/Professional	1,564,000	4.2	258,700	0.5
Physical Sciences	87,400	<0.1	8,100	<0.1
Religious Studies	46,600	7.8	27,300	<0.1
Social/Behavioral Sciences	1,177,000	1.0	181,000	3.6
Vocational/Technical	524,700	4.5	7,000	<0.1
Total	13,912,400	5.3	2,356,100	1.5
Business/Management	2,156,400	0.9	417,000	0.4
Computer/Information Science	820,000	1.1	72,000	0.9
Culinary & Personal Services	261,400	74.2	<100	<0.1
Education	540,400	4.2	471,500	0.1
Engineering/Math	530,600	<0.1	42,800	<0.1
Health-Related	2,591,300	6.7	769,700	9.3
Humanities/Liberal Arts	2,648,400	3.5	38,900	17.9
Life Sciences	964,200	1.0	62,100	1.1
Other Technical/Professional	1,564,000	3.6	258,700	0.9
Physical Sciences	87,400	0.3	8,100	<0.1
Religious Studies	46,600	3.9	27,300	1.3
Social/Behavioral Sciences	1,177,000	1.4	181,000	1.4
Vocational/Technical	524,700	0.8	7,000	<0.1
Total	13,912,400	4.3	2,356,100	3.7

Notes: Student counts (columns 1 and 3) are rounded to nearest 100. Percentages are computed prior to rounding. Broad Field of Study Categories are based on categories used in the 2020 NPSAS using the variable MAJORS12_2010. The following adjustments were made to the field of study categories for conformability: Multi/Interdisciplinary Studies was combined with "Other Technical Professional"; Math was combined with "Engineering"; new categories were created for "Culinary and Personal Services" (CIP2=12) and "Religious Studies" (CIP2=38 or 39). Title IV enrollment corresponds to enrollment during the 2024-25 award year. Source: Department of Education calculations using PPD:2026.

Table 5.19 - Estimated Annual Title IV, HEA Program Volume and Share Disbursed to Programs that Fail, by Broad Field of Study and Level

Broad Field of Study	Undergrad.		Graduate	
	Annual Title IV Volume (\$ Millions)	Share of Volume to Failing Programs	Annual Title IV Volume (\$ Millions)	Share of Volume to Failing Programs
	(1)	(2)	(3)	(4)
A. Current Regulations				
Business/Management	10,636	1.7	3,349	0.4
Computer/Information Science	3,891	1.0	446	<0.1
Culinary & Personal Services	1,680	87.8	<1	<0.1
Education	2,854	0.8	3,200	<0.1
Engineering/Math	3,004	0.1	202	<0.1
Health-Related	14,044	14.5	17,531	1.2
Humanities/Liberal Arts	10,787	3.9	426	7.0
Life Sciences	5,589	<0.1	700	0.7
Other Technical/Professional	8,234	6.8	4,172	0.5
Physical Sciences	467	<0.1	18	<0.1
Religious Studies	256	8.1	154	<0.1
Social/Behavioral Sciences	6,529	1.5	2,323	4.8
Vocational/Technical	3,262	4.9	40	<0.1
Total	71,233	7.0	32,561	1.2
B. Final Regulations				
Business/Management	10,636	0.5	3,349	0.4
Computer/Information Science	3,891	1.3	446	0.6
Culinary & Personal Services	1,680	71.4	<1	<0.1
Education	2,854	0.8	3,200	0.1
Engineering/Math	3,004	<0.1	202	<0.1
Health-Related	14,044	8.0	17,531	5.3
Humanities/Liberal Arts	10,787	3.5	426	23.7
Life Sciences	5,589	0.1	700	1.2
Other Technical/Professional	8,234	2.1	4,172	0.7
Physical Sciences	467	<0.1	18	<0.1
Religious Studies	256	2.9	154	1.7
Social/Behavioral Sciences	6,529	0.2	2,323	1.5
Vocational/Technical	3,262	0.6	40	<0.1
Total	71,233	4.3	32,561	3.5

Notes: Annual title IV volume (columns 1 and 3) is rounded to nearest million. Broad Field of Study Categories are based on categories used in the 2020 NPSAS using the variable MAJORS12_2010. The following adjustments were made to the field of study categories for conformability: Multi/Interdisciplinary Studies was combined with "Other Technical Professional"; Math was combined with "Engineering"; new categories were created for "Culinary and Personal Services" (CIP2=12) and "Religious Studies" (CIP2=38 or 39). Title IV volume corresponds to total Federal student loans and Pell Grants disbursed during the 2024-25 award year. Source: Department of Education calculations using PPD:2026.

To conclude the program-level analysis, the Department examined the programs estimated to fail the final regulations at the highest rates (Table 5.20).⁷³ Some of these—such as Cosmetology (CIP=12.04), Somatic Bodywork (CIP=51.35), and Dental Support Services (CIP=51.06)—have substantially lower fail rates under the final regulation relative to the baseline. For example, the Department estimates

⁷³ The Department included the twelve programs (defined by the unique combination of *cip4* and *credlev*) that had the highest share of programs estimated to fail under the final regulations. Programs where there were fewer than 100 observations with non-missing earnings data nationally were excluded from the ranking.

that 99 percent of undergraduate certificate programs in Cosmetology would fail the accountability framework under the current regulations, but only 93 percent are expected to fail under the final regulation. So, while many Cosmetology certificate programs are estimated to fail under the final regulation, it is less punitive for these programs than the estimated impact of the current regulation.

On the other hand, Mental and Social Health & Allied Professions master's degree programs (CIP=51.15), Teacher Education and Professional Development associate's degree programs (CIP=13.12), and Drama/Theater Arts bachelor's degree programs

(CIPs=50.05, 50.07, and 50.09) are anticipated to be most negatively impacted by the final regulations relative to the current baseline. These programs are often between 10 and 20 times more likely to fail the accountability framework under the final regulation relative to their fail rates under the current regulations. These higher fail rates are driven by the fact that a large share of these programs are offered at public and non-profit institutions. Unlike the policy in the current regulations, these programs would no longer be exempt from the accountability framework under the final rule.

Table 5.20 - Twelve Most-Impacted Programs Under the Final Regulation

Program (CIP4)	Credential Level	N	Share that Fail	
			Current Regs	Final Regs
		(1)	(2)	(3)
A. Programs				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	900	99.3	93.2
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	100	98.5	89.8
Dental Support Services and Allied Professions. (5106)	Ug Cert	200	84.8	40.1
Mental & Social Health Services and Allied Professions. (5115)	Master's	300	1.1	37.8
Allied Health and Medical Assisting Services. (5108)	Ug Cert	400	84.2	37.6
Health and Medical Administrative Services. (5107)	Ug Cert	300	79.8	29.4
Teacher Education & Prof. Devlpmt Specific Levels. (1312)	Associate	200	0.9	25.2
Music. (5009)	Bachelor	400	2.0	14.5
Drama/Theatre Arts and Stagecraft. (5005)	Bachelor	500	0.6	14.0
Fine and Studio Arts. (5007)	Bachelor	300	1.0	14.0
Health and Medical Administrative Services. (5107)	Associate	200	15.5	13.2
Rehabilitation and Therapeutic Professions. (5123)	Master's	200	<0.1	11.4
B. Title IV Enrollment				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	201,000	99.1	92.5
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	15,200	99.7	89.1
Dental Support Services and Allied Professions. (5106)	Ug Cert	26,400	91.2	60.6
Mental & Social Health Services and Allied Professions. (5115)	Master's	81,600	10.4	64.4
Allied Health and Medical Assisting Services. (5108)	Ug Cert	137,000	89.8	50.9
Health and Medical Administrative Services. (5107)	Ug Cert	95,000	80.5	30.0
Teacher Education & Prof. Devlpmt Specific Levels. (1312)	Associate	64,300	3.2	20.9
Music. (5009)	Bachelor	51,300	6.9	10.9
Drama/Theatre Arts and Stagecraft. (5005)	Bachelor	96,600	1.5	8.4
Fine and Studio Arts. (5007)	Bachelor	34,800	1.6	10.7
Health and Medical Administrative Services. (5107)	Associate	94,700	16.3	30.8
Rehabilitation and Therapeutic Professions. (5123)	Master's	17,100	<0.1	9.0
C. Title IV Student Aid Volume				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	1,329	99.3	90.0
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	81	99.7	80.0
Dental Support Services and Allied Professions. (5106)	Ug Cert	175	92.5	44.2
Mental & Social Health Services and Allied Professions. (5115)	Master's	924	8.8	54.7
Allied Health and Medical Assisting Services. (5108)	Ug Cert	913	91.6	41.3
Health and Medical Administrative Services. (5107)	Ug Cert	580	83.2	31.2
Teacher Education & Prof. Devlpmt Specific Levels. (1312)	Associate	217	6.7	7.2
Music. (5009)	Bachelor	384	10.1	9.1
Fine and Studio Arts. (5007)	Bachelor	677	2.2	5.6
Drama/Theatre Arts and Stagecraft. (5005)	Bachelor	343	2.5	10.1
Health and Medical Administrative Services. (5107)	Associate	606	21.0	45.3
Rehabilitation and Therapeutic Professions. (5123)	Master's	318	<0.1	7.4

Notes: The twelve programs on this list are the twelve programs (defined at the 4-digit CIP x Credential Level) with the highest fail rates (program-weighted) under the proposed regulations in which there were at least 100 programs with non-missing earnings data nationally. In Panel A, "N" refers to program counts. In Panel B, "N" refers to title IV student enrollment counts. In Panel C, "N" refers to total title IV loan volume disbursements in AY2025 (in millions). N sizes are rounded to the nearest 100 in Panels A and B. N sizes are rounded to the nearest million in Panel C. "Ug Cert" = Undergraduate Certificate. Four-digit CIP codes are listed in parentheses. Title IV enrollment and title IV volume correspond to the amounts in the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

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Impact of the Final Regulations on Students

The Department also estimated the share of students in failing programs from each sex and race category using data from IPEDS for completers from the 2017-18 and 2018-19 pooled award

years (Table 5.21). For each program, we multiplied the number of title IV enrollees from the 2024-25 award year by the ratio of completers from the given sex or race category.⁷⁴ As reported

⁷⁴ For example, we multiplied the number of title IV, HEA enrollees in each program by the ratio of completers from the program (using IPEDS data)

above, fewer students attend programs that are estimated to fail under the final regulation relative to the baseline. Consistent with this finding, we estimate a reduction in the overall share of students from both sex categories and

who were male to calculate the share of male students in passing and failing programs.

all race categories who attend failing programs. The estimated reduction is largest for male students, Hispanic

students, and students with another race category not listed in Table 5.21.

Table 5.21 - Estimated Demographic Characteristics of Students in Failing Programs

Student Characteristic	Title IV Enrollment (Millions)	Current Regs		Final Regs		Percent Change in Fail Rate
		Pass	Fail	Pass	Fail	
	(1)	(2)	(3)	(4)	(5)	(6)
Male	5.8	97.6	2.4	98.0	2.0	-16.7
Female	9.0	93.6	6.4	94.5	5.5	-14.1
White	7.8	96.3	3.7	96.8	3.2	-13.5
Black	1.8	91.6	8.4	92.7	7.3	-13.1
Hispanic	2.6	92.5	7.5	94.0	6.0	-20.0
Asian	0.9	97.9	2.1	97.9	2.1	±0.0
Other Race	1.7	95.4	4.6	96.2	3.8	-17.4

Notes: See PPD:2026 codebook for definitions of race categories, available at: www.ed.gov/media/document/ahead-session-2-program-performance-data-variable-codebook-112904.pdf. Enrollments correspond to the estimated number of title IV enrollees from the sex or race category during the 2024–25 year. Column 6 presents the percent change using the values in columns 3 and 5.

Source: Department of Education calculations using PPD:2026.

Impact of the Delayed Implementation for Certain Programs

Next, the Department estimated the impact of the provision that delays when the accountability framework first takes effect for qualifying programs. As described in the “Earnings of Program Completers—Use of IRS Data” section, programs listed in Table 5.22 will receive at least a one-year delay in when they are first counted as passing or failing the accountability provision.⁷⁵

The delay applies for all programs sharing one of the 6-digit CIP codes listed in Table 5.22, regardless of credential level or institutional sector in which the program is offered.⁷⁶

The Department examined the number of programs that will likely qualify for a delay under this provision using data from FSA (not PPD:2026⁷⁷) for the 2024–25 award year. This data contains information on the number of title IV enrollees, completers, and title

IV, HEA student aid disbursements, disaggregated by institution (OPEID6), credential-level, and program (6-digit CIP code).⁷⁸ The Department finds that approximately 3 percent of all programs will qualify for at least a one-year delay. These programs collectively enroll approximately 1.4 percent of all title IV, HEA students and receive approximately 1.4 percent of all title IV, HEA disbursements (Table 5.23).

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⁷⁵ As explained above in the “Earnings of Program Completers—Use of IRS Data” section, this list was determined in the following manner. First, we started with the list of occupations listed in the final regulation “Occupations That Customarily and Regularly Received Tips; Definition of Qualified Tips” from the Internal Revenue Service and Treasury (91 FR 19026). This final regulation became effective June 12, 2026. For more information, see: www.federalregister.gov/documents/2026/04/13/2026-07104/occupations-that-customarily-and-regularly-received-tips-definition-of-qualified-tips. We then narrowed the list to predominantly tipped occupations, meaning that 50 percent or more of workers in a given occupation report tipped income to the IRS. Then, we used the Department’s CIP–SOC crosswalk to

link occupations (defined using 6-digit SOC codes) to programs (defined using 6-digit CIP codes). Twenty unique programs (defined using 6-digit CIP codes) qualify for the delay.

⁷⁶ Some of these programs may qualify for additional years if they have fewer than 30 title IV, HEA completers in cohorts that graduated after the 2021–22 award year. This is because the Department will not aggregate completers for programs listed in Table 5.22 using graduates prior to the 2021–22 award year. Ultimately, this means that some share of programs within those listed in Table 5.22 will not meet the minimum cohort size (30 title IV, HEA completers) until a future point between 2030 and 2032, giving them additional years in which they will not be subject to the earnings test.

⁷⁷ The Department could not use PPD:2026 for this analysis because programs in PPD:2026 are identified by 4-digit CIP codes, but the delay provisions applies to programs at the 6-digit CIP code level.

⁷⁸ Using this data, the Department dropped programs with fewer than 8 title IV completers during 2024–25 because these programs would likely have fewer than 30 title IV completers after the cohort aggregation process, exempting them from the earnings test. The N sizes differ from prior those in prior table because this is a different dataset (programs are measured at the 6-digit CIP code level) and the same restrictions cannot be applied to it as PPD:2026.

**Table 5.22 - Programs that Qualify for a Delayed
Implementation of the Accountability Framework**

CIP6	Program Name	SOC6	Occupation Name
12.0401	Cosmetology/Cosmetologist, General.	39-5012; 39-5094	Hairdressers, Hairstylists, and Cosmetologists; Skincare Specialists
12.0402	Barbering/Barber.	39-5011	Barbers
12.0404	Electrolysis/Electrology and Electrolysis Technician.	39-5012	Hairdressers, Hairstylists, and Cosmetologists
12.0406	Make-Up Artist/Specialist.	39-5012	Hairdressers, Hairstylists, and Cosmetologists
12.0407	Hair Styling/Stylist and Hair Design.	39-5011; 39-5012	Barbers; Hairdressers, Hairstylists, and Cosmetologists
12.0408	Facial Treatment Specialist/Facialist.	39-5094	Skincare Specialists
12.0409	Aesthetician/Esthetician and Skin Care Specialist.	39-5094	Skincare Specialists
12.0411	Permanent Cosmetics/Makeup and Tattooing.	39-5012	Hairdressers, Hairstylists, and Cosmetologists
12.0412	Salon/Beauty Salon Management/Manager.	39-5011; 39-5012	Barbers; Hairdressers, Hairstylists, and Cosmetologists
12.0413	Cosmetology, Barber/Styling, and Nail Instructor.	39-5011; 39-5012	Barbers; Hairdressers, Hairstylists, and Cosmetologists
12.0414	Master Aesthetician/Esthetician.	39-5094	Skincare Specialists
12.0499	Cosmetology and Related Personal Grooming Arts, Other.	39-5012	Hairdressers, Hairstylists, and Cosmetologists
12.0502	Bartending/Bartender.	35-3011	Bartenders
12.0601	Casino Operations and Services, General.	39-1013	First-Line Supervisors of Gambling Services Workers
12.0602	Casino Dealing.	39-1013; 39-3011	First-Line Supervisors of Gambling Services Workers; Gambling Dealers
51.3501	Massage Therapy/Therapeutic Massage.	31-9011	Massage Therapists
51.3502	Asian Bodywork Therapy.	31-9011	Massage Therapists
51.3503	Somatic Bodywork.	31-9011	Massage Therapists
51.3599	Somatic Bodywork and Related Therapeutic Services, Other.	31-9011	Massage Therapists
52.0908	Casino Management.	39-1013	First-Line Supervisors of Gambling Services Workers

Notes: This list is derived from "Table A-Reported Tips of Single-Job Holders, Tax Year 2023" in Occupations That Customarily and Regularly Received Tips; Definition of Qualified Tips" (Final Rule) from the Department of the Treasury and the IRS. We used the ED/Labor CIP-SOC crosswalk to link any program (defined at the six-digit CIP level) to SOCs (defined at the 6-digit level) included in the IRS/Treasury list, and we limited the list to programs linked to occupations where 50 percent or more of individuals in the occupation receive income from tips. See the discussion in the "Earnings of Program Completers - Use of IRS Data" for additional details.

Table 5.23 – Number of Programs, Students, and Annual Federal Aid Volume in Programs Qualifying for the Delay Provision

	Total	Total in Delay- Qualifying Programs	Percent
	(1)	(2)	(3)
Programs (CIP-6)	69,900	2,100	3.0
Annual Title IV Enrollees	16,087,500	226,000	1.4
Annual Federal Student Aid Volume (\$ billions)	104.3	1.4	1.4

Notes: Annual Federal student aid volume includes Federal student loan disbursements and Pell Grant disbursements. N sizes in columns 1 and 2 are rounded to the nearest 100. Percentages in column 3 are calculated prior to rounding in columns 1 and 2. See Table 5.22 for a list of "Delay-Qualifying Programs." The sample of programs included in this analysis includes programs (defined at the 6-digit CIP level) that had at least 8 title IV completers during the 2024-25 award year, because these are programs that would likely be large enough to be subject to the earnings test in this final rule.

Source: Department of Education calculations using FSA data from the 2024-25 award year.

Two fields of study benefit most from the delay: Personal and Culinary Services (CIP=12) and Health Professions and Related Clinical Sciences (CIP=51). Specifically, the

Department estimates that 77 percent of all Personal and Culinary Service programs and 1 percent of all Health Professions and Related Clinical Sciences programs will qualify for the

delay (Table 5.24, Panel A). These programs collectively enroll 226,000 title IV, HEA students annually, which is roughly 1% of all title IV, HEA students (Table 5.24, Panel B).

Table 5.24 – Number of Programs and Students in Programs that Qualify for the Delay Provision, by 2-digit CIP

Broad Field of Study (2-digit CIP)	Total	Number that Gets a Delay	Percent
	(1)	(2)	(3)
A. Programs			
Personal And Culinary Services (CIP=12)	2,500	1,900	77%
Health Professions (CIP=51)	14,000	200	1%
All Other Programs	53,000	0	0%
Total	69,900	2,100	3%
B. Title IV Enrollment			
Personal And Culinary Services (CIP=12)	278,700	208,100	75%
Health Professions (CIP=51)	3,329,500	17,900	1%
All Other Programs	12,479,400	0	0%
Total	16,087,500	226,000	1%

Notes: "All Other Programs" includes all programs outside of CIP=12 and CIP=51. N sizes in columns 1 and 2 are rounded to the nearest 100. Percentages in column 3 are calculated prior to rounding in columns 1 and 2. See Table 5.22 for a list of "Delay-Qualifying Programs." The sample of programs included in this analysis includes programs (defined at the 6-digit CIP level) that had at least 8 title IV completers during the 2024-25 award year, because these are programs that would likely be large enough to be subject to the earnings test in this final rule.

Source: Department of Education calculations using FSA data from the 2024-25 award year.

Next, the Department estimated how the delay provision will impact the number of students enrolled in failing programs during the first years of sanctions. For this analysis, the Department used PPD:2026 and removed all programs sharing a 4-digit CIP code with one of the 6-digit CIP codes listed in Table 5.22. With these delay-qualifying programs excluded, the Department estimates that 3.0 percent of all title IV, HEA students are enrolled in programs expected to fail the accountability framework during the first award year in which sanctions go

into effect (*i.e.*, the award year starting with July 2028) (Table 5.25, Panel A). After the delay period has expired, the Department estimates that 4.3 percent of students will have enrolled in failing programs (Table 5.25, Panel B), which corresponds to our main estimates shown in Table 5.12.

Lastly, the Department examined how the delay provision will impact the share of title IV, HEA student aid disbursements to failing programs in the first year of sanctions. We again use PPD:2026 and remove programs sharing a 4-digit CIP code with a 6-digit CIP

code in Table 5.22. With these programs excluded, the Department estimates that 2.9 percent of all title IV, HEA student aid will be cut off from failing programs in the first award year that sanctions go into effect (Table 5.26, Panel A). When the delay period has expired and programs listed in Table 5.22 are subject to the accountability framework, the Department estimates that 4.0 percent of all title IV, HEA student aid will be cut off from failing programs (Table 5.26, Panel B), corresponding to our main estimates in Table 5.15.

Table 5.25 – Impact of the Regulation on the Share of Title IV students in Failing Programs, With and Without the Delay Provision

Credential Level	Title IV Enrollment (1)	Share of Enrollment (2)
A. With the Delay Provision		
Undergrad Cert	1,151,700	15.8
Associate	4,318,200	3.8
Bachelor	8,141,900	0.6
Post-Bacc Cert	9,300	1.4
Masters	1,749,000	4.1
Doctoral	295,100	0.8
Professional	229,100	4.9
Grad Cert	81,700	2.8
Total	15,976,000	3.0
B. Without the Delay Provision		
Undergrad Cert	1,392,300	27.7
Associate	4,350,100	3.9
Bachelor	8,163,700	0.6
Post-Bacc Cert	9,400	1.4
Masters	1,750,200	4.1
Doctoral	295,100	0.8
Professional	229,100	4.9
Grad Cert	81,700	2.8
Total	16,271,600	4.3

Notes: Panel A excludes title IV students enrolled in programs with 4-digit CIP codes that align with one or more of the 6-digit CIP codes listed in Table 5.22. Panel B includes these students. N sizes in column 1 are rounded to the nearest 100. Percentages in column 2 are calculated prior to rounding.

Source: Department of Education calculations using PPD:2026.

Table 5.26 – Impact of the Regulation on the Share of Annual Title IV, HEA Student Aid Disbursed to Students in Failing Programs, With and Without the Delay Provision

Credential Level	Annual Title IV Volume (\$ Millions)	Share of Title IV Volume in Failing Programs
	(1)	(2)
A. With the Delay Provision		
Undergrad Cert	5,719	15.5
Associate	14,979	4.0
Bachelor	48,663	0.6
Post-Bacc Cert	12	1.3
Masters	17,500	4.4
Doctoral	5,147	1.6
Professional	9,434	2.9
Grad Cert	469	2.4
Total	101,923	2.9
B. Without the Delay Provision		
Undergrad Cert	7,269	29.5
Associate	15,155	4.1
Bachelor	48,811	0.6
Post-Bacc Cert	12	1.3
Masters	17,512	4.4
Doctoral	5,147	1.6
Professional	9,434	2.9
Grad Cert	469	2.4
Total	103,809	4.0

Notes: Panel A excludes title IV, HEA student aid disbursements to students enrolled in programs with 4-digit CIP codes that align with one or more of the 6-digit CIP codes listed in Table 5.22. Panel B includes these students.
Source: Department of Education calculations using PPD:2026.

Impact on the Cosmetology Sector

The Department has previously discussed the impact of the regulation on the Cosmetology sector above (Tables 5.17, 5.18, 5.19, and 5.20), demonstrating that the regulation will likely result in a substantial reduction in the share of these programs that are at risk of failing the accountability framework relative to the current

regulations. Institutions offering cosmetology programs will likely benefit from the final regulation because they will have fewer programs at risk of failing the accountability framework. This means fewer of their programs would be at risk of losing eligibility for certain types of title IV, HEA funds. Given the many comments the Department received about the rule’s impact on cosmetology programs, the

Department includes additional analysis on these programs to further clarify the rule’s impact on this sector.
Overall, the Department estimates that 93 percent of cosmetology certificate programs are estimated to fail the accountability framework in this rule (Table 5.20). This is a reduction from the current regulation, under which 99 percent of cosmetology certificate

programs are expected to fail. These percentages are calculated by dividing the number of failing cosmetology programs by the total cosmetology programs that are subject to the earnings test. In other words, to determine the share of cosmetology certificate programs impacted by this final regulation, we divided the 840 cosmetology certificate programs that are expected to fail the earnings test by the 900 total cosmetology certificate programs that are subject to the earnings test (yielding roughly 93 percent).

However, the Department clarifies that there are many more cosmetology

programs that receive Federal student aid that will not be impacted by the earnings test because these programs are too small to form a cohort, or because these programs do not receive Federal student loans. As shown in Table 5.27, there are a total of 1,450 cosmetology certificate programs nationally. Approximately 450 of these programs are entirely exempted from the earnings test (columns 2 and 3), and an additional 100 programs or will receive two or more years of delay before the earnings test applies to them (column 4). Thus, when these programs are

factored into the analysis, the Department finds that just 58 percent of all cosmetology programs are expected to fail the earnings test, which we refer to as the “effective fail rate” for these programs (Table 5.28). Furthermore, the Department finds that just 80.6 percent of students in cosmetology programs are enrolled in programs that are expected to fail the earnings test under this regulation, a significant reduction compared with the current regulations under which 99 percent of students in cosmetology certificate programs are enrolled in programs expected to fail.

Table 5.27. Number of Exempted Cosmetology Programs and Students

	Total	Remaining number of programs after:		
		Small Program Exemption	No-Loan Program Exemption	Delayed Start Date due to Roll-Up
	(1)	(2)	(3)	(4)
Programs	1,450	1,200	1,000	900
Title IV Enrollment	230,700	224,200	202,200	201,000
Title IV Federal Aid Volume (\$ Millions)	1,449.6	1,419.1	1,335.5	1,329.4

Notes: The “Exempted Roll-Up Programs”, column 4, are the additional set of programs that will get exempted for at least one year due to the interaction between the one-year delay provision and the small program provision.

Source: Department of Education calculations using PPD:2026.

Table 5.28 - "Effective Fail Rates" of Cosmetology

Programs

	Total	Total Subject to the Earnings Test	Share that Fail (Among programs subject to the Earnings Test)		Effective Fail Rate
			Current Regs	Final Regs	
	(1)	(2)	(3)	(4)	(5)
Programs	1,450	900	99.3	93.2	57.8
Title IV Enrollment	230,700	201,000	99.1	92.5	80.6
Title IV Federal Aid Volume (\$ Millions)	1,449.6	1,329.4	99.3	90.0	82.5

Notes: The "Effective Fail Rate", column 5, uses the values from column 1 as the denominator when calculating the fail rate. Programs that are exempted are counted as "passing" in this calculation.
Source: Department of Education calculations using PPD:2026.

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6. Discussion of Costs and Benefits

As shown in the prior analysis, the final regulations will result in costs and benefits for various entities. Specifically, the Department anticipates that certain students and institutions will incur new costs, along with the Department, and by extension, taxpayers. Further, the Department anticipates that certain students, institutions, and the Department itself will incur new benefits because of the final regulations.

Costs of the Final Regulations

The final regulations will result in costs to students, institutions, and taxpayers. We discuss these costs in that order.

Students will experience costs due to the impact the final regulation would have on certain programs. Some students—especially current and prospective students in public and private non-profit degree programs—attend programs that would fail the accountability framework under the final regulation but pass under the current regulation (shown in Tables 5.12 and 5.14). Institutions may choose to close these programs due to the loss of eligibility for Federal student loans. Students in these programs may be negatively impacted if they desire to

attend those closed programs despite the low-earning outcomes. For example, some Drama programs may close due to the final regulations, but students may desire to attend these programs for reasons other than the monetary return.

Certain students in specific fields of study may be disproportionately impacted by the final regulation (Tables 5.18 and 5.20) and may therefore experience higher costs. At the undergraduate level, students in Humanities/Liberal Arts programs, Education programs, and Fine Arts programs will be most impacted. At the graduate level, students in Computer/IT programs, Health-related programs (such as Mental/Social Health Services & Allied Professions), Religious Studies programs, and Humanities/Liberal Arts programs will be most impacted (Tables 5.18 and 5.20). Thus, current, former, and prospective students pursuing credentials in these specific fields of study are most likely to experience costs associated with the final regulations due to the high rates of program closures that may occur in these fields.

In some cases, program closures may occur abruptly and cause further disruption for enrolled students.⁷⁹ If

⁷⁹ The Department has attempted to mitigate these disruptions by including a teach-out provision in the final regulations that allows programs to implement an orderly program closure.

closures are sudden, students may inadvertently cease their enrollment if they are not instructed on how to transfer. Other students may choose to end their postsecondary education if there are no substitutable programs to attend. For students who choose to remain enrolled, program closure may force them to change majors or transfer to a different institution, imposing search costs and possible financial costs on affected students.

The final regulation may also impose reputational costs on the former graduates of failing programs. Graduates from degree programs in the public and non-profit sectors would be most impacted, as certain programs in these sectors are more likely to fail the accountability framework under the final regulation relative to the baseline (Tables 5.12 and 5.14). Prospective job applicants who formerly graduated from these failing programs may become disadvantaged in the labor market relative to other job applicants from non-failing programs. For example, employers may view degrees awarded from failing programs as less valuable. This would occur if failing the accountability framework under the final regulations sends a negative signal to employers about the graduates' former program quality, potentially impacting the ability for graduates to find employment.

Lastly, certain students pursuing undergraduate certificates may also experience new costs. The accountability framework under the final regulation will allow more programs at that credential level to remain eligible for title IV, HEA funds (Table 5.12), and some of these programs leave students with relatively lower earnings. The typical earnings of

students who attend passing undergraduate certificate programs under the final regulations are slightly lower than the typical earnings of passing programs under the current regulations (Table 6.1, column 1 vs. 2). Furthermore, earnings are lower for students who complete programs that pass the accountability framework under the final regulation but fail it

under the current regulation (columns 1 vs. 4). These students may be negatively impacted by the final regulation because they may be better off not attending such programs, though it is difficult for the Department to estimate a proper counterfactual for these students.

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Table 6.1 - Median Earnings for Students in Passing and Failing Programs under the Current and Final Accountability Framework

	Four-Year Median Earnings of 2017-18 & 2018-19 Title IV Completers who are Working and Not Enrolled			
	Passes Current Regulations	Passes Final Regulations	Fails Final Regulations, Passes Current Regulations	Passes Final Regulations, Fails Current Regulations
	(1)	(2)	(3)	(4)
Undergrad Certificate	50,600	49,100	29,200	37,500
Associate	48,100	48,200	32,000	38,700
Bachelor	63,300	63,300	33,300	47,000
Master's	80,100	80,600	58,000	63,700
Total	63,200	63,000	32,400	39,300

Notes: Credential levels are not shown if there were fewer than 10 programs with non-missing earnings data to calculate the median earnings values in columns 3 or 4. Earnings data are for title IV completers who graduated during the 2017-18 or 2018-19 award years, with earnings measured in 2022 and 2023, inflation adjusted to 2024 dollars using CPI-U. Median earnings values in this table are calculated by taking the median of "md_earn_wne_p4", weighted by "count_wne_p4". See PPD:2026 codebook for details. Median earnings values are rounded to the nearest \$100.

Source: Department of Education calculations using PPD:2026.

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The second group that will experience costs are institutions of higher education; more specifically, institutions of higher education that participate in title IV, HEA programs. These costs will vary across institutions depending on the extent to which they offer GE-programs vs. non-GE programs. While the current regulation calculates the EP and D/E metrics for non-GE programs, those programs are not subject to sanctions (loss of all title IV eligibility) if they fail those metrics. Under the final regulation, all programs—regardless of credential level and the sector of the institution at which they are offered—are now subject to sanctions (loss of Federal student loan eligibility, and the potential loss of Federal Pell Grant eligibility through the Standards of Administrative Capability

requirements) for failing the accountability framework.⁸⁰

In other words, some non-GE programs will lose access to Federal student loans due to the final regulations because these programs will be covered by the accountability framework for the first time. Without access to Federal student loans, these programs may experience enrollment declines, ultimately resulting in lost revenue to the institutions that offer them. This loss in revenue may exceed the loss in Federal student loan revenue because institutions often receive

additional revenues from students who pay tuition and fees using non-Federal resources.

Next, some institutions will incur new costs due to the loss of Pell Grant eligibility for certain programs. Programs lose Pell Grant eligibility, in addition to Federal student loan eligibility, if they are offered at institutions that fail the standards of administrative capability under the final regulations.⁸¹ For degree programs offered at public and non-profit

⁸⁰ Certain programs may not be subject to the accountability framework under the final regulation if certain data are not available. For example, programs with fewer than 30 title IV, HEA completers after the cohort expansion process would not be subject to the earnings test in this final regulation.

⁸¹ The final regulations include a provision that allows failing programs to voluntarily opt-out of the Federal student loan program after the first year the program fails the earning test. Programs that exercise this option will avoid the sanctions that could occur under the Standards of Administrative Capability policy.

institutions, this marks the first time they could lose access to Federal Pell Grant eligibility due to low-earning outcomes of their former students.⁸² This loss in Pell Grant revenue may drive further enrollment and revenue declines and, for some institutions, lead them to close their institution altogether.

The Department estimates that certain public institutions and private non-profit institutions will incur greater costs from the final regulations relative to the current regulations. Specifically, public and private non-profit institutions offering large shares of associate's degree programs, bachelor's degree programs, and master's degree programs will incur the largest costs, as these programs are projected to fail the accountability framework under the final regulation at the highest rates relative to the current regulations (Tables 5.13 and 5.14).

Additionally, certain types of institutions (including HBCUs, those located in U.S. territories, and those that exclusively offer Humanities/Liberal Arts programs) may be uniquely impacted because they offer programs that are anticipated to fail the accountability framework under the final regulation at the highest rates relative to the baseline (Tables 5.10, 5.18, and 5.20).

These institutions may struggle to recruit and enroll students if they obtain a reputation for offering low-quality educational services as a result of offering programs that fail the accountability framework in the final regulation. Ultimately, these institutions may incur financial costs due to lost tuition revenue from students who now choose to avoid these institutions due to reputational risks.

Further, institutions that offer programs that fail the accountability framework under the final regulation but pass under the current regulation (e.g., degree programs at public and non-profit institutions) will experience new costs related to compliance. First, institutions with failing programs must notify students in those programs to alert them of the failing status. Tracking and alerting students will create administrative costs for institutions if they must hire additional staff to manage this process. Even if institutions do not hire new staff to oversee this process, they may still experience non-monetary costs if these regulations require colleges to divert their existing

staff away from other essential activities. Second, institutions may choose to appeal the Department's determination of a failing program. This process will impose administrative costs and (potentially) legal costs on institutions who choose to exercise this option.

Taxpayers are the third group that will experience costs. They will incur costs from the budgetary costs due to increased transfers of title IV loans to GE programs that now pass the accountability framework under the final regulation but fail under current regulation. As noted in the accounting statement (Table 7.12), these annualized costs are approximately \$149 million at a 3 percent discount rate.

Taxpayers will also incur budgetary costs due to increased transfers of Pell Grants to programs. Unlike the current regulation, programs that fail the accountability framework under the final regulation remain eligible for Pell Grants unless they are offered at institutions do not meet the standards for administrative capability. As noted in the accounting statement (Table 7.12), these annualized costs are approximately \$871 million at a 3 percent discount rate.

Taxpayers may also face costs if the loss of title IV revenue and enrollment under the final regulation causes institutions to close. Under 34 CFR 685.214, students who are enrolled at an institution upon closure (or withdraw within 180 days of such closure) and do not complete their program may be eligible for discharges on their federal student loans if they are unable to complete their program at another institution. Thus, for institutions that close because of the final accountability framework, there may be some cost to taxpayers if those closures result in additional loan discharges that may not have occurred if the final regulations were not in place.⁸³

The Department, and by extension the taxpayer, is the final group that will experience costs due to the final regulation. Costs to the Department are due to the administrative costs needed to implement the changes to the Federal student loan and Pell Grant programs. We estimate that, based on comparable changes made in the past, those

administrative costs would average approximately \$6.6 million (using a 3 percent discount rate, Table 7.12) in systems modifications, contract changes, and staffing on an annualized basis over the 2026–2035 period. Most of these estimated costs will be incurred during the first two years of implementation.

To implement the changes under this final regulation, the Department needs to update its systems for loan and grant origination to align with the new eligibility rules for programs of study in order to correctly identify programs that maintain or lose eligibility. This includes changes to the Common Origination and Disbursement (COD) system, which supports origination, disbursement, and reporting for Direct Loan, Pell Grant, and the Teacher Education Assistance for College and Higher Education (TEACH) Grant programs. The system uses a single "Common Record" (XML format) for efficiency and elimination of duplicate student and borrower data, providing a centralized system for title IV program administration used by the Department and all institutions that participate in the delivery of Federal student aid.

The Department must also update the National Student Loan Data System (NSLDS), which is the central database for all disbursements made through title IV, HEA programs. NSLDS tracks title IV loans and grants through their entire lifecycle, from approval to repayment or closure. The system provides an integrated view for institutions and the Department to track aid, loan status, and enrollment. It consolidates data from schools, lenders, and programs, enabling users to access loan history, disbursement details, and servicer information via the FSA Partner Connect portal. The NSLDS system provides the Department with the data needed to identify program enrollment and completer cohorts that are central to administering the earnings-based eligibility tests in the final regulation.

While most of the administrative costs the Department will incur implementing the WFTCA occur in the first few years, the Department will incur long-term administrative costs for maintaining the Department's COD, NSLDS, and other system changes in future years to account for ongoing development, operations, and maintenance.

The Department expects to incur additional administrative costs to train and support institutions of higher education that now must align their procedures and systems with the new eligibility rules for loans, grants, and programs of study. The Department must also modify its internal systems

⁸² Note that only degree programs at public and non-profit institutions stand to incur new costs related to loss of Pell Grant eligibility, because these programs are exempt from the accountability framework under the current regulation.

⁸³ Note that this cost to taxpayers only includes public and non-profit institution closures, because these institutions offer programs that are subject to an accountability framework for the first time. Costs associated with closing proprietary institutions are not considered a cost to taxpayers because these institutions were more likely to close under the current regulation relative to the final regulation, since the current regulation had a stricter accountability framework and removed eligibility for both Federal student loans and Pell Grants.

and amend its data-sharing agreement with a federal agency with earnings data, which will be used to annually determine program eligibility under the new and modified earnings tests. The Department will incur minor, long-term administrative costs associated with the earnings tests and maintaining a data-sharing agreement with a federal agency with earnings data. As shown in Table 7.12, these costs will average \$1.9 million on an annualized basis (3% discount rate). Approximately 70% of these costs will support the data-sharing agreement with a federal agency with earnings data. The balance of the funds will be used to maintain the NSLDS system to support the annual operations of the accountability framework in the final regulation.

Benefits of the Final Regulations

The final regulations provide benefits to students, institutions of higher education, and the Department. These benefits are discussed in that order.

Students will benefit in several ways due to the final regulations. First, students in non-GE programs may experience higher earnings outcomes.

Under the current regulations, these programs were exempt from the accountability framework, but under the final regulation, low-earning non-GE programs at public and non-profit institutions can lose eligibility for title IV, HEA funds. Students benefit because, in the absence of the final regulation, they may have attended these low-earning outcome programs and were at a heightened likelihood of experiencing financial harm as a result. The Department estimates that approximately 163,000 title IV, HEA students attend programs at public and non-profit institutions that will fail the accountability framework under the final regulation but would have passed under the current regulation (Table 5.14).

Certain students may also benefit due to the final regulation better positioning them to pay back their student loans through the possibility of higher earnings outcomes that occur as a result of low-earning outcome programs that close. As shown in Table 6.1, the typical earnings of students from passing associate and master's degree programs under the final regulation are slightly

higher than the earnings of students who attended passing programs under the current regulation. This is because many low-earning associate and master's degree programs are offered at public and non-profit institutions, which were exempt from the accountability framework under the current regulations. Similarly, debt levels are lower, on average, for programs that pass the accountability framework in the final regulation relative to passing programs under the current regulation (Table 6.2). Default rates are roughly equivalent among programs that pass the accountability framework under the current and final regulations, though some credential levels (e.g., master's, doctoral, and graduate certificates) have lower default rates under the final regulations (Table 6.3). These estimates suggest that some students may be better positioned to pay back their loans as a result of the final regulation, which would benefit those students if it saves them from experiencing these adverse outcomes related to debt and default.

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Table 6.2 - Median Debt of Borrowers, by Credential Level and Pass/Fail Status

Credential Level	Current Regulations		Final Regulations		Difference in Median Debt Among Passing Programs
	Fail	Pass	Fail	Pass	
	(1)	(2)	(3)	(4)	(5)
Undergrad Cert	9,300	11,700	9,300	11,300	-400
Associate	21,600	14,500	18,400	14,500	±0
Bachelor	38,200	22,400	24,700	22,500	100
Masters	72,400	44,700	52,700	44,500	-200
Doctoral	181,100	85,600	65,000	90,200	4,600
Grad Cert	83,300	43,300	54,300	44,800	1,500
Total	13,500	28,400	16,000	28,000	-400

Notes: Median debt is defined as the median cumulative student debt of borrowers who completed during the 2017-18 or 2018-19 award years. See the PPD:2026 Codebook for more details. Column 5 ("Difference") is the difference between columns 4 and 2. Debt values are rounded to the nearest 100.

Source: Department of Education calculations using PPD:2026.

Table 6.3 - Default Rates of Borrowers, by Credential Level and Pass/Fail Status

Credential Level	Current Regulations		Final Regulations		Difference in Default Rates Among Passing Programs
	Fail	Pass	Fail	Pass	
	(1)	(2)	(3)	(4)	(5)
Undergrad Cert	24.6	25.5	24.7	24.1	-1.3
Associate	27.2	25.0	27.3	24.7	-0.3
Bachelor	19.7	13.8	19.7	13.9	0.1
Masters	8.2	5.9	7.3	5.8	-0.1
Doctoral	5.0	5.6	2.2	5.5	-0.1
Grad Cert	7.1	5.9	7.1	5.6	-0.4
Total	24.5	18.7	24.7	18.7	0.0

Notes: Default rates are the median default rate for each credential level, calculated using the cohort of federal student loan borrowers who entered repayment during the 2015-16 award year, weighted by the number of borrowers from each program who enter repayment during the 2015-16 award year. Default rate is defined as the share of those borrowers who have ever entered default within three years of entering repayment. See the PPD:2026 Codebook for more details. Column 5 ("Difference") is the percentage point difference between columns 4 and 2. The difference may not sum to the total due to rounding.

Source: Department of Education calculations using PPD:2026.

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Additionally, students who attend non-GE programs may benefit if institutions take measures to improve programs that are at risk of failing the accountability framework. Institutions offering non-GE programs had little incentive to improve these programs under the current regulations since these programs were exempt from the accountability framework. Given that they are subject to the accountability framework under the final regulation, institutions may choose to begin offering better student services, working with employers to ensure graduates have in-demand skills, and helping students with career planning, or risk losing access to title IV, HEA funds. These efforts may lead to better graduation rates and labor market outcomes for students.⁸⁴

Lastly, a subgroup of students in GE programs may benefit from the final regulations. This would occur when two conditions are met: first, the GE program they attend passes the accountability

⁸⁴ This is not a benefit for students who attend proprietary institution programs since these institutions face a less punitive accountability framework under the final regulations relative to the current regulations.

framework under the final regulation but fails under the current regulations, and second, if the students in those programs desire to attend despite the earnings outcomes of the program. For this unique group of students, they benefit because they can continue receiving Federal student loans and Pell Grants to attend their program under the final regulation, and these students may attain other non-monetary benefits because they are able to continue their education in their desired program.

Institutions will also benefit from the final regulations in several ways. First, institutions will benefit from the reduced reporting requirements under the final regulation relative to the reporting requirements under the existing FVT regulations. In total, the final regulation reduces the number of data elements that institutions are required to report by approximately 30 percent. Many of these are elements the Department determined it can calculate and report through its administrative data systems (e.g., withdraw dates) and the Department will continue to report this information publicly under STATS. Because institutions no longer need to calculate and report this information,

they will incur reduced administrative costs to comply with the final regulations.

Second, some institutions offer programs that fail the accountability framework under the current regulations but will pass under the final regulation and retain access to title IV, HEA funds. The Department estimates that this would primarily benefit programs at proprietary institutions and undergraduate and graduate certificate programs from all sectors (Table 5.16).

Lastly, many institutions that offer GE programs will benefit from the fact that failing the accountability framework under the final regulation usually results in loss of eligibility for Federal student loans. To better understand this benefit, Table 6.4 decomposes the overall change in title IV, HEA funds disbursed to failing programs (Panel A) by separately showing the estimated change in Federal student loan disbursements (Panel B) and Pell Grant disbursements (Panel C).⁸⁵ As shown in Panel B, we estimate a similar share of

⁸⁵ Note that programs only lose eligibility for Pell Grants under the final regulation if they are at an institution that fails the standards of administrative capability requirements.

Federal student loans are disbursed in failing programs under both the current and final regulations. This is because the increase in failing associate, master's, and professional degree programs under the final rule is almost completely offset by the reduction in failing undergraduate certificate programs in terms of the amount of loan disbursements to these programs.

This differs from Panel C, where we estimate a smaller share of total Pell Grant volume will be disbursed to

failing programs under the final regulation (5.8 percent) relative to the share of Pell volume disbursed to failing programs under the current regulation (7.3 percent). In other words, the final regulation cuts of a smaller share of Pell Grant disbursements to failing programs relative to the share cut off under the current regulations. The reduction is driven by undergraduate certificate programs: under the current regulations, these programs were expected to lose half (51 percent) of their total Pell Grant

volume, whereas under the final regulations these programs are estimated to lose approximately one-third (34.6 percent) of their Pell Grant volume. This suggests institutions offering undergraduate certificates will benefit, as more of these programs will maintain access to Pell Grants under the final regulation. Maintaining eligibility for Pell Grants may buffer enrollment declines at these institutions and help their program continue to operate.

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**Table 6.4 - Estimated Annual Title IV, HEA Program Funds
and Share Disbursed to Programs that Fail, by Credential
Level & Aid Type**

	Annual Title IV Volume (\$ Millions)	Volume to Failing Programs	
		Current	Final
		Regs	Regs
	(1)	(2)	(3)
A. Total Title IV Student Aid			
Undergrad Cert	7,257	50.2	29.4
Associate	15,154	4.5	4.1
Bachelor	48,810	1.4	0.6
Post-Bacc Cert	12	<0.1	1.3
Masters	17,511	1.2	4.4
Doctoral	5,147	2.1	1.6
Professional	9,434	0.4	2.9
Grad Cert	469	9.2	2.4
Total	103,794	5.2	4.0
B. Federal Student Loans Only			
Undergrad Cert	3,831	49.5	33.3
Associate	5,758	6.9	7.6
Bachelor	30,005	1.4	0.8
Post-Bacc Cert	11	<0.1	1.4
Masters	17,511	1.2	4.4
Doctoral	5,147	2.1	1.6
Professional	9,434	0.4	2.9
Grad Cert	469	9.2	2.4
Total	72,166	4.3	4.3
C. Pell Grants Only			
Undergrad Cert	3,425	50.9	34.6
Associate	9,397	3.0	5.4
Bachelor	18,805	1.5	0.7
Post-Bacc Cert	1	<0.1	<0.1
Masters	0	N/A	N/A
Doctoral	0	N/A	N/A
Professional	0	N/A	N/A
Grad Cert	0	N/A	N/A
Total	31,628	7.3	5.8

Notes: In Panel A, annual title IV volume (column 1) includes Federal student loans and Pell Grants, rounded to the nearest million. The corresponding cells below in Panels B and C may not sum to the total listed in Panel A due to rounding. Percentages in columns 2 and 3 are estimated prior to rounding. Title IV volume corresponds to total Federal student loans and Pell Grants disbursed during the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

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The Department, and by extension taxpayers, will also benefit from the final regulation. This is largely from a

streamlined and simplified administrative process for the GE regulation. The final regulation removes

the complicated D/E metric from the current accountability framework, which will reduce burden and save

administrative costs, ultimately benefitting the taxpayers that fund the Department of Education.

7. Net Budget Impact

The accountability framework implemented by the proposed regulations is estimated to have a net Federal budget impact of \$1,517 million in Direct Loan cohorts 2027 to 2036 and \$8,782 million in Pell Grants in FYs 2027 to 2036 as shown in Tables 7.1A and 7.1B. A cohort reflects all loans

originated in a given fiscal year. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the student loan programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans.

The baseline for estimating the cost of these regulations is the President's Budget FY2027 baseline. This baseline includes the Department's estimates for the current regulations and therefore the cost estimate captures changes in the

accountability framework from that regulation. Direct Loan and Pell Grant volumes at failing programs under current regulations are higher than those at failing programs under the proposed accountability framework, so the estimated reduction in volume is greater under current regulations. Therefore, the net budget impact of replacing the current regulations with the accountability framework in the proposed regulation is scored as a cost to the taxpayer.

Table 7.1A - Estimated Annual Net Budget Impact for Direct Loans, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	42	48	44	46	48	50	54	56	57	82	527
Unsub.	48	62	63	67	69	74	78	79	81	102	723
PLUS (Par & Grad)	9	17	18	14	12	10	6	4	1	(3)	89
Consol	0	3	8	14	16	18	25	28	33	32	179
Total for Loans	99	131	134	141	145	152	164	167	171	213	1,517

Table 7.1B - Estimated Annual Net Budget Impact for Pell Grants, Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	641	820	785	514	550	627	715	818	917	979	7,366
Mandatory	126	160	152	100	106	120	137	156	174	185	1,416
Total for Pell	767	980	937	614	656	747	852	974	1,091	1,164	8,782

Methodology for Net Budget Impact

This section describes the methodology used to estimate the budget impact of the proposed regulations. The main behaviors that drive the direction and magnitudes of the budget impacts of the proposed regulations are the performance of programs and the enrollment and borrowing decisions of students. The Department developed a model based on assumptions regarding enrollment, program performance, student response to program performance, and average amount of title IV, HEA funds per student to estimate the budget impact of these proposed regulations. These assumptions and results vary from those in the "Impact of the Proposed Regulations" section, consistent with the Federal Credit Reform Act of 1990. The model (1) uses PPD:2026 to synthesize programs' results on the

earnings premium measure to predict future results, and (2) tracks programs' cumulative results across multiple cycles of results to determine title IV, HEA loan eligibility and estimated effects on borrowing and Pell Grant receipt. While programs will be defined at the six-digit CIP level for the regulation, the data file includes two-digit and four-digit CIP codes that are used in our estimation process. As described in Section 5 ("Impact of the Final Regulation"), the Department estimated which programs would be exempt from the accountability framework under these regulations, including those that are unlikely to meet the minimum size requirements under the simpler roll-up process, those that did not participate in the Federal student loan program for five years prior to the enactment of the WFTCA, and those that may opt-out of participation in the Direct Loans program after failing

the earnings premium test after the first year.

Assumptions

Assumptions were made in four areas to estimate the budget impact of the proposed regulations: (1) Program performance under the proposed regulations (initial and continued); (2) Student behavior in response to program performance; (3) Borrowing of students under the proposed regulations; and (4) Enrollment growth of students in passing and failing programs. Table 7.2 provides an overview of the main categories of assumptions and sources. Assumptions that are included in our sensitivity analysis are also noted. Wherever possible, our assumptions are based on past performance and student enrollment patterns in data maintained by the Department or documented by scholars in prior research.

Table 7.2 - Main Assumptions and Sources

Category	Detail	Source	Included in sensitivity?
Initial Program Performance	Share in each performance category in public data set	Department Data	No
Enrollment Growth	Annual enrollment growth rate by sector/level and year	Sector-level projections based on Department data	No
Program transition between performance categories	AY2026-27 onward, separately by loan risk group	Based on Department Data	Yes
Student response	Share of students who remain in programs, transfer to passing programs, or dropout by program performance category and transfer group	External research and assumptions from 2023 RIA	Yes
Student borrowing	Debt changes if students transfer to passing program or dropout by program performance, risk group, cohort	Based on Department Data	No

Enrollment Growth Assumptions

For AYs 2026 to 2036, the budget model assumes a constant yearly rate of growth or decline in enrollment of students receiving title IV, HEA program

funds in absence of the rule.⁸⁶ The average annual rate of change in title IV, HEA enrollment from AY 2016 to AY 2025 is computed, separately by the combination of control and credential level. This rate of growth is assumed for

each type of program for AYs 2026 to 2037 when constructing our baseline enrollment projections.⁸⁷ Table 7.3 reports the assumed average annual percent change in title IV, HEA enrollment.

Table 7.3 - Annual Enrollment Growth Rate (Percent)

Assumptions

	Public	Private, Non-Profit	Proprietary
Associate	0.4	1.2	3.0
Bachelor	0.9	0.9	0.6
Doctoral	4.4	5.6	0.3
Graduate Certificate	8.1	6.9	5.4
Master's	3.4	1.3	1.5
Post-Bacc Certificate	12.4	1.8	2.4
Professional	1.9	2.0	2.4
Undergrad Certificate	3.9	0.7	4.7

Program Performance Transition Assumptions

The methodology, described in more detail below, models title IV, HEA enrollment over time not for specific programs, but rather by groups of programs by broad credential level and control, the number of alternative programs available, and whether groups

of programs pass or fail the relevant performance measure. The model estimates the flow of students between these groups due to changes in program performance over time and reflects assumptions for the share of enrollment that would transition between the following two performance categories in each year:

- Passing (includes with and without data, exempt programs and programs that fail the first earnings premium test and are assumed to opt out of Direct Loans).
- Failing earnings premium measure.

A program becomes ineligible if it fails the earnings premium measure in

⁸⁶ AYs 2027 to 2037 are transformed to FYs 2026 to 2036 later in the estimation process.

⁸⁷ The number of programs in proprietary graduate certificate and proprietary professional degrees was too low to reliably compute a growth

rate. Therefore, we assumed a rate equal to the overall proprietary rate of 2.4 percent.

two out of three consecutive years.⁸⁸ The model applies the same program transition assumptions across the budget estimation window. All transition probabilities are estimated separately for four aggregate groups: proprietary 2-year or less; public or non-profit 2-year or less; 4-year programs; and graduate programs.⁸⁹

The assumptions for program transition are taken directly from an observed comparison of actual rates in the PPD:2026 data results. The initial assignment of performance categories in 2027 is based on the PPD:2026 for students who completed programs during the 2017–18 and 2018–19 award years, whose earnings are measured in calendar years 2022 and 2023, respectively (adjusted to constant 2024 dollars using CPI–U). The program

transition assumptions for 2027 to 2036 are based on the outcomes for this cohort of students. Programs with fewer than 30 title IV completers are determined to be passing, because these programs do not meet the minimum size requirements in the regulation to determine a program median earnings value and will therefore have a “Not Calculated” outcome when determining if these programs pass or fail the EP metric.

As the earnings premium measure in this regulation is backwards looking, it is not expected for there to be much churn between failing and passing for programs across consecutive years. It is expected for there to realistically be a small amount of movement around the earnings thresholds. To simulate this, the percentage of programs within a 1

percent band of their earnings threshold (0.5 percent on either side) were calculated for each group. The percentage of programs within the band, dependent on their initial status, were applied to calculate the share of enrollment that transitions from passing to failing or failing to passing. The percentages of programs outside of the band, dependent on their initial status, were applied to calculate the share of enrollment that remain passing or failing. The share of enrollment that transitions from each performance category to another is computed separately for each group. An alternative assumption was incorporated by increasing the band from 1 percent to 2 percent for calculating these transitions in the sensitivity analysis.

Table 7.4 – Program Transition Assumptions

		Percent in Year t+1 Status	
		Pass	Fail EP
Proprietary 2-year or less			
Year t Status	Pass	99.2	0.8
	Fail EP	5.4	94.6
Public and Non-Profit 2-year or less			
Year t Status	Pass	99.6	0.4
	Fail EP	4.7	95.3
4-year			
Year t Status	Pass	99.9	0.1
	Fail EP	5.3	94.7
Graduate			
Year t Status	Pass	99.9	0.1
	Fail EP	5.2	94.8

Student Response Assumptions

The Department’s model applies assumptions for the probability that a current or potential student would transfer or choose a different program, remain in or choose the same program, or withdraw from or not enroll in any postsecondary program in reaction to a program’s performance. The model assumes that student response would be greater when a program becomes ineligible for title IV, HEA loans than when a program has a single year of inadequate performance, which initiates

warnings and publicly disclosed performance information. The rates of transfer and withdrawal or non-enrollment differ with the number of alternative transfer options available to students enrolled (or planning to enroll) in a failing program. Specifically, individual programs are categorized into one of four categories:

- *High transfer options:* Have at least one passing program in the same credential level at the same institution and in a related field (as indicated by being in the same 2-digit CIP code).

- *Medium transfer options:* Have a passing transfer option within the same ZIP3, credential level, and narrow field (4-digit CIP code).

- *Low transfer options:* Have a passing transfer option within the same ZIP3, credential level, and broad (2-digit) CIP code.

- *Few transfer options:* Do not have a passing transfer option within the same ZIP3, credential level, and broad (2-digit) CIP code. Students in these programs would be required to enroll in either a distance education program or

⁸⁸ Factors, such as in-state percentage, contribute to the earnings threshold used at the program-level and are incorporated into the public data file used

in this analysis. For more information, see Table 5.5 in the “Methodology for Final Regulation Calculations” section.

⁸⁹ The budget simulations separate lower and upper division enrollment in 4-year programs. We assume the same program transition rates for both.

enroll outside their ZIP3. Over 99 percent of failing programs have at least one non-failing program at the same credential level and 2-digit CIP code in the same State.
For each of the four categories above, assumptions are made for each type of student transition. Programs with

passing metrics are assumed to retain all their students. Students from programs with failing metrics that transfer are assumed to transfer to passing programs. It is assumed that rates of withdrawal (or non-enrollment) and transfer are higher for ineligible programs than those where only the warning is

required. It is also assumed that rates of transfer are decreasing (and rates of dropout and remaining in programs are both increasing) as students have fewer transfer options. These assumptions regarding student responses to program results are provided in Table 7.5.
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Table 7.5 - Student Response Assumptions, by Program Result and Number of Alternative Program Options Available

Program Result	Pass			Fail once			Ineligible		
Student Response	Remain	Transfer	Dropout	Remain	Transfer	Dropout	Remain	Transfer	Dropout
High Alternatives	1	0	0	0.80	0.15	0.05	0.2	0.6	0.2
Medium Alternatives	1	0	0	0.85	0.09	0.06	0.2	0.55	0.25
Low Alternatives	1	0	0	0.90	0.03	0.07	0.25	0.45	0.3
Few Alternatives	1	0	0	0.90	0.02	0.08	0.25	0.35	0.4

The assumptions for student responses are applied to the estimated enrollment in each aggregate group after factoring in enrollment growth. Table

7.6, includes details of the assumptions of the destinations among students who transfer, separately for the following groups:⁹⁰

- Risk 1 (Proprietary <= 2 year).

- Risk 2 (Public, Non-Profit <= 2 year).
- Risk 3 (Lower division 4 year).
- Risk 4 (Upper division 4 year).
- Risk 5 (Graduate).

Table 7.6 - Student Response Assumptions, Among Transferring Students

Shift from...	Shift to New Programs				
	Risk 1	Risk 2	Risk 3	Risk 4	Risk 5
Risk 1	0.5	0.4	0.1	0	0
Risk 2	0.2	0.7	0.1	0	0
Risk 3	0.05	0.1	0.85	0	0
Risk 4	0	0	0	1	0
Risk 5	0	0	0	0	1

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The values in the student response tables are based on assumptions from extant research that we view as reasonable guides to the share of students likely to transfer to or choose another program when their program loses title IV, HEA eligibility. For instance, a 2021 Government Accountability Office (GAO) report found that about half of non-completing students who were enrolled at closed institutions transferred.⁹¹ This

magnitude is similar to recent analysis that found that 47 percent of students reenrolled in another program after an institutional closure.⁹² The authors of this report find very little movement from public or non-profit institutions into proprietary institutions, but considerable movement in the other direction. For example, about half of re-enrollees at closed proprietary, 2-year institutions moved to public 2-year institutions, whereas less than 3 percent

of re-enrollees at closed public and private non-profit 4-year institutions moved to proprietary institutions. Other evidence from historical cohort default rate sanctions indicates a transfer rate of about half of students at proprietary colleges that were subject to loss of federal financial aid disbursement eligibility, with much of that shift to public two-year institutions.⁹³ The Department also considered an internal analysis of ITT Technical Institute

⁹⁰ Lower division includes students in their first two years of undergraduate education. Upper division includes students in their third year or higher.
⁹¹ U.S. Government Accountability Office. "College Closures: Education Should Improve Outreach to Borrowers about Loan Discharges." July 15, 2022. www.gao.gov/products/gao-22-104403.
⁹² State Higher Education Executive Officers Association (2022). "More Than 100,000 Students Experienced An Abrupt Campus Closure Between July 2004 and June 2020. November 15, 2022. sheeo.org/more-than-100000-students-experienced-an-abrupt-campus-closure-between-july-2004-and-june-2020/.
⁹³ Cellini, S. R., Darolia, R., & Turner, L. J. (2020). Where do students go when for-profit colleges lose federal aid? *American Economic Journal: Economic Policy*, 12(2), 46–83.

closures. About half of students subject to the closure re-enrolled elsewhere (relative to pre-closure patterns). The majority of students that re-enrolled did so in the same two-digit CIP code. Of associate's degree students that re-enrolled, 45 percent transferred to a public institution, 41 percent transferred to a different proprietary institution, and 13 percent transferred to a private non-profit institution. Most remained in associate's or certificate programs. Of bachelor's degree students that re-enrolled, 54 percent transferred to a different proprietary institution, 25 percent shifted to a public institution, and 21 percent transferred to a private non-profit institution.

Data from the Beginning Postsecondary Students Longitudinal 2012/2017 study provides further information on students' general patterns through and across postsecondary institutions (not specific to responses to sanctions or closures). Of students that started at a public or private non-profit 4-year institution, about 3 percent shifted to a proprietary institution within 5 years. Of those that began at a public or private non-profit 2-year institution, about 8 percent shifted to a proprietary institution within 5 years.

Student Borrowing Assumptions

To incorporate changes in average loan volume associated with student transitions, the average subsidized and unsubsidized direct loan, Grad PLUS, and Parent PLUS per student enrolled are computed separately by risk group and program performance group. For programs assumed to fail the first earnings premium calculation and opt out of loan program participation, this effect is captured by zeroing out their loan volumes in the calculation of the average loan amounts. These averages are then applied to shifts in enrollment to generate changes in the amount of aid. The baseline incorporates the sunset of Grad PLUS loans due to the WFTCA. Students that drop out of (or decline to enroll in) failing programs are assumed to acquire no educational debt.

Process for Net Budget Impact Estimate

The budget model estimates a yearly enrollment for AYs 2027 to 2036 and the distribution of those enrollments in programs is characterized by earnings premium measure performance, risk group, and transfer category. This enrollment is projected for a baseline (in absence of the accountability framework) and under the legislative changes implemented in the proposed regulations. The net budget impact for

each year is calculated by applying assumptions regarding the average amount of title IV, HEA program funds received by these distributions of enrollments across groups of programs. The difference in these two scenarios provides the Department's estimate of the impact of the accountability framework. We do not simulate the impact of the rule at the individual program level because doing so would necessitate very specific assumptions about which programs students transfer to in response to the proposed regulations. Therefore, for the purposes of budget modeling, we perform analysis with aggregations of programs into groups (called "program aggregate" groups) defined by the following:

- Five student loan model risk groups: (1) 2-year (and below) proprietary; (2) 2-year (and below) public or non-profit; (3) 4-year (any control) lower division, which is students in their first two years of a Bachelor's program; (4) 4-year (any control) upper division, which is students beyond their first two years of a Bachelor's program; (5) Graduate student (any control).
- Four transfer categories (high, medium, low, few alternatives) by which the student transfer rates are assumed to differ. This is an initially assigned program-level characteristic and is assumed not to change.
- Four performance categories: Pass, Fail earnings premium measure, Pre-ineligible (a program's current enrollment is title IV, HEA eligible, but next year's enrollment would not be), Ineligible (current enrollment is not title IV, HEA eligible).

We first generate a projected baseline (in absence of the accountability framework) enrollment, Pell volume, and loan volume for each of the program aggregate groups from AYs 2027 to 2037. This baseline projection includes several steps. First, we compute average annual growth rate for each control by credential level from 2016 to 2025. These growth rates are presented in Table 7.3. We then apply these annual growth rates to the actual enrollment by program in 2025 to forecast enrollment in each program in 2026. This step is repeated for each year to get projected enrollment by program through 2037. We then compute average Pell, subsidized and unsubsidized direct loan, Grad PLUS, and Parent PLUS per enrollment by risk group and program performance group for 2025. These averages are then adjusted according to the President's Budget FY2027 assumptions loan volume and Pell Grant baseline assumptions for the change in average loan by loan type and the

change in average Pell Grant. We then multiply the projected enrollment for each program by these average aid amounts to get projected total aid volume by program through 2037. Finally, we sum the enrollment and aid amounts across programs for each year to get enrollment and aid volume by program aggregate group, AYs 2027 to 2037, and shift the baseline Pell and loan volume from AYs 2027 to 2037 to FYs 2027 to 2036 for calculating budget cost estimates.

The most significant task is to generate projected enrollment, Pell volume, and loan volume for each of the program aggregate groups from AYs 2027 to 2037 with the proposed accountability framework in place. We assume the first set of rates would be released in the 2027 award year, so this is the starting year for our projections. Projecting counterfactual enrollment and aid volumes involves several steps:

Step 1: Start with the enrollment by program aggregate group in 2027. In this first year, there are no programs that are ineligible for title IV, HEA funding.

Step 2: Apply the student transition assumptions to the enrollment by program aggregate group. This generates estimates of the enrollment that is expected to remain enrolled in the program aggregate group, the enrollment that is expected to drop out of postsecondary enrollment, and the enrollment that is expected to transfer to a different program aggregate group.

Step 3: Compute new estimated enrollment for the start of 2028 (before the second program performance is revealed) for each cell by adding the remaining enrollment to the enrollment that is expected to transfer into that group. We assume that (1) students transfer from failing or ineligible programs to passing programs in the same transfer group; (2) Students in risk groups 4 or 5 stay in those risk groups; (3) Students in risk group 1 can shift to risk groups 2 or 3; (4) Students in risk group 2 can shift to risk groups 1 or 3; (5) Students in risk group 3 can shift to risk groups 1 or 2. Therefore, we permit enrollment to shift between proprietary and public or non-profit certificate, associate's, and lower-division bachelor's programs, based on the assumptions listed in Table 7.6.

Step 4: Determine the change in aggregate baseline enrollment between 2027 and 2028 for each risk group and allocate these additional enrollments to each program aggregate group in proportion to the group enrollment computed in Step 3.

Step 5: Apply the program transition assumptions to the aggregate group enrollment from Step 4. This results in

estimates of the enrollment that would stay within or shift from each performance category to another performance category in the next year. This mapping would differ by risk group, as reported in Table 7.4. Enrollment in a failing category would not remain in the same category because if a metric is failed twice, this enrollment would move to pre-ineligibility. The possible program transitions for programs are:

- Pass → Pass, Fail Earnings Premium
- Fail Earnings Premium → Pass, Pre-Ineligible

Step 6: Compute new estimated enrollment at end of 2028 (after program performance is revealed) for each program aggregate group by adding the number that stay in the same performance category plus the number that shift from other performance categories.

Step 7: Repeat steps 1 to 6 above using the end of 2028 enrollment by group as the starting point for 2029 and repeat through 2037. The only addition is that in Step 5, two more program transitions are possible for failing programs:

- Pre-Ineligible → Ineligible
- Ineligible → Ineligible (no change)

Step 8: Generate projected Pell and loan volume by program aggregate group from AYs 2027 to 2037 under the proposed rule. We multiply the projected enrollment by group by average aid amounts (Pell and loan volume) that vary over time to get projected total aid amounts by group through 2037. Any enrollment that has dropped out (not enrolled in any postsecondary program) get zero Pell Grant and loan amounts. Enrollment in the Ineligible category initially receives Pell Grants but no loan amounts. To account for revisions to the standards of administrative capability (§ 668.16), Pell Grant amounts in the Ineligible category are reduced by 33 percent in 2030 and 51 percent starting in 2031 to capture

the estimated impact. This is based on an analysis, using PPD:2026, of the percentage of Pell Grant volume at low-earning outcome programs at institutions in which more than half of title IV, HEA recipients or more than half of title IV, HEA funds are from low-earning outcome programs. While the accountability framework does not make programs ineligible for Pell Grants immediately, we do estimate that borrowers whose programs lose eligibility for title IV, HEA loans will transfer programs or choose not to attend with corresponding effects on their Pell Grants. The lower percentage reduction in 2030 represents the delay in implementation of the accountability framework for programs that train individuals for occupations where workers customarily and regularly receive tips until the earnings of those individuals can be measured after the “No Tax on Tips” policy is in effect. To account for this delay on loan volume and enrollment, impacts of the accountability framework on programs within the identified CIP categories were shifted out by a year. The process for identifying these CIP categories is discussed in the “Earnings of Program Completers—Use of IRS Data” section.

Step 9: Shift Pell and loan volume under the proposed rule from AYs 2027 to 2037 to FYs 2027 to 2036 for calculating budget cost estimates.

Step 10: Calculate adjustment factors capturing the replacement of the current regulations with the accountability framework in the proposed regulations. This is done by first calculating the percentage change between the model results for the baseline and accountability framework scenarios described in the previous steps and then generating the inverses of the adjustment factors for the current regulations. These two adjustment factors are multiplied to create a final adjustment factor that represents both the removal of the current regulations

and the impact of the accountability framework.

Accountability Framework and Model Results

Key distinctions between this final accountability framework and the current GE regulations are the applicability to programs regardless of institutional control and the removal of annual and discretionary debt-to-earnings rate metrics. Degree programs at private proprietary, private not-for-profit, and public institutions that fail the earnings premium measure in two out of any three years will lose eligibility for title IV, HEA loans. However, if the program fails the first earning premium measure calculated and chooses to opt-out of the loan programs, it can maintain eligibility for the Pell Grant program. The proposed regulations are estimated to shift enrollment towards passing programs with higher median earnings and away from programs that fail the earnings premium tests. The vast majority of students are assumed to resume their education at the same or another program in the event they are warned about poor program performance or if their program loses eligibility. The proposed regulations are also estimated to reduce overall enrollment, as some students decide not to enroll. Changes in enrollment patterns in Tables 7.7 and 7.8 reflect students transferring in and out of each risk group, as well as remaining in programs that do not provide title IV, HEA loans, or dropping out.⁹⁴ Table 7.7 summarizes the main enrollment results from within the accountability framework model. By the end of the analysis window, 99.6 percent of title IV, HEA enrollment is expected to be in passing programs.

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⁹⁴ Tables 7.7 and 7.8 represent enrollment estimated within the accountability framework model, which is not equivalent to borrower count.

Table 7.7 - Projected Title IV, HEA Enrollment Estimate within the Accountability Framework Model

		2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Projected Total Aggregate Enrollment (millions)											
	Baseline	21.29	21.60	21.92	22.25	22.59	22.95	23.31	23.68	24.06	24.47
	Policy	21.25	21.49	21.77	22.14	22.50	22.85	23.20	23.55	23.91	24.28
Percent of Enrollment by Program Performance											
Pass	Baseline	96.7	96.7	96.6	96.6	96.5	96.5	96.4	96.4	96.3	96.3
	Policy	97.2	98.7	99.5	99.6	99.6	99.6	99.6	99.6	99.6	99.6
Fail EP	Baseline	3.3	3.3	3.4	3.4	3.5	3.5	3.6	3.6	3.7	3.7
	Policy	2.8	1.3	0.5	0.4	0.4	0.4	0.4	0.4	0.4	0.4

Table 7.8 - Projected Percent of Title IV, HEA Enrollment Estimate by Loan Risk Category within the Accountability Framework Model

		2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Percent of Enrollment by Loan Risk Category											
Prop. 2-year & below	Baseline	5.77	5.93	6.08	6.24	6.40	6.56	6.73	6.90	7.08	7.25
	Policy	5.64	5.70	5.34	5.50	5.68	5.84	6.00	6.16	6.31	6.47
Public/NP 2-year & below	Baseline	33.37	33.24	33.11	32.99	32.87	32.74	32.60	32.47	32.34	32.21
	Policy	33.42	33.37	33.45	33.33	33.19	33.04	32.89	32.74	32.59	32.44
4-year (lower)	Baseline	32.42	32.25	32.07	31.88	31.69	31.50	31.30	31.10	30.89	30.68
	Policy	32.49	32.40	32.38	32.19	32.01	31.83	31.66	31.49	31.32	31.15
4-year (upper)	Baseline	13.47	13.40	13.33	13.25	13.18	13.10	13.02	12.93	12.85	12.77
	Policy	13.49	13.42	13.39	13.30	13.22	13.14	13.06	12.98	12.91	12.83
Graduate	Baseline	14.96	15.18	15.40	15.63	15.86	16.10	16.34	16.59	16.84	17.09
	Policy	14.96	15.10	15.43	15.68	15.91	16.14	16.38	16.63	16.87	17.12

In addition to changes in enrollment, both overall and between risk groups, differences in average loan amounts are a factor in estimating total volume. While Tables 7.7 and 7.8 display estimates from within the accountability framework model, total volume changes and the net budget impact include removal of the current regulations. While non-GE programs were not subject to potential ineligibility under the current regulations, students could react to poor performance, so the net budget impact reflected changes for all institution types. In the current regulations, higher-level and higher-debt programs were particularly impacted by the D/E measures and resulting student reactions. Additionally, Pell Grant eligibility was treated the same way as loan eligibility in the current regulations, while the impact of the accountability framework on Pell Grants from the standards of administrative capability is lesser.

The accountability framework estimation process described in the methodology, and the resulting change

in Direct Loan and Pell Grant volume over the budget window compared to the estimated change in Direct Loan and Pell Grant volume from current regulations, generates the primary net budget impact shown in Tables 7.1A and 7.1B.

Sensitivity Analysis

The Department's calculations of the net budget impacts represent our best estimate of the effect of the regulations on the Federal student aid programs. Realized budget impacts will be heavily influenced by actual program performance, student response to program performance, student borrowing, and changes in enrollment because of the regulations. For example, if students, including prospective students, react more strongly to the warnings or potential ineligibility of programs than anticipated, and if many of these students leave postsecondary education, the impact on Pell Grants and loans could change.

Therefore, we conducted simulations of the rule while varying several key

assumptions. Specifically, we provide estimates of the change in title IV, HEA volumes using varied assumptions about student transitions, student dropout, and program performance. We believe these to be the main sources of uncertainty in our model.

Along with the primary estimate, the scenarios presented in the "Sensitivity Analysis" are intended to provide a reasonable estimation of the range of impact that the proposed regulations could have on the budget.

Varying Levels of Student Transition

The primary analysis assumes rates of transfer and dropout for programs based on relevant research and literature, but these quantities are uncertain. The alternative models adjust transfer and dropout rates for all transfer groups to the rates for high alternatives (Tables 7.9A and 7.9B) and few alternatives (Tables 7.10A and 7.10B). As reported in Tables 7.9A, 7.9B, 7.10A, and 7.10B, it is estimated that the proposed regulations would result in an increase in title IV, HEA program assistance

between fiscal years 2027 and 2036, the highest or lowest amount of transfer
regardless of whether all students have alternatives.

Table 7.9A - High Transfer Sensitivity Analysis - Estimated

Annual Net Budget Impact for Direct Loans, Outlays in

Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	43	51	47	48	50	51	55	56	57	82	541
Unsub.	49	65	66	69	73	76	79	80	81	103	741
PLUS (Par & Grad)	9	15	15	13	12	10	4	3	2	(3)	79
Consol	0	3	8	14	16	19	26	29	34	32	180
Total for Loans	101	135	137	144	150	155	163	167	174	214	1,541

Table 7.9B - High Transfer Sensitivity Analysis - Estimated

Annual Net Budget Impact for Pell Grants, Outlays in

Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	650	845	809	551	582	652	734	833	931	991	7,578
Mandatory	128	165	157	107	112	125	141	159	176	187	1,457
Total for Pell	778	1,010	966	658	694	777	875	992	1,107	1,178	9,035

Table 7.10A - Low Transfer Sensitivity Analysis - Estimated

Annual Net Budget Impact for Direct Loans, Outlays in

Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	37	37	31	34	39	43	48	51	53	77	451
Unsub.	38	44	45	52	58	63	70	73	76	98	615
PLUS (Par & Grad)	11	23	28	22	18	15	8	9	5	1	141
Consol	0	2	4	8	8	13	19	21	23	25	124
Total for Loans	86	106	108	116	123	134	146	154	157	201	1,331

Table 7.10B - Low Transfer Sensitivity Analysis - Estimated

Annual Net Budget Impact for Pell Grants, Outlays in

Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	590	682	636	340	390	495	603	721	830	898	6,185
Mandatory	116	133	124	66	75	95	115	137	158	170	1,189
Total for Pell	706	815	760	406	465	590	718	858	988	1,068	7,374

Increased Program Transition Band

Our primary analysis assumes that programs in a one percent band around the relevant earnings threshold will transition from failing to passing, and vice versa, but the transition band could

be higher. A sensitivity was modeled with a two percent band to demonstrate the effect of more programs changing between failing and passing statuses.

As reported in Tables 7.11A and 7.11B, we estimate that the regulations

would result in an increase in title IV, HEA program assistance between fiscal years 2027 and 2036, regardless of whether a one or two percent band around the relevant earnings threshold is applied.

Table 7.11A - High Program Transition Band Sensitivity -

Estimated Annual Net Budget Impact for Direct Loans,

Outlays in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Subs.	43	49	45	45	47	49	52	54	55	78	518
Unsub.	49	64	64	66	68	70	75	77	79	97	708
PLUS (Par & Grad)	9	17	18	14	12	10	6	6	1	(4)	91
Consol	0	4	9	14	16	19	25	28	33	31	179
Total for Loans	101	134	136	140	143	147	160	166	167	202	1,495

Table 7.11B - High Program Transition Band Sensitivity -

Estimated Annual Net Budget Impact for Pell Grants, Outlays

in Millions \$

	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	Total
Discretionary	642	821	784	508	526	596	677	774	867	922	7,117
Mandatory	126	160	152	99	102	115	130	148	165	174	1,371
Total for Pell	768	981	936	607	628	711	807	922	1,032	1,096	8,488

Accounting Statement

As required by OMB Circular A-4, we have prepared an accounting statement showing the classification of the benefits, costs, and transfers associated with the provisions of these regulations. As noted in the *Paperwork Reduction*

Act section, some items are reductions in burden and others are increases, with a combination of one-time adjustments and recurring items. The net effect of this is a reduction in burden that is displayed as a benefit in the accounting statement. This is a contrast to the presentation in the *Paperwork*

Reduction Act summary table that presents the annual burden without the subsequent net reductions in future years. Table 7.12 provides our best estimate of the changes in annualized monetized benefits, costs, and transfers as a result of these proposed regulations.

Table 7.12 Accounting Statement for Primary Scenario

	Annualized Impact (millions, \$(2026))	
Category	Benefits	
	3 percent	7 percent
Net reduction in costs of compliance with paperwork requirements	\$113.4	\$103.7
Earnings gain for students at programs that are not low-earning outcome programs.	Not quantified	
Measures to improve programs at risk of failing, such as offering better student services, helping with career planning, and working with employers to ensure graduates have in-demand skills may lead to better graduation and labor market outcomes.	Not quantified	
Reduced risk that students enroll in high-cost programs that do not produce earnings that justify their costs	Not quantified	
Approximately 30 percent reduction in reporting elements required of institutions, many of which the Department can produce from its administrative data	Not quantified	

No loss of title IV, HEA funds and additional non-Federal revenues for programs, primarily programs at proprietary institutions and certificate programs from all sectors, that would lose eligibility under the current regulations but not the proposed regulations	Not quantified	
Category	Costs	
	3 percent	7 percent
Costs of system changes for Education to implement the proposed regulations	\$2.4	\$2.8
Federal implementation staffing and contract costs	\$1.4	\$1.6
Federal long-term staffing increases	\$0.9	\$0.9
Additional ongoing contract costs to operate and maintain systems to administer regulatory provisions	\$1.9	\$1.8
Potential for abrupt closures to disrupt enrolled students and impose search costs and financial costs to switch majors or institutions	Not quantified	
Reputational costs for former graduates of failing programs	Not quantified	
Students at lower-earnings certificate programs that would not remain eligible	Not quantified	

under the current regulations may earn less		
Reputational cost to institutions offering multiple failing programs	Not quantified	
Lost revenue from non-Federal sources because of enrollment declines at institutions with failing programs	Not quantified	
Category	Transfers	
	3 percent	7 percent
Increased transfers from Federal government to Pell recipients at programs satisfying the earnings measure	\$871	\$862
Increased transfers of Federal loan dollars from the Federal Government to students at programs that pass the earnings measure	\$149	\$147
Transfer of State aid dollars from failing programs for dropouts	Not quantified	

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8. Alternatives Considered

During the negotiated rulemaking process, the Department received more than 40 proposals from non-Federal negotiators representing numerous impacted constituencies on a variety of issues. As the Department previously explained in the NPRM, we noted proposals that were accepted by the committee. All other proposals were discussed and declined. To view all submitted proposals, see here: [https://](https://www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026)

www.ed.gov/laws-and-policy/higher-education-laws-and-policy/higher-education-policy/negotiated-rulemaking-for-higher-education-2025-2026.

Furthermore, the Department received 9,994 total comments during the public comment period. We considered them all as possible alternatives. Based on these comments, the Department updated several provisions in the regulatory text; these updates are listed in Table 3.1 of the Regulatory Impact Analysis.

This section summarizes the significant alternatives that were proposed but ultimately declined during negotiated rulemaking.

§ 668.2 General Definitions

In this rule, we adapt the existing definition of the earnings threshold used in the earnings premium calculation under the current FVT regulations to conform with the earnings benchmark specified under the WFTCA. This benchmark would use State or national earnings data from the ACS.

Some negotiators raised questions about various elements of the ACS, which is to be used to determine the earnings threshold for evaluation. In particular, negotiators expressed concern that the use of median earnings data at only the State or national level may disadvantage programs and institutions located in rural areas where expected wages may be lower compared to State and national medians.

The Department examined this issue and found that programs at rural institutions will be impacted by the final regulation at slightly higher rates relative to the current regulation (Table 5.10). Specifically, the Department estimates that approximately 1.8 percent of enrollment at rural institutions is in programs that would fail under the final rule, which is a slight increase relative to the current regulations (1.3 percent). However, rural institutions would lose a smaller share of title IV, HEA funds under the final regulation relative to the current rule (1.1 percent vs. 1.2 percent).

Furthermore, the WFTCA is highly prescriptive with regard to the precise manner in which program earnings would be evaluated, specifying factors for comparison such as age ranges, working status, education level, and geography. Congress did not include a regional price parity adjustment in Section 84001, even though they included it elsewhere in the WFTCA for value-added earnings for eligible workforce programs. The Department believes that the absence of a regional price parity in Section 84001, but its inclusion in other parts of the WFTCA, suggests that Congress did not intend for the Department to adjust program earnings at rural institutions.

Another negotiator submitted a suggestion to adjust the earnings threshold for certificate programs having at least 75 percent of female completers downward to 85 percent of the median earnings for the comparison group to account for “gender-based” wage gaps. The Department disagreed with this proposal for several reasons. First, the Department does not believe that the statute allows this manner of adjustment to the earnings benchmark. Again, Congress was prescriptive regarding how the benchmark group must be defined. Second, such an adjustment could also undermine the consistent treatment of programs, could potentially lead to confusion among stakeholders, and would also appear to be in conflict with the spirit of Executive Order 14173’s prohibition on identity-based preferential treatment based on race, color, sex, sexual preference, religion, or national origin.

Third, the Department finds that undergraduate certificate programs that enroll at least 75 percent of female students do not earn less, on average, than other types of programs after controlling for program field of study.⁹⁵

§ 668.402 Student Tuition and Transparency System Framework

In this rule, we amend the existing FVT framework to harmonize with the earnings accountability framework provided under the WFTCA. Among these changes, the final regulations would rescind the existing D/E rates metric, adapting the earnings premium measure as the sole earnings accountability metric.

Some negotiators proposed that the Department retain the D/E rates metric. These negotiators argued that D/E rates are valuable in preventing the flow of title IV, HEA funds to programs that leave students in a position where they may not be able to afford to repay their student debt. They further reasoned that D/E rates would remain important in the future because pending changes to Direct Loan limits under the WFTCA may result in an increase in private lending. Other negotiators supported the Department’s position to eliminate the D/E rates metric, noting that this change would reduce unnecessary complexity while preserving meaningful accountability. These negotiators reasoned that the change reflects statutory intent and may therefore reduce risk of future policy fluctuations.

As the Department notes above in the discussion of § 668.402, we believe the revision to remove the D/E rates metric reflects the intent of the WFTCA, as the Direct Loan program accountability framework in revised HEA Section 454(c) establishes an earnings comparison metric only, not a debt-to-earnings measurement. While calculating an earnings premium measure requires very little reported data other than an accurate list of students who completed the program, D/E rates rely heavily on significant amounts of institutionally reported data regarding costs and sources of student financial assistance beyond the title IV, HEA programs. Such reporting can be burdensome and confusing for institutions and, given the Department’s concerns about the completeness and

⁹⁵ For this analysis, the Department limited the sample to undergraduate certificate programs with earnings data and regressed program earnings on a binary indicator equal to 1 if at least 75 percent of program completers are female and program (cip4) fixed effects. Programs were weighted by the count of individuals in the earnings cohort (*count_wne_p4*) and standard errors were clustered at the program level. The coefficient on the indicator was not statistically significant at conventional levels.

accuracy of this reported data, we believe this data would be more appropriate for use in informational disclosures rather than in an accountability metric used to determine a program’s eligibility for Direct Loan program funds.

Furthermore, the Department finds that maintaining the D/E metric would result in a very small increase in the overall share of programs that would fail the accountability framework. As shown in Table 8.1, maintaining the D/E metric would increase the share of programs that fail from 5.2 percent to 5.3 percent (columns 3 vs. 4).⁹⁶ In real terms, this increase represents approximately 100 additional programs that would fail the accountability framework; an extremely small fraction of the 200,000+ programs that enroll title IV, HEA students nationally (Table 5.2).

Furthermore, the Department believes this is likely an overestimate of impact of maintaining the D/E metric for two reasons. First, the debt measures in the PPD:2026 do not reflect the new annual Federal student loan limits that will take effect on July 1, 2026, under the WFTCA. Those annual limits (\$20,500 for graduate programs and \$50,000 for professional programs) will reduce the debt that graduate and professional borrowers can accumulate, reducing the risk that program completers would accumulate unmanageable levels of debt.⁹⁷ Second, the debt measure in PPD:2026 includes the debt of only Federal student loan borrowers, whereas the debt measure under the current regulation includes all students who received title IV, HEA program assistance, even if they did not borrow. That means the debt measure in PPD:2026 is higher than the one that would ultimately be used if the D/E metric was maintained in the final regulation, which would likely result in a smaller share of programs failing the D/E test than what is estimated here.

In summary, the Department estimates that, at most, maintaining the D/E metric would result in a 0.1 percentage point increase in the overall

⁹⁶ This analysis assumes that the Annual Earnings Rate measure or the Discretionary Earnings Rate measure under current regulation are aligned with the new earnings definition from Section 84001 in the WFTCA—specifically, the median earnings of working title IV graduates measured four years after completion who are not currently enrolled in college. Note that this estimate differs from what was included in the NPRM and discussed during Negotiated Rulemaking due to the updates made to the analysis discussed in “5. Impact of the Final Regulation” section above.

⁹⁷ The Department approximates that a third of the programs it estimates would fail only the D/E test would instead pass once borrowers are subject to the WFTCA loan limits for graduate and professional students.

share of programs that would fail the accountability framework. In the Department’s view, this marginal

addition would not justify the significant difference in complexity,

cost, and administrative burden of including D/E rates.
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Table 8.1 - Estimated Share of Failing Programs and Students in Failing Programs with D/E Maintained, by Credential Level

Credential Level	N	Share that Fail		
		Current Regs	Final Regs	Final Regs + Keeping DTE
	(1)	(2)	(3)	(4)
A. Program-Weighted				
Undergrad Cert	7,260	33.4	24.1	24.3
Associate	9,630	2.3	6.0	6.2
Bachelor	29,670	0.3	1.1	1.1
Post-Bacc Cert	120	<0.1	3.9	3.9
Masters	12,140	0.5	4.2	4.4
Doctoral	1,640	0.5	0.7	1.6
Professional	640	0.2	2.0	2.0
Grad Cert	780	5.0	2.0	5.5
Total	61,880	4.6	5.2	5.3
B. Student-Weighted				
Undergrad Cert	1,389,600	42.3	27.6	27.7
Associate	4,350,000	1.8	3.9	4.2
Bachelor	8,163,500	0.9	0.6	0.7
Post-Bacc Cert	9,400	<0.1	1.4	1.4
Masters	1,750,100	1.0	4.1	4.3
Doctoral	295,100	2.1	0.8	3.4
Professional	229,100	2.7	4.9	4.9
Grad Cert	81,700	7.3	2.8	9.3
Total	16,268,500	4.8	4.2	4.5

Notes: In Panel A, "N" refers to program counts. In Panel B, "N" refers to title IV, HEA student counts. Ns are rounded to nearest 100. Total Ns may not sum to their subcomponents due to rounding. Title IV, HEA enrollment corresponds to enrollment during the 2024-25 award year. "DTE" = Debt to Earnings test. When calculating the Annual Earnings Rate and Discretionary Earnings Rate metrics, we use the 4-year median earnings of program completers who are working and not enrolled. This differs from current regulation, where those metrics are calculated using the 3-year median earnings of program completers who are not enrolled.
Source: Department of Education calculations using PPD:2026.

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§ 668.403 Calculating Earnings Premium Measure

In this final rule, we calculate a program’s earnings premium measure using the median annual earnings of working students who completed the program during the cohort period for the

fourth tax year following program completion. As under the current FVT/GE regulations, a Federal agency with earnings data would provide this earnings data and the data would be unmodified other than the potential use of marginal statistical noise for privacy masking purposes.

Some negotiators proposed the use of alternative sources of earnings data. In particular, negotiators suggested that the Department consider obtaining earnings data from State data systems where available, speculating that such earnings data might in some cases be more accurate than data available at the

Federal level and speculating that State data systems may improve over time. Other negotiators expressed concern about the use of non-Federal earnings data, noting that if the Department were to consider the use of State-level earnings data, the Department would need to evaluate whether the earnings data is more reliable than what a Federal agency with earnings data would provide.

The Department disagreed with the proposal to use State-level earnings data, and we concur with the concerns of the negotiators who objected to this proposal. We believe it would be highly impractical for the Department to evaluate, on an ongoing basis for each State, whether the quality of State-level earnings data exceeds that of Federal-level earnings data. Moreover, even if this were feasible, HEA Section 454(c) does not provide authority for the Department to enter agreements with States to obtain State-level earnings data.

Some negotiators proposed that the Department adjust a program's median earnings data to account for various circumstances including tip income and self-employment. This discussion

focused heavily on cosmetology programs, and negotiators suggested that the Department introduce an earnings modifier to address the possibility of unreported tipped income. Proponents of this view argued that some occupations—such as barbers—rely heavily on tips which may be underreported in Federal earnings data.

The Department's position on this issue is summarized in the "Earnings of Program Completers—Use of IRS Data" section above. Ultimately, the Department disagrees with suggestions to upwardly adjust the median graduate earnings data for a program based on purported underreporting of tipped or self-employment income within an occupation.

First, the Department's approach includes earned income sources from work as they are reported on IRS forms. Tip income is generally required to be reported to employers and included in the wages reported in box 1 of IRS Form W-2. Additional tip income not otherwise reported is required to be included with wage income on the filer's tax form. Any existing underreporting of income would impact both sides of the earnings premium

calculation, *i.e.*, both the measured median earnings of program graduates and the benchmark median earnings of working adults in the earnings threshold.

Second, the Department examined the share of cosmetology programs that would fail the accountability framework under the final regulation (Tables 5.17, 5.18, 5.19, and 5.20). We found that cosmetology programs perform better under the Department's final regulation relative to the baseline without an earnings adjustment, implying that, at minimum, these programs will be better off than they would if the existing regulations were left unchanged.

Third, the Department finds that an earnings adjustment for cosmetology programs would not result in a meaningful change in fail rates for these programs (Table 8.2). Even with an 8 percent earnings boost, the vast majority of cosmetology programs (84 percent) would still fail the accountability framework under the final rule. These findings align with points raised by other negotiators, who argued that tips are usually reported, and that to the extent that they may be underreported, that underreporting is minimal.

Table 8.2 - Estimated Share of Cosmetology Certificate Programs that Fail, with Earnings Adjustment

Cosmetology and Related Personal Grooming Services. (1204)	Credential Level	N	Share that Fail		
			Current Regs	Final Regs	Final Regs + Boosted Earnings
		(1)	(2)	(3)	(4)
Programs	Ug Cert	900	99.3	93.2	84.3
Students	Ug Cert	201,000	99.1	92.5	83.4
Title IV Volume	Ug Cert	1,329	99.3	90.0	81.9

Notes: Program and student N sizes are rounded to the nearest 100. Title IV Volume, in \$ millions, is rounded to the nearest million. Percentages in columns 2, 3, and 4 are computed prior to rounding. In column 4, program earnings are boosted by 8 percent, reflecting the estimated share of un-reported tipped income found in Cellini & Blanchard (2022).

Source: Department of Education calculations using PPD:2026.

Fourth, Congress specifically selected the use of median earnings rather than mean earnings for both the program and benchmark earnings, likely because it would take over half of the respective earners to shift the median value by even a small amount. Adjusting graduate earnings across the board by

any amount would over adjust for any unreported or underreported earnings, to the extent they may exist.

Fifth, negotiators arguing for an earnings adjustment offered no practical way to determine which programs, and by what amount, earnings should be adjusted to account for the possibility of

unreported tips. There is limited research on the extent of underreporting of tipped income by occupation, and the Department does not believe it is

appropriate to create a variance for one type of program without clearer information about the extent to which underreporting exists in other occupations.

For all of these reasons, the Department determined that providing an earnings adjustment for certain programs to account for the possibility of unreported tipped income or self-employment income would be infeasible, burdensome, and arbitrary without stronger data to support establishing a variance to account for unreported earnings for particular types of programs. However, the Department was persuaded by commenters who recommended the Department delay the earnings test for heavily tipped occupations until after the “No Tax on Tips” policy is in effect. To the extent that cosmetologists may under-report tipped income, the Department believes this approach will enhance the earnings test for the reasons described in the “Earnings of Program Completers—Use of IRS Data” section above.

Negotiators also suggested modifying a program’s median earnings data to account for less than full-time work. The negotiators noted that in certain occupations, graduates may routinely work less than full time, which they argued would unfairly skew earnings premium results that compare their earnings to a full-time earnings benchmark. Other negotiators countered that the statute clearly defines the benchmark group and noted that it would be inappropriate to distinguish between full-time and part-time earnings because all graduates have costs, regardless of how many hours they choose to work. A negotiator further observed that a key function of higher education is to prepare students to obtain better jobs, and to that end the regulations should incentivize full-time work.

The Department disagrees with the suggestion to adjust program earnings to account for the possibility that graduates choose to work less than full time. It is important to note that although some graduates may work less than full time, the same is true of the earnings benchmark group, which considers all applicable working adults of ages 25 through 34 regardless of the number of hours worked. HEA Section 454(c) does not specify that only graduates working full time should be measured, nor does the statute seek to compare graduate earnings to only full-

time working adults. Adjusting either side of the earnings premium equation would necessitate adjusting the other, and doing so would invite significant burden, costs, and increased risk of inaccurate determinations. Furthermore, this suggestion may not be feasible since the Federal agency with earnings data may not have access to information on the hours worked by program graduates, preventing them from making adjustments based on full-time and part-time work status. The Department also believes that the statute does not authorize this type of adjustment, as it would circumvent the specific methodology prescribed by Congress.

§ 668.601 Earnings Accountability Scope and Purpose

In this final rule, we implement the accountability framework required under the WFTCA pertaining to Direct Loan program eligibility of undergraduate degree programs, graduate and professional degree programs, and graduate nondegree programs, and to harmonize those regulations with requirements for programs that are required to lead to gainful employment (GE programs). Some negotiators proposed that the Department entirely rescind the existing GE accountability framework in favor of the WFTCA accountability framework to reduce regulatory complexity. Other negotiators argued for retaining the existing GE accountability framework without alteration, arguing that it provides students and taxpayers a greater degree of protection from poorly performing undergraduate certificate programs and that fully rescinding the current GE accountability framework would exclude undergraduate certificate programs from oversight, putting students and taxpayers at increased risk.

As further discussed in the “Department Authority (Including GE and Quality Assurance Authority)” section above, although undergraduate certificate programs were not specifically mentioned in Section 84001 of the WFTCA, Congress nonetheless did not explicitly forbid the Secretary from applying the accountability framework to those programs, nor did Congress choose to otherwise eliminate, limit, or curtail the Department’s existing GE accountability framework, either when crafting the WFTCA or in any other prior legislative act. Congress was in fact aware when passing the WFTCA that undergraduate certificate

programs were already covered using a similar earnings test under the Department’s existing GE accountability framework. The Department therefore believes that rescinding the existing GE framework altogether, thereby excluding undergraduate certificate programs from the accountability framework, would contradict Congressional intent for program accountability in higher education, and we agree with the negotiators who noted that doing so would put students and taxpayers at increased risk.

However, we also disagreed with the proposal to maintain the existing GE accountability framework in its current form, because maintaining competing GE and WFTCA accountability frameworks would add significant complexity, increase administrative burden and costs for institutions and the Department, and could generate increased confusion for students in comparing and understanding differing informational disclosures and warnings generated from multiple frameworks that apply to different types of institutions and programs. We view harmonization of the existing FVT/GE framework and the WFTCA accountability framework to be essential in establishing parity among institutions and program types through a single accountability framework that covers the vast majority of programs qualifying for title IV, HEA assistance and nearly all title IV, HEA recipients.

To better understand this issue, the Department examined the share of programs and students who would attend failing programs if the existing GE accountability framework was entirely rescinded (Table 8.3). We find that entirely rescinding the GE accountability framework would result in half as many failing programs relative to the final rule which maintains the GE accountability framework (2.3 percent vs. 5.2 percent). The reduction is entirely driven by undergraduate certificate programs: these programs would be exempt from the accountability framework if the GE regulation was rescinded. In addition to the reasons stated in the “Department Authority (Including GE and Quality Assurance Authority)” section above, the Department believes maintaining the GE accountability framework is important because these programs usually produce earnings outcomes that are lower than other programs.

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Table 8.3 - Estimated Share of Programs that Fail and Students in Failing Programs if GE were Eliminated, by Credential Level

Credential Level	N	Share that Fail		
		Current Regs	Final Regs	Final Regs + Eliminate GE
	(1)	(2)	(3)	(4)
A. Program-Weighted				
Undergrad Cert	7,260	33.4	24.1	0.0
Associate	9,630	2.3	6.0	6.0
Bachelor	29,670	0.3	1.1	1.1
Post-Bacc Cert	120	<0.1	3.9	0.0
Masters	12,140	0.5	4.2	4.2
Doctoral	1,640	0.5	0.7	0.7
Professional	640	0.2	2.0	2.0
Grad Cert	780	5.0	2.0	2.0
Total	61,880	4.6	5.2	2.3
B. Student-Weighted				
Undergrad Cert	1,389,600	42.3	27.6	0.0
Associate	4,350,000	1.8	3.9	3.9
Bachelor	8,163,500	0.9	0.6	0.6
Post-Bacc Cert	9,400	<0.1	1.4	0.0
Masters	1,750,100	1.0	4.1	4.1
Doctoral	295,100	2.1	0.8	0.8
Professional	229,100	2.7	4.9	4.9
Grad Cert	81,700	7.3	2.8	2.8
Total	16,268,500	4.8	4.2	1.9

Notes: In Panel A, "N" refers to program counts. In Panel B, "N" refers to title IV student counts. Ns are rounded to nearest 10 in Panel A and to the nearest 100 in Panel B. Percentages in columns 2, 3, and 4 are computed prior to rounding.

Source: Department of Education calculations using PPD:2026.

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Some negotiators suggested that programs that lead to low-earning outcomes under the accountability framework should lose access to all title IV, HEA programs, as under the current GE accountability framework, rather than losing eligibility for the Direct Loan program only. These negotiators expressed concern about students using their limited lifetime Pell Grant eligibility on programs that are not performing well, and argued that the prospect of losing all title IV, HEA funding for low-earning outcome programs would better incentivize institutions to shift their program offerings away from failing programs or to improve the quality of their programs,

which in turn would better serve the interests of students and taxpayers. Other negotiators argued that a program's loss of Direct Loan program eligibility would in many cases already lead to the closure of the program or possibly the institution itself.

The Department notes that it has a greater interest in applying the accountability framework to the Direct Loan program because, unlike the other programs under title IV, HEA, the government and taxpayers expect loan funds to be repaid. We further note that the accountability framework set forth in Section 84001 of the WFTCA resides in the Direct Loan program-specific provisions in HEA Section 454, which

generally limits the scope of consequences to the Direct Loan program only. To the extent that undergraduate certificate programs would be covered by the accountability framework under the GE statutory authority, we believe that authority does not explicitly require the loss of all title IV, HEA eligibility as the sole remedy for noncompliance. In addition, the further changes to the PPA and administrative capability regulations at sections §§ 668.14 and 668.16 would terminate title IV, HEA eligibility for all of an institution's low-earning outcome programs if more than half of the institution's title IV, HEA recipients or title IV, HEA revenue are from low-

earning outcome programs. We believe these provisions would sufficiently address concerns about continued Pell Grant eligibility for institutions whose programs lead to consistently poor earnings outcomes for students.

§ 668.603 Low-Earning Outcome Programs

In this final rule, we provide all institutions the option to appeal a low-earning outcome program's loss of Direct Loan program eligibility. Similar to the current GE accountability framework, the earnings accountability framework would limit appeals to instances where the Department erred in the calculation of the program's EP measure.

Some negotiators proposed broadening the factors that an institution could appeal to include the underlying median graduate earnings data used to calculate the earnings premium measure, arguing that there would otherwise rarely be a basis for an institution to appeal under the proposed criteria as both the median graduate earnings and earnings benchmark would be based on elements an institution could not dispute. Negotiators further suggested that the Department consider alternative earnings survey data that might address limitations in available administrative earnings data and improve fairness and due process. Other negotiators expressed support for the scope of the appeals process as proposed, arguing that appeals in other areas of title IV, HEA administration, such as cohort default rates, can sometimes consume significant time and costs, that the earnings standards set forth in the WFTCA are specific, and appeals must not circumvent the will of Congress.

The Department disagreed with negotiators who claimed that the proposed basis for appeals would deprive institutions of a meaningful opportunity to appeal a low-earning outcome determination. As under the current GE framework, institutions would have the opportunity to review and correct the list of completers provided to the Federal agency with earnings data to obtain median graduate earnings and could meaningfully appeal any discrepancies pertaining to the completers list. The Department emphatically disagrees with suggestions to allow appeals on the basis of alternative earnings data. IRS earnings data represents the highest quality and most accurate available data source and, accordingly, is also currently used for many other title IV, HEA purposes such as determining student and family incomes for purposes of establishing

student title IV, HEA eligibility and determining loan payments under income-driven repayment plans. Federal requirements for accurate reporting of income and the increasing prevalence of electronic transactions make underreporting income both more difficult and less likely than under past accountability frameworks. The Department also remains concerned about the low quality of data submitted by institutions in alternate earnings appeals, such as graduate earnings surveys and employment verifications, given the Department's experience with such data in appeal submissions under past iterations of GE regulations.

HEA Section 454(c)(5) does not require the Department to consider appeals of earnings data, only of the low-earning outcome determination in HEA Section 454(c)(2). If the Department fails to thoughtfully and purposefully manage the scope and basis of appeals, it could result in institutions inundating both the Department and, potentially, the courts with cumbersome appeals and challenges that are unlikely to prevail but would, nonetheless, generate significant burden and costs for both institutions and the Department, all while delaying accountability and leaving students and taxpayers at continued risk during the appeals process. While we understand concerns about the consequences for institutions and students if a program loses Direct Loan program eligibility under the earnings accountability framework, it is equally important to recognize that in any meaningful accountability framework, some programs will fail. Finally, even given the limited grounds for appeals under the final rule, to address truly extenuating circumstances we note that the Department still has the option to exercise other existing authorities to waive or modify title IV, HEA program requirements in national emergencies and has exercised these authorities in the past when appropriate.

9. Regulatory Flexibility Act

This section considers the effects that the final regulations may have on small entities in the Educational Sector as required by the Regulatory Flexibility Act (RFA, 5 U.S.C. *et seq.*, Pub. L. 96–354) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The purpose of the RFA is to establish as a principle of regulation that agencies should tailor regulatory and informational requirements to the size of entities, consistent with the objectives of a

particular regulation and applicable statutes.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute unless the agency certifies that the rule will not have a “significant impact on a substantial number of small entities.”

This final regulation amends the current gainful employment regulation to implement statutory changes to the title IV, HEA programs included in the WFTCA. Currently, the Department's regulations apply two tests—a debt-to-earnings test and an earnings premium test—to all undergraduate certificate programs and any program offered by proprietary institutions. If these programs fail one of the tests in two out of three consecutive award years, they lose eligibility for all types of title IV, HEA program funding, including both Pell Grants and Direct Loans. As stated throughout the RIA, the Department's baseline assumes the current gainful employment regulations are in effect. This is because, in the absence of the final rule, the requirements in the current regulation would be calculated. Therefore, we use the impact of the current regulation as the baseline to judge the impact of the final rule.

The WFTCA applies an earnings premium test (“accountability framework”) to each degree program at institutions, expanding the universe of affected programs to include degree programs at non-profit and public institutions. Programs where the median earnings of graduates do not meet a specified threshold in two out of three years lose access to Direct Loans. Under a separate provision (standards of administrative capability) the final regulations require that if a majority of an institution's students or title IV, HEA disbursements are in programs that fail the accountability framework for three years, those failing programs also lose access to Federal Pell Grants. Programs are exempt from the potential loss of Federal Pell Grants under this provision if they opt out of the Federal student loan program prior to failing the accountability framework or if have not participated in the loan program in the past five years. The final regulation also modifies the current FVT/GE rule to replace its eligibility tests with the same earnings tests under WFTCA, which is a less-punitive test. The Department's final regulations would also eliminate one of the two tests (the debt-to-earnings test) by which programs are judged under the current FVT/GE rule.

For the purposes of this analysis the Department has defined “significant economic impact” as increasing or reducing a small entity’s revenues by more than 3 percent, and a “substantial number of small entities” as more the 5 percent of institutions that meet the Department’s definition of a small entity.

While the Department is unable to assess the revenue effects of the final regulation on individual institutions of higher education due to missing data on the earnings of program completers (see “Data Limitations & Assumptions” section above), the Department can assess the average effects on institutions within different categories. Using that approach, the Department has determined that small institutions will experience a 0.9 percent increase in revenue on average due to the final regulations, less than what the Department defines as a significant economic impact. Small institutions are likely to experience an increase in revenue because the accountability framework includes a less-punitive earnings test than under the current accountability framework, resulting in fewer programs failing (and losing access to Federal student financial assistance) within small institutions. Furthermore, the Department determines that small institutions will experience a change in total revenues of less than 3 percent (Table 9.4).

Description of, and, Where Feasible, an Estimate of the Number of Small Entities to Which the Regulations Will Apply

The Small Business Administration (SBA) defines “small institution” using data on revenue, market dominance, tax filing status, governing body, and population. The majority of entities to which the Office of Postsecondary Education’s (OPE) regulations apply are institutions of higher education, which do not report such data to the Department. As a result, for purposes of this final rule, the Department defines “small entities” by reference to enrollment, to allow meaningful comparison of regulatory impact across all types of higher education institutions. We construct four different categories of small entities for the purposes of classifying higher education institutions:⁹⁸

- (1) Extremely Small (1–249 FTE, full-time equivalent student enrollees);
 - (2) Very Small (250–499 FTE);
 - (3) Moderately Small (500–749 FTE);
- and
- (4) Small (750–999 FTE).

Table 9.1 summarizes the number of institutions affected by these final regulations. In total, 53 percent of institutions are classified as small

institutions under the enrollment-based definition. Specifically, 33 percent are Extremely Small (1–249 FTE), 9 percent are Very Small (250–499 FTE), 6 percent are Moderately Small (500–749 FTE), and 5 percent are Small (750–999 FTE). Note that the Department’s analysis and these categories apply only to small institutions that receive Federal title IV, HEA aid; it does not include small institutions that operate without this aid. Therefore, the Department’s analysis will overstate the extent to which small entities are affected by this rule. Institutions that do not participate in title IV, HEA aid programs are unaffected by the rule.

As seen in Table 9.2, small entities (all four categories combined) in the public sector generate \$3.9 billion in revenues annually, small entities (all four categories combined) in the private non-profit sector generate \$11.7 billion in revenues annually, and small entities (all four categories combined) in the proprietary sector generate \$4.5 billion in revenues annually. An outsized share of these revenues come from institutions in the largest category of small entities (institutions with 750–999 FTE). These institutions make up just 9 percent of all institutions classified as a small entity (having fewer than 1,000 FTE) but comprise 36 percent of the annual revenues generated by these institutions.

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⁹⁸ The Department consulted with the SBA Office of Advocacy in March 2026 regarding the use of an alternative size standard. The Department did not receive comments on the size standard for this rule and therefore proceeds with these classifications.

Table 9.1 - Number of Small Institutions Under Enrollment-Based Definition, by Sector

	Small Entities					All Colleges	Percent Small
	Extremely Small (1-249 FTE)	Very Small (250-499 FTE)	Moderately Small (500-749 FTE)	Small (750-999 FTE)	Small Subtotal		
A. Public							
Public, Primarily 4yr	0	5	5	10	20	542	3.7%
Public, Primarily 2yr	180	68	68	81	397	1,231	32.3
Total	180	73	73	91	417	1,773	23.6
B. Non-Profit							
Non-prof, Primarily 4yr	288	101	119	103	611	1,372	44.5%
Non-prof, Primarily 2yr	154	34	21	8	217	246	88.2
Total	442	135	140	111	828	1,618	51.1
C. For-Profit							
For-prof, Primarily 4yr	29	15	10	5	59	100	59.0%
For-prof, Primarily 2yr	950	226	70	57	1,303	1,433	90.9
Total	979	241	80	62	1,362	1,533	88.8
Grand Total	1,601	449	293	264	2,607	4,924	52.9%

Notes: Institutions are defined using OPEID6 identification codes. in the 2023-24 IPEDS institutional characteristics data. Institutions are classified into small categories using 12-month FTE enrollment from the 2023-24 academic year. Institutions are classified into small categories using 12-month FTE enrollment from the 2023-24 academic year. "Primarily 2yr" includes institutions that predominantly award 2-year degrees and credentials that are less than 2 years in length.

Source: Department analysis using 2023-24 IPEDS data and PPD:2026.

Table 9.2 - Total Revenue in 2023-24, by Institution Size Categories (\$ in millions).

	Small Entities					All Colleges	Percent Small
	Extremely Small (1-249 FTE)	Very Small (250-499 FTE)	Moderately Small (500-749 FTE)	Small (750-999 FTE)	Small Subtotal		
A. Public							
Public, Primarily 4yr	0.0	92.7	170.7	514.4	777.8	361,144.6	0.2%
Public, Primarily 2yr	199.9	364.8	852.9	1,655.5	3,073.1	111,857.5	2.7
Total	199.9	457.5	1,023.6	2,169.9	3,850.9	473,002.1	0.8
B. Non-Profit							
Non-prof, Primarily 4yr	1,751.5	1,886.5	3,191.7	4,001.6	10,831.4	312,634.4	3.5%
Non-prof, Primarily 2yr	295.1	214.9	248.3	135.3	893.7	14,450.3	6.2
Total	2,046.6	2,101.4	3,440.0	4,136.9	11,725.1	327,084.7	3.6
C. Proprietary							
For-prof, Primarily 4yr	66.0	129.3	175.2	173.2	543.7	9,795.3	5.6%
For-prof, Primarily 2yr	1,377.5	1,111.9	624.2	825.7	3,939.3	10,686.9	36.9
Total	1,443.5	1,241.2	799.4	998.9	4,483.0	20,482.2	21.9
Grand Total	3,690.0	3,800.1	5,263.0	7,305.7	20,059.0	820,569.0	2.4%

Notes: Institutions are defined using OPEID6 identification codes. A small number of programs at institutions in PPD:2026 are excluded if they did not match to institutions in the 2023-24 IPEDS institutional characteristics data. Institutions are classified into small categories using 12-month FTE enrollment from the 2023-24 academic year. Institutional revenues are from the 2023-24 academic year. Institutional revenues are defined using the fld01, f2b01, and f3d09 variables in IPEDS. "Primarily 2yr" includes institutions that predominantly award 2-year degrees and credentials that are less than 2 years in length.

Source: Department analysis using 2023-24 IPEDS data and PPD:2026.

Table 9.3 compares the share of programs at small entities that are estimated to fail the accountability framework under the current regulations and the accountability framework under the final regulations. Both the current

and final regulations include accountability frameworks and Table 9.3 shows the fail rates under each, revealing the net change from the current regulation (column 2) to the final regulation (column 3). Relative to

the current regulations, programs at small entities will fail at slightly lower rates under the final regulations. We find similar results when weighting estimates by title IV enrollments (Panel B).

Table 9.3 - Estimated Share of Programs that Fail and Enrollment in Programs that Fail, by Institution Size Categories

Institution Size Category	N	Share that Fail	
		Current Regs	Final Regs
	(1)	(2)	(3)
A. Program-Weighted			
Extremely Small (1-249 FTE)	1,330	67.6	58.7
Very Small (250-499 FTE)	760	47.3	35.9
Moderately Small (500-749 FTE)	980	16.4	12.1
Small (750-999 FTE)	1,240	15.5	13.1
Small Subtotal	4,310	37.4	31.0
All Colleges	61,880	4.6	5.2
B. Student-Weighted			
Extremely Small (1-249 FTE)	136,600	73.9	65.1
Very Small (250-499 FTE)	133,700	56.6	48.7
Moderately Small (500-749 FTE)	141,300	26.4	23.4
Small (750-999 FTE)	179,700	29.2	25.4
Small Subtotal	591,300	45.1	39.4
All Colleges	16,268,500	4.8	4.2

Notes: In Panel A, "N" refers to program counts. In Panel B, "N" refers to title IV enrollment counts. Ns are rounded to nearest 10 in Panel A and to the nearest 100 in Panel B. Totals may not sum together due to rounding. A small number of programs at institutions in PPD:2026 are excluded if they did not match to institutions in the 2023-24 IPEDS institutional characteristics data. Institutions are classified into small categories using 12-month FTE enrollment from the 2023-24 academic year.

Source: Department analysis using 2023-24 IPEDS data and PPD:2026.

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To assess the impact of the final regulation on small entities, the Department estimated how much revenue institutions may lose on average when programs become ineligible for title IV, HEA funds because their programs fail the accountability framework. Note that because the current regulations already

include an accountability framework,⁹⁹ the Department's analysis is concerned with the change in program fail rates and revenue effects relative to the current regulations. The potential loss in revenue for small institutions can be compared with small institutions' total revenue to determine the effect on small entities (Table 9.4).

⁹⁹ See Financial Value Transparency and Gainful Employment, 88 FR 70004, 70095 (Oct. 10, 2023).

On average, small institutions are at risk of losing 11.4 percent (\$1.885 billion) of their total revenue due to the loss of title IV, HEA funds under the current regulations. Under the final regulations they are estimated to lose 10.6 percent (\$1.752 billion) of their revenue. Therefore, small entities are estimated to experience a 0.9 percent (\$132 million) increase in their total revenue (\$14,646 billion) due to the final regulations (Table 9.4). Extremely small entities are the most impacted

subgroup. Under the current accountability framework, they are at risk of losing 33.0 percent (\$695 million) of their revenue, but under the accountability framework they are at risk of losing 28.7 percent of revenue

(\$604 million), resulting in a 6.4 percent increase (\$91 million) in revenue. Extremely small entities are the most affected subgroup because they tend to offer the types of programs (mainly undergraduate certificates in fields such

as cosmetology) that see the largest change in eligibility for title IV, HEA funds under the final regulation.

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Table 9.4 - Estimated Annual Title IV, HEA Program Assistance Volume and Institutional Revenues to Programs that Fail, by Institution Size Categories

Institution Size Category	Annual Title IV Volume (\$ Millions)	Share of Volume in Failing Programs	Total Institutional Revenue (\$ Millions)	Share of Title IV Volume in Failing Programs as a Share of Total Revenue
	(1)	(2)	(3)	(4)
A. Current Regulations				
Extremely Small (1-249 FTE)	1,025	67.7	2,106	33.0
Very Small (250-499 FTE)	1,154	47.7	3,251	16.9
Moderately Small (500-749 FTE)	1,517	18.4	4,632	6.0
Small (750-999 FTE)	1,577	23.2	6,543	5.6
Small Subtotal	5,273	35.8	16,531	11.4
All Colleges	103,794	5.2	809,671	0.7
B. Final Regulations				
Extremely Small (1-249 FTE)	1,025	58.9	2,106	28.7
Very Small (250-499 FTE)	1,154	44.2	3,251	15.7
Moderately Small (500-749 FTE)	1,517	22.0	4,632	7.2
Small (750-999 FTE)	1,577	19.1	6,543	4.6
Small Subtotal	5,273	33.2	16,531	10.6
All Colleges	103,794	4.0	809,671	0.5

Notes: Annual volume (column 1) includes Federal student loans and Pell Grants, rounded to the nearest million. Totals may not sum together due to rounding. A small number of programs at institutions in PPD:2026 are excluded if they did not match to institutions in the 2023-24 IPEDS institutional characteristics data. Institutions are classified into small categories using 12-month FTE enrollment from the 2023-24 academic year. Institutional revenues are from the 2023-24 academic year. Institutional revenues are defined using the f1d01, f2b01, and f3d09 variables in IPEDS.

Source: Department analysis using 2023-24 IPEDS data and PPD:2026.

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Lastly, the Department examined the types of programs at small institutions that are estimated to fail the accountability framework at the highest rates (Table 9.5). As shown in Panel A, approximately 93 percent of cosmetology certificate programs (CIP=12.04) at small institutions are estimated to fail, which is the highest rate among all programs at small entities where there were at least 40 programs with non-missing earnings data. However, when compared to the current accountability framework, these programs at small entities will fail at slightly lower rates relative to the

existing baseline (99 percent). Other common types of programs at small institutions that are estimated to fail the accountability framework in the final regulation include undergraduate certificate programs in somatic bodywork (CIP=51.35), dental support services (CIP=51.06), allied health (CIP=51.08), and health administrative services (CIP=51.07). Again, each of these programs will fail the accountability framework at lower rates relative to their fail rates under the current baseline.

Only one type of program at small entities—associate degree programs in

liberal arts and sciences (CIP=24.01)—are anticipated to fail under the final regulation at higher rates relative to the existing baseline. These programs at small institutions fail at higher rates under the final regulation because many of these degree programs were offered at institutions that were previously exempt from the accountability framework under the current regulation. Similar estimates are reported in Panels B and C, which are weighted by title IV, HEA enrollment counts and title IV, HEA volume, respectively.

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Table 9.5 - Estimated Share of Programs, Enrollment, and Title IV Volume for the Fifteen Most-Impacted Programs at Small Institutions (FTE < 1,000) Under the Final Regulation

Program (CIP4)	Credential Level	N	Share that Fail	
			Current Regs	Final Regs
			(1)	(2)	(3)
A. Programs				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	760	99.2	93.6
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	100	98.1	90.9
Dental Support Services and Allied Professions. (5106)	Ug Cert	50	85.3	50.0
Allied Health and Medical Assisting Services. (5108)	Ug Cert	170	90.6	45.7
Health and Medical Administrative Services. (5107)	Ug Cert	70	88.2	41.9
Liberal Arts and Sciences General Studies and Humanities. (2401)	Associate	90	<0.1	13.2
Allied Health and Medical Assisting Services. (5108)	Associate	60	20.8	13.0
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Ug Cert	70	23.1	4.7
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Associate	90	3.7	3.5
Precision Metal Working. (4805)	Ug Cert	60	20.0	2.4
Practical Nursing Vocational Nursing and Nursing Assistants. (5139)	Ug Cert	250	6.3	2.1
Business Administration Management and Operations. (5202)	Bachelor	130	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Bachelor	100	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Associate	160	<0.1	<0.1
Sports Kinesiology and Physical Education/Fitness. (3105)	Bachelor	70	<0.1	<0.1
B. Title IV Enrollment				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	152,400	98.9	94.9
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	9,400	99.6	95.1
Dental Support Services and Allied Professions. (5106)	Ug Cert	5,100	91.3	61.5
Allied Health and Medical Assisting Services. (5108)	Ug Cert	28,000	92.9	43.8
Health and Medical Administrative Services. (5107)	Ug Cert	4,800	90.5	56.8
Liberal Arts and Sciences General Studies and Humanities. (2401)	Associate	24,600	<0.1	6.6
Allied Health and Medical Assisting Services. (5108)	Associate	4,600	28.9	21.4
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Ug Cert	7,500	17.0	3.1
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Associate	16,400	1.8	2.2
Precision Metal Working. (4805)	Ug Cert	5,700	36.7	7.5
Practical Nursing Vocational Nursing and Nursing Assistants. (5139)	Ug Cert	35,400	6.0	1.7
Business Administration Management and Operations. (5202)	Bachelor	16,300	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Bachelor	17,000	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Associate	28,800	<0.1	<0.1
Sports Kinesiology and Physical Education/Fitness. (3105)	Bachelor	7,000	<0.1	<0.1
C. Title IV Student Aid Volume				
Cosmetology and Related Personal Grooming Services. (1204)	Ug Cert	1,047	99.1	94.5
Somatic Bodywork and Related Therapeutic Services. (5135)	Ug Cert	50	99.6	89.4
Dental Support Services and Allied Professions. (5106)	Ug Cert	33	90.2	43.7
Allied Health and Medical Assisting Services. (5108)	Ug Cert	194	93.3	35.4
Health and Medical Administrative Services. (5107)	Ug Cert	30	90.7	44.6
Liberal Arts and Sciences General Studies and Humanities. (2401)	Associate	96	<0.1	3.6
Allied Health and Medical Assisting Services. (5108)	Associate	32	30.1	16.3
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Ug Cert	51	23.7	2.0
Allied Health Diagnostic Intervention and Treatment Professions. (5109)	Associate	152	2.1	1.9
Precision Metal Working. (4805)	Ug Cert	43	38.4	4.9
Practical Nursing Vocational Nursing and Nursing Assistants. (5139)	Ug Cert	289	5.4	1.4
Business Administration Management and Operations. (5202)	Bachelor	119	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Bachelor	118	<0.1	<0.1
Registered Nursing, Nursing Administration, & Clinical Nursing. (5138)	Associate	202	<0.1	<0.1
Sports Kinesiology and Physical Education/Fitness. (3105)	Bachelor	58	<0.1	<0.1

Notes: The sample of programs is limited to include only the subset of programs offered at small entities (defined as FTE < 1,000). The fifteen programs on this list are the fifteen programs (defined at the 4-digit CIP x Credential Level) with the highest fail rates (program-weighted) under the final regulations in which there were at least 40 programs with non-missing earnings data nationally at institutions classified as small entities. In Panel A, "N" refers to program counts. In Panel B, "N" refers to Title IV student enrollment counts. In Panel C, "N" refers to total Title VI Loan Volume disbursements in AY2025 (in millions). N sizes are rounded to the nearest 10 in Panel A, to the nearest 100 in B, and to the nearest million in Panel C. "Ug Cert" = Undergraduate Certificate. Four-digit CIP codes are listed in parentheses. Title IV enrollment and Title IV volume correspond to the amounts in the 2024-25 award year.

Source: Department of Education calculations using PPD:2026.

cosmetology businesses. Many commenters explained that the regulation would cause cosmetology programs to lose access to title IV, HEA program assistance. Therefore, commenters argued that there will be fewer cosmetologists, a group that tends to own and operate their own small businesses. Other commenters noted that barber shops, salons, and spas are small businesses that rely on trained and licensed cosmetologists as their employees. Cosmetology schools themselves are often small businesses, as some commenters noted.

The Department assessed the effects of the rule on cosmetology programs, single-program institutions (which are often cosmetology schools), and small institutions of higher education. In each of these analyses, we find that when compared with the current gainful employment rule, fewer institutions and programs are expected to fail the earnings test under this final rule (Tables 5.17, 5.18, 5.19, and 5.20). Relative to the baseline policy, the Department estimates the earnings test will reduce the negative effects on small businesses commenters have raised.

Although a smaller share of cosmetology programs are expected to fail under the final rule relative to the baseline policy, the Department does acknowledge that a high share of cosmetology certificate programs are likely to fail under this final rule (approximately 93 percent), and that the smallest institutions of higher education are more likely to have a high share of failing programs. The Department is, however, concerned that these fields and credentials do not produce adequate earnings to support student debt. The Department believes that institutions of higher education, employers, and state and local policymakers will have stronger incentives as a result of the earning premium measure to create or modify programs so that they lead to higher earnings, or reform employee pay policies, or credentialing requirements.

Lastly, the Department notes that many cosmetology programs do not participate in title IV, HEA programs. One study found that just 14 percent of barber and cosmetology programs in Texas participate in federal student loan and grant programs. Moreover, many of these non-federally funded programs charge lower tuition prices and have similar outcomes than cosmetology programs subsidized by taxpayers.¹⁰⁰

These non-federally funded cosmetology programs will have incentives to increase their enrollment if fewer programs are eligible for title IV, HEA student aid, helping to supply the cosmetology workforce. As a result, it is possible that students benefit from this rule if they switch from more-expensive, Federally funded cosmetology programs to less expensive, non-Federally funded programs.

10. Alternatives Considered (Small Entities)

The Department examined whether the final regulation could incorporate other options or changes to the rule intended to make compliance less burdensome for small institutions of higher education. Specifically, the Department considered whether small institutions of higher education could be exempted from the changes to the statute in the final regulation, or whether they could be granted a delayed start date to the changes. The Department does not have discretion in the WFTCA to exempt certain institutions of higher education from the WFTCA requirements. The statute also establishes the effective dates for the changes to the Federal student loan program and does not leave flexibility for the Department to consider granting a delay in compliance for small entities that may benefit from such a delay. Therefore, the Department determined that none of these options would be permissible under the statute, and could not identify any reasonable alternatives given the statutory directives.

The Department has, however, adopted a provision to delay the implementation of the accountability framework for certain programs. This policy will indirectly have a large impact on small entities given the overlap between small entities and the types of programs that will qualify for the delay. Specifically, the Department will delay the implementation of the accountability framework for certain programs that prepare students for employment in occupations where workers customarily and regularly receive a predominant percentage of their income through tips, in order to use earnings from the tax years when the “No Tax on Tips” policy is in effect, which began with the 2026 tax year. Many types of cosmetology programs are included in this delay.

11. Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the

Department to consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This final rule will impose amended information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department submitted these information collection amendments to OMB for its review. The Office of Management and Budget approved the amended information collection requirements under existing OMB Control Number 1845–0184.

Responses to Comments Received in the NPRM on the Paperwork Reduction Act of 1995

Comment: Once school suggested that the administrative burden of the proposed student-level reporting requirements places a disproportionate strain on specialized career schools. They added: even with the removal of the debt-to-earnings metric, these heavy compliance mandates threaten to drive up institutional administrative costs, which directly impacts student tuition. The commenter recommended the Department maximize its use of existing federal administrative data to prevent tuition increases for the very students we are trying to help.

Discussion: The Department appreciates this comment. The Department took great care to consider administrative burden when developing these regulations. Wherever possible, existing administrative data is used to minimize burden.

Changes: None.

Comment: One commenter wrote that the Department’s proposed rule pertains to the Federal Direct Loan Program. Since nonprofit and public institutions in Federated States of Micronesia, Republic of the Marshall Islands, or the Republic of Palau may not administer Direct Loans to their students, the Department should, at a minimum, explain the public benefit of applying the earnings test to public or nonprofit private eligible institution in the Federated States of Micronesia, Republic of the Marshall Islands, or the Republic of Palau when these very institutions are ineligible to participate in the Direct Loan program by the Department’s own rule. Another commenter recommended that, instead

¹⁰⁰ Cellini, S.R., & Onwukwe, B., (2022).

Cosmetology Schools Everywhere: Most Cosmetology Schools Exist Outside of the Federal Student Aid System. Washington, DC: PEER Center.

www.american.edu/spa/peer/upload/peer_cosmetology_b.pdf.

of requiring institutions that do not participate in the Direct Loan program to report on their programs, the Department ought to act on its competing obligation under the Paperwork Reduction Act of 1995 (PRA) and exempt such IHEs from reporting and testing. The purpose of the PRA is to minimize the paperwork burden for educational and nonprofit institutions and other types of entities under 44 U.S.C. 3501(1). The Department should abide by the PRA and exempt such IHEs from the reporting and consequences under this proposed rule.

Discussion: As described in the “Department Authority (Including GE and Quality Assurance Authority)” section, the Department is amending the regulations to prevent institutions that have not participated in the Direct Loan program for at least five years from being subject to penalties under the administrative capability provision that would affect those institutions’ eligibility for other title IV, HEA programs. This exemption would also apply to any institution that is prohibited by law from participating in the Direct Loan program. However, the Department still believes that the information provided by calculating the earnings premium measure is valuable for consumers and the broader public, and therefore disagrees with the commenter that the measure should not be calculated for institutions that do not participate in the Direct Loan program.

Changes: None.

Comment: One commenter disagreed with including undergraduate non-degree programs in the earnings accountability framework. The commenter indicated that these regulations place an undue burden on programs that the statute did not include.

Response: As explained above in the preamble, the statute did not prevent the Department from expanding the earnings accountability framework to degree-granting programs. The statute required the framework to cover degree-granting programs and was silent on approaches to non-degree credentials. The Department has determined that the best approach to implementation is to harmonize the requirements established under the statute for degree and graduate non-degree programs with requirements for undergraduate non-degree programs, creating a more uniform approach to nearly all programs. Undergraduate certificate programs do not exist solely at the vocational and professional training institutions that the commenter mentions; they are represented across all institution types, and this approach

will be applied uniformly regardless of institution type.

Changes: None.

Comment: One commenter requested that the accountability framework should:

- Recognize entrepreneurship and self-employment outcomes as valid indicators of workforce success.
- Allow for regional economic differences and industry-specific earning patterns.
- Avoid disproportionately penalizing small institutions and workforce programs serving historically underserved populations.
- Consider broader workforce outcomes such as licensure attainment, job placement, business creation, apprenticeship participation, and community economic contribution.
- Ensure that compliance requirements do not become so burdensome that smaller career schools and training providers lose the ability to operate
- Ensure that smaller institutions are not disproportionately burdened by administrative requirements that could limit student access to workforce training opportunities.

Discussion: The Department considered administrative and compliance burden on schools when developing the regulations. Where possible, existing administrative data is used to minimize burden. As required by the Paperwork Reduction Act, the Department will seek public comment on this collection no later than three years from the date of this final rule. The Department will welcome additional comments on administrative and compliance burden at that time. This will help ensure that compliance and administrative requirements become so burdensome that it limits access to education opportunities.

Changes: None.

Comment: One commenter expressed concern about the administrative and compliance burden associated with the proposed reporting requirements. That commenter added that small vocational institutions already face substantial regulatory obligations through accreditation agencies, state oversight agencies, FVT/GE reporting, financial aid compliance, annual audits, and state licensing boards. They suggested that the additional reporting and monitoring obligations under the STATS framework may require significant operational costs and staffing increases for institutions with limited administrative resources.

Discussion: The Department anticipates there will be a reduction in the reporting requirements with these new regulations. Additionally, the

Department took great care to consider administrative burden when developing these regulations. Wherever possible, existing administrative data is used to minimize burden.

Changes: None.

Comment: One commenter suggested the likely result of these regulations would be a reduction in the number of institutions able or willing to sustain teacher preparation programs. The commenter added that this would constrict the pipeline of well-prepared, highly qualified teachers entering the profession at a time when schools across the country are already struggling to fill classrooms. In response, districts may be forced to rely more heavily on alternatively certified or under-prepared teachers, increasing the burden on schools to provide training and support while potentially impacting instructional quality and student outcomes.

Discussion: The Department developed these regulations carefully considering administrative burden. The WFTCA did not make any exceptions for teacher preparation programs, and the Department does not believe we have the authority to do so.

Changes: None.

Comment: One commenter asked the Department to ensure that smaller institutions are not disproportionately burdened by administrative requirements that could limit student access to workforce training opportunities.

Discussion: The Department appreciates the concern expressed by the commenter and took great care to consider administrative burden when developing these regulations. We are reducing the number of items that institutions are required to report and eliminating the burdensome framework for institutions to ensure that students access the Secretary’s website to acknowledge viewing information about the outcome of accountability calculations. Additionally, we have continued to make great efforts to ensure that, wherever possible, existing administrative data is used to minimize burden to institutions and students.

Changes: None.

Comment: One commenter from a postsecondary institution indicated that the proposed rules would impose substantial new operational burden and cost on institutions at a time when colleges are already implementing other major federal reporting changes. That institution requested an alignment of definitions, reporting formats, and submission schedules across federal reporting requirements to minimize duplication.

Discussion: The Department appreciates this comment and the suggestion to align schedules across Federal reporting requirements. The Department took great care to consider administrative burden when developing these regulations, including with respect to maintaining consistency among items reported to the Department in multiple places, such as IPEDS. Wherever possible, existing administrative data is used to minimize burden. Additionally, as described above, these regulations reduce reporting requirements compared to the prior regulatory reporting requirements.

Changes: None.

Comment: Another commenter stated that they had concerns that proposed fixes—such as longer-term tracking or expanded data collection—would increase administrative burden while failing to capture true program value, particularly given career changes and variation in state licensing requirements. The commenter indicated that the issue was not simply how earnings are measured, but whether earnings alone are an appropriate proxy for the value of workforce education.

Response: The Department disagrees. We anticipate a reduction in reporting burden due to the new rules, and we believe this earnings metric will provide insight into program value in order to protect taxpayers and students through stricter oversight.

Changes: None.

Comment: One commenter from a postsecondary institution wrote that the burden imposed by the regulation does not reflect the true value of what institutions do. The commenter suggested that the regulations would also require significant time, staff, and money to gather and report the information. One commenter said they are concerned about the burden these regulations may place on smaller institutions with limited administrative capacity, as well as the narrow scope of the proposed appeals process. Institutions should have broader opportunities to demonstrate contextual factors affecting graduate earnings and professional outcomes. One commenter indicated that reporting requirements remain excessively burdensome for small nonprofit institutions, with staff and IT personnel spending more than 200 hours responding to compliance-

related requirements. Another commenter expressed concern about the administrative burden these reporting requirements place on small career schools. The commenter indicated that such institutions already devote substantial resources and staffing to compliance and reporting obligations, and additional requirements would create significant strain without improving educational quality or student outcomes.

Discussion: The Department disagrees, especially since the regulations will result in a reduction in reporting burden due to the new rules. In addition, the Department believes this earnings metric will provide insight into program value in order to protect taxpayers and students through stricter oversight, which provides value that is more than commensurate with the burden that the regulation imposes.

Changes: None.

Comment: A few commenters indicated that reporting the data the government requires to determine eligibility will be a significant burden for their staff because obtaining information about the earnings of graduates is challenging and not currently performed by many institutions.

Discussion: The Department appreciates this comment, but notes that institutions are not expected to determine earnings for their programs' graduates. The Department is using a combination of existing administrative data and information from the IRS to perform this calculation, and this is intended to minimize burden on institutions' behalf.

Changes: None.

Comment: A commenter suggested the proposed changes could place additional administrative and financial burdens on schools without providing the support necessary to help students succeed. The commenter also expressed concern that limiting Pell Grant access primarily to certain workforce-driven programs may reduce flexibility for institutions and students alike.

Response: The Department developed these regulations carefully considering administrative burden. And although it is possible that programs could cease Pell Grant participation under these regulations, there are several steps before that sanction is imposed on an

institution, and several options for an institution to avoid that outcome, including an orderly program closure or discontinuing Direct Loan participation for the program.

Changes: None.

§ 600.10 Date, Extent, Duration, and Consequence of Eligibility, § 600.21 Updating Application Information, § 685.300 Agreements Between an Eligible School and the Secretary for Participation in the Direct Loan Program Summary

Sections §§ 600.10 and 600.21 require a school to report all of its Direct Loan-eligible programs on its Eligibility Application (E-App). GE programs and eligible non-GE programs need to meet the requirements of STATS and earnings accountability to maintain eligibility for participation in the Direct Loan program. Currently only GE programs must be reported to the Department in all circumstances.

Burden

These regulatory changes require an update to the current institutional application form, 1845–0012. The form update will be made available for comment through a full public clearance package before being made available for use by the effective dates of the regulations. The burden changes will be assessed to OMB Control Number 1845–0012, Application for Approval to Participate in Federal Student Aid Programs.

§ 668.2 General Definitions

Summary

Institutions will be required to incorporate several key definitions related to earnings accountability into their policies and procedures.

Burden

§ 668.2 creates burden on institutions. Institutions will be required to review the new regulations (8 hours), identify the scope of the new requirements and updates needed (20 hours), amend their policies and procedures (20 hours), train staff (80 hours), and update relevant systems (160 hours). In total, the Department estimates this will take 288 hours per institution during the first year of implementation of these regulations.

Entity	Respondents	Hours	Burden Hours
Public	1,869	288	538,272
Private	1,674	288	482,112
For Profit	2,083	288	599,904
Total	5,626		1,620,288

§ 668.14 Program Participation Agreement

Summary

An institution is permitted to appeal the Secretary's determination that a program is a low-earning outcome program under § 668.603(a)(2) based on the data used in the calculation. An institution is also permitted to appeal the Secretary's determination that a program has failed to meet the administrative capability conditions at § 668.16(t) in two out of three consecutive award years.

Burden

In the preamble to the Notice of Proposed Rulemaking (NPRM), the Department had originally estimated there would be 6,520 programs that failed the earnings premium the first

year the calculation becomes effective. The Department now estimates that approximately 3,302 programs could fail the earnings premium measure. This slightly decreases our estimate of burden assessed in the NPRM for this regulation from 1,956 responses and 5,868 burden hours to 991 responses and 2,973 burden hours within the first 3 award years after implementation of the regulations.

We believe that a large majority of programs that fail in the first year will fail in the next, as described in the Regulatory Impact Analysis. For that reason, we anticipate that 40 percent of those programs will choose to do an orderly shutdown of the program that failed the earnings premium measure.

Of the remaining 1,981 programs, we anticipate that 50 percent of programs

would seek an appeal, which is very common for institutions to do. However, the Department is also proposing to limit an institution's ability to appeal only in instances where the institution believes the Department erred in its calculations. These final regulations also provide an opportunity for programs to voluntarily opt-out of the federal loan program after the first year a program fails the earnings premium metric.

Taking these factors into consideration, we expect half (50 percent) of programs that fail the earnings premium metric to appeal the decision. If it takes an institution three hours to file an appeal, we anticipate this would increase 2,973 burden hours assigned to 1845–0022 Student Assistance General Provisions.

Entity	Respondents	Hours	Burden Hours
Public	407	3	1,221
Private	165	3	495
Proprietary	417	3	1,251
Total	991	N/A	2,973

§ 668.16 Standards of Administrative Capability

Summary

§ 668.16 requires an institution to demonstrate that they have administrative capability by maintaining the standard that at least half of the institution's students and half of institutions' total title IV, HEA funds do not come from students enrolled in low-earning outcome programs. Failure to do so would cause the institution to be placed on a provisional PPA.

Burden

The Department does not believe changes to 668.16(t) will increase burden on institutions, as administrative capability is an existing requirement of eligibility for Title IV, HEA funds. However, we believe it may take institutions time to acknowledge and understand the new requirements. For that reason, we are adding 1 hour of burden per institution the first year the rule is effective.

$$5,626 \times 1 \text{ hour} = 5,626 \text{ burden hours.}$$

§ 668.43 Institutional and Programmatic Information

Summary

The regulation limits the requirements for providing a prominent link to the program information website to only pages containing cost, financial aid, or admissions information. This reduces burden on institutions.

Burden

When the Department proposed § 668.43 in 2023, it was estimated that these requirements would annually add an additional 5,230 responses and

261,500 hours of burden to 1845–0022. We now remove half of the burden for this regulation while retaining the current assessment of 5,230 responses per year.

$$261,500 \text{ hours} / 2 = 130,750. \\ 5,230 \text{ responses.}$$

§ 668.91 Initial and Final Decisions Summary

The Department adds “eligible non-GE programs” to the requirements of these regulations.

Burden

The Department does not believe this regulation adds additional burden to institutions because this regulation pertains to final decisions on punitive actions. Any burden an institution may face because of this regulation has already been accounted for elsewhere in this section.

§ 668.401 Student Tuition and Transparency System Scope and Purpose

Summary

Regulations require institutions to remove references to the debt-to-earnings metric and update, where necessary, the earnings premium metric.

Burden

Prior to implementation of the regulations, institutions will be required to review the revised earnings premium measure (10 hours), remove any references to the debt-to-earnings metric, and add the revised earnings premium measure to policies, procedures, systems, operations (160 hours), and train staff (60 hours).

$$230 \text{ hours} \times 5,626 \text{ institutions} = 1,293,980 \text{ burden hours.}$$

§ 668.402 Student Tuition and Transparency System Framework

Summary

Section 668.402 amends the current FVT/GE framework. The Department removes the D/E rate metric and uses only an earnings premium measure.

Burden

§ 668.402 decreases burden on institutions. The new approach uses significantly less data reported by institutions and instead relies on administrative enrollment data that institutions have become accustomed to reporting. Currently, there are 5,104,110 burden hours assigned to 1845–0184. With the new framework, institutions will still have recordkeeping and reporting requirements, however, the Department estimates the final rule will eliminate 30 percent of the currently

assessed reporting burden. This results in a decrease of 1,531,233 burden hours every year.

$$30 \text{ percent of } 5,104,110 = 1,531,233.$$

§ 668.403 Calculating Earnings Premium Measure Summary

668.403 explains the process the Secretary uses to calculate the earnings premium measure.

Burden

The Secretary is responsible for calculating the earnings premium measure; therefore, we are not changing any institutional burden based on this regulation.

§ 668.404 Process for Obtaining Data and Calculating Earnings Premium Measure

Summary

Section 668.404 of the regulations explains the processes for the Secretary to obtain data to calculate the earnings premium measure. The Secretary will send institutions lists of completers based on the requirements in this regulation. An institution will have 60 days from receiving the lists to correct any information on the lists.

Burden

This would create burden on institutions. § 668.403 would allow an institution to review information by the Secretary and correct the information, if necessary, within 60 days of receiving the list. While this regulation is permissive rather than instructive, the Department believes that 80 percent of institutions would still take time to review the information on the list provided by the Department. If it takes an average of 3 hours to review the information, this adds 13,503 burden hours to 1845–0022 per year.

Note that although this is not a new requirement, it was not reflected in the PRA analysis for the FVT/GE regulations in which this requirement originated. Therefore, the Department is calculating burden for this requirement in these regulations.

$$80 \text{ percent of } 5,626 = 4,501 \\ \text{institutions.}$$

$$4,501 \text{ institutions} \times 3 \text{ hours} = 13,503 \\ \text{burden hours.}$$

§ 668.405 Determination of the Earnings Premium Measure

Summary

Section 668.405 describes the notice of determination that the Secretary sends to institutions each year with information on the outcomes of their programs.

Burden

The Department estimates it will take an institution 2 hours to review the notice of determination. This adds 11,252 additional burden hours in the first full award year following implementation of the regulations.

$$5,626 \text{ institutions} \times 2 \text{ hours} = 11,252 \\ \text{burden hours.}$$

§ 668.406 Reporting Requirements Summary

Section 668.406 details the reporting requirements for these regulations.

Burden

As stated in earlier sections of this NPRM, the Department estimates that under the regulations, there could be a 30 percent decrease in burden on institutions for reporting. In 2023, we estimated that the annual burden hours for all institutions for reporting would be 1,459,603 hours. The Department believes there will be a 30 percent reduction in burden and will remove 437,801 hours from 1845–0184 Earnings Accountability Reporting, Disclosures, and Warnings every year.

$$30 \text{ percent of } 1,459,603 = 437,801 \text{ less} \\ \text{burden hours.}$$

§ 668.601 Earnings Accountability Scope and Purpose

Summary

Section 668.601 applies the earnings accountability program eligibility consequences to both GE programs and eligible non-GE programs. Previously, the program-level eligibility consequences only applied to GE programs.

Burden

Institutions will be required to apply the earnings accountability metric to nearly all of their Title IV eligible programs. This will require an institution to review the new regulations and new metrics (8 hours), update relevant systems (100 hours), and update policies and procedures and train staff (100 hours). This would add 208 burden hours to institutions per year.

$$208 \text{ hours} \times 5,626 \text{ institutions} = 1,170,208 \text{ total burden hours.}$$

§ 668.602 Earnings Accountability Criteria

Summary

The Department amends and renames § 668.602 to conform with regulations.

Burden

We expect any burden stemming from this regulation will be minimal, as the regulation seeks to conform the

language in the regulation to align with new statutory requirements rather than alter any information collections.

668.603 Low-Earning Outcome Programs

Summary

Under the regulations, a program that has failed the earnings premium measure metric, as long as it is not yet a low-earning outcome program, could conduct a voluntary orderly program closure. This would require the institution to meet certain program discontinuation requirements. A voluntary orderly program closure would allow the program to retain Direct Loan eligibility for no more than 3 years while currently enrolled students completed their program.

Burden

In the preamble to the Notice of Proposed Rulemaking (NPRM), the Department had originally estimated there would be 6,520 programs that failed the earnings premium the first year the calculation becomes effective. As described earlier in the Regulatory Impact Analysis, the Department now estimates that approximately 3,302 programs could fail the earnings premium measure the first year the calculation becomes effective. Of the 3,302 programs, the Department predicts that 40 percent, or 1,321, will choose to complete a voluntary orderly program closure. Based on comparable situations, we anticipate it would take an institution 40 hours of preparation for an orderly program closure, which would include informing students and providing options and agreeing to amend their PPA. We estimate an additional 6 hours for reporting this information to the State, accrediting agency, and the Department. Because of the decrease in the estimated number of program failures since the publication of the NPRM, the burden in the final rule for this regulation has been reduced from 2,608 responses and 119,968 burden hours to 1,321 responses and 60,766 burden hours in the first 3 years the regulations are effective.

1,321 orderly program closures × 46 hours = 60,766 Burden hours.

§ 668.604 Certification Requirements for GE Programs and Eligible Non-GE Programs

Summary

§ 668.604 updates the eligibility requirements for participation in the Direct Loan program.

Burden

These regulatory changes require an update to the current institutional application form, 1845–0012. The form update would be made available for comment through a full public clearance package before being made available for use by the effective dates of the regulations. The burden changes would be assessed to OMB Control Number 1845–0012, Application for Approval to Participate in Federal Student Aid Programs.

§ 668.605 Student Warnings

Summary

In the regulations, student warning requirements would be extended to eligible non-GE programs for both enrolled and prospective students. The regulations would also expand the content of the warnings to explain Pell lifetime eligibility used. Institutions would be required to send this warning when the Secretary notifies them of the potential that their program may become ineligible for some, or all, Title IV aid. Additionally, the institution will be required to provide a Pell lifetime eligibility warning each time Pell is disbursed.

The Department amends the description of academic and financial options from the current requirements of the student warnings.

Burden

The Department estimates 831,000 students will need to receive such warnings. We believe it would take 5 hours to create this warning and an additional 1 hour per 100,000 students for review and transmission of the warnings, totaling 14 burden hours.

Institutions will also need to send the same group of recipients the Pell lifetime eligibility warning notification for each subsequent Pell disbursement. The Department believes it would take institutions 8 hours to create and implement this requirement. We estimate that subsequent warnings would take 1 hour per 100,000 students, adding 8.3 hours of burden. Pell disbursements may happen more than once during one award year. For this reason, we estimate 2 warnings per student per award year. This totals 16.6 hours of burden per award year.

5,626 institutions × 16.6 hours = 93,392 annual burden hours.

§ 685.102 Definitions

Summary

To implement the new provisions enacted in the WFCTA, we add definitions for eligible non-GE program and GE program to 685.102.

Burden

§ 685.102 will require institutions to update their internal system definitions. We believe the burden to conform with these new definitions will be minimal as the definitions serve to provide consistency and clarity of these terms rather than change them.

With this final rule, the Department seeks to promote consistency across institutions and programs by harmonizing the existing FVT/GE framework with the earnings accountability framework established by the OBBB. As part of that harmonization and to reduce burden for institutions, we intend to merge the following existing approved information collections:

1845–0184 Financial Value Transparency and Gainful Employment Reporting Requirements.

1845–0174 Student Disclosure Acknowledgements.

1845–0173 Gainful Employment Student Warnings and Acknowledgments.

The Department requests to retain the 1845–0184 OMB Control number but amends the title of the collection to: Earnings Accountability Reporting, Disclosures, and Warnings.

The Department requests that OMB discontinue 1845–0174 and 1845–0173 because the burden associated with those collections has been absorbed into 1845–0184. This final rule also amends 1845–0022 Student Assistance General Provisions.

The Department has also created a new collection, 1845–NEW Accountability Definitions. Burden for § 685.102 is found in 1845–0021 William D. Ford Federal Direct Loan Program (DL) Regulations. That collection, 1845–0021, was under review with the Reimagining and Improving Student Education (RISE) Notice of Proposed Rulemaking (NPRM) at the time this rule was being drafted. To accurately track the burden associated with the new regulations and definitions regarding these regulations at the same time as the RISE NPRM, the Department established a new collection to track burden for accountability changes in § 685.102. Once all regulations are final, the Department plans to merge the new collection with 1845–0021 William D. Ford Federal Direct Loan Program (DL) Regulations.

Along with the two collections listed above, §§ 600.10, 600.21, 685.300, 668.604 requires the Department to update 1845–0012, Application for Approval to Participate in Federal Student Aid Programs. Form updates to 1845–0012 will be completed through

the full clearance process prior to the date the regulations are effective.

For each regulation containing burden in this NPRM, we provide below our estimates for potential burden changes.

To estimate costs for institutions, we used the median hourly wage for Education Administrators, Postsecondary (11-9033) from the U.S. Bureau of Labor Statistics. In 2024 this

was \$49.98. To account for overhead costs and benefits, the Department has multiplied by this wage by two, resulting in hourly costs of \$99.96.

BILLING CODE 4000-011-P

Regulation	OMB Control #	Burden Hours	# of Responses	Costs
\$ 668.2 General Definitions	1845-NEW Accountabil ity Definitions	288 X 5,626 1,620,288 total burden hours	5,626	\$161,963,988
\$ 668.14 Program Participation Agreement	1845-0022 Student Assistance General Provisions	991 X 3 = 2,973	991	\$297,181
\$ 668.16 Standards of administrative capability	1845-0022 Student Assistance General Provisions	1 hour X 5,626 institutions = 5,626 burden hours	5,626	\$562,374
\$ 668.43 Institutional and programmatic information	1845-0022 Student Assistance General Provisions	-24.5 burden hours X 5,320 institutions = -130,750	5,320	-\$13,069,770
\$ 668.401 Student tuition and transparency system scope and purpose	1845-0184 Earnings Accountabil ity Reporting, Disclosures , and Warnings	230 hours X 5,626 institutions = 1,293,980	5,626	\$129,346,240
\$ 668.402 Student tuition and transparency system framework	1845-0184 Earnings Accountabil ity Reporting, Disclosures , and Warnings	272 hours X 5,626 = - 1,531,233	5,626	-\$153,062,050
\$ 668.404 Process for obtaining data and calculating earnings	1845-0184 Earnings Accountabil ity Reporting, Disclosures	4,501 X 3 hours = 13,503	4,501	\$1,349,759

Regulation	OMB Control #	Burden Hours	# of Responses	Costs
premium measure	, and Warnings			
\$ 668.405 Determination of the earnings premium measure	1845-0184 Earnings Accountability Reporting, Disclosures, and Warnings	2 hours X 5,626 = 11,252	5,626	\$1,124,750
\$ 668.406 Reporting requirements	1845-0184 Earnings Accountability Reporting, Disclosures, and Warnings	-77.82 X 5,626 = - 437,801	5,626	-\$43,762,588
\$ 668.601 Earnings accountability scope and purpose	1845-0184 Earnings Accountability Reporting, Disclosures, and Warnings	208 hours x 5,626 institutions = 1,170,208 total burden hours	5,626	\$116,973,991
668.603 Low-earning outcome programs	1845-0184 Earnings Accountability Reporting, Disclosures, and Warnings	1,321 X 46 hours = 60,766 burden hours	1,321	\$6,074,169
\$ 668.605 Student Warnings	1845-0184 Earnings Accountability Reporting, Disclosures, and Warnings	16.6 hours X 5,626 = 93,392 burden hours	5,626	\$9,335,424
Total		2,172,204	35,249	\$217,133,512

BILLING CODE 4000-011-C

A Federal agency may not conduct or sponsor a collection of information unless OMB approves the collection under the PRA and the corresponding information collection instrument displays a currently valid OMB control number.

Notwithstanding any other provision of law, no person is required to comply with or is subject to penalty for failure to comply with, a collection of information if the collection instrument does not display a currently valid OMB control number.

12. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has determined that this rule does meet the criteria in 5 U.S.C. 804(2).

Intergovernmental Review

This program is subject to E.O. 12372 and the regulations in 34 CFR part 79. One of the objectives of the E.O. is to foster an intergovernmental partnership and strengthen Federalism. The E.O. relies on processes developed by State and local governments for coordination

and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Education Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e-4, the Secretary requests comments on whether these final regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Federalism

E.O. 13132 requires us to provide meaningful and timely input by State and local elected officials in the development of regulatory policies that have Federalism implications. “Federalism implications” means 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. The proposed regulations do not have Federalism implications.

Accessible Format: On request to the program contact person(s) listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

List of Subjects

34 CFR Part 600

Colleges and universities, Grant program—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Grant program—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Nicholas Kent,

Under Secretary of Education.

For the reasons discussed in the preamble, the Secretary of Education amends parts 600, 668, and 685 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

- 1. The authority citation for part 600 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

- 2. Amend § 600.10 by revising paragraph (c)(3) to read as follows:

§ 600.10 Date, extent, duration, and consequence of eligibility.

* * * * *

(c) * * *

(3) For a gainful employment program or eligible non-GE program under 34 CFR part 668, subpart S, subject to any restrictions in 34 CFR 668.603 on establishing or reestablishing the Direct Loan eligibility of the program, an eligible institution must update its application under § 600.21.

* * * * *

- 3. Amend § 600.21 by revising paragraph (a)(11) introductory text and paragraph (a)(11)(vi) to read as follows:

§ 600.21 Updating application information.

(a) * * *

(11) For any GE program or eligible non-GE program, as defined under 34 CFR 668.2(b)—

* * * * *

(vi) Updating the certification pursuant to 34 CFR 668.604(a).

* * * * *

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

- 4. The general authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001–1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, 1099c–1, and 1231a, unless otherwise noted.

- 5. Amend § 668.2(b) by:

■ a. Removing the definitions of “Annual debt-to-earnings rate (Annual

D/E rate)” and “Discretionary debt-to-earnings rate (discretionary D/E rate)”;

■ b. Revising the definition of “Cohort period”;

■ c. Adding, in alphabetical order, a definition of “Earnings”;

■ d. Revising the definitions of “Earnings premium”, “Earnings threshold”, “Eligible non-GE program”, “Federal agency with earnings data”, and “Institutional grants and scholarships”; and

■ e. Removing the definitions of “Metropolitan statistical area”, “Poverty Guideline”, “Qualifying graduate program”, and “Substantially similar program”.

The addition and revisions read as follows:

§ 668.2 General definitions.

* * * * *

(b) * * *

Cohort period. The set of award years used to identify a cohort of students who completed a program and whose earnings outcomes are used to calculate the earnings premium measure under subpart Q of this part. The Secretary uses a single-year cohort period to calculate the measure for a program when the number of students (after exclusions identified in § 668.403(c)) in the single-year cohort period is 30 or more. The Secretary sequentially expands the cohort period when the number of students completing the program in the single-year cohort period is fewer than 30. The cohort period includes award years that are—

(1) For the single-year cohort period, the fourth award year prior to the year for which the most recent data is available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to § 668.403.

(2) For the expanded cohort period, the Secretary will sequentially add prior award year data to the single-year cohort in the following order until the cohort equals or exceeds 30 students (unless the Secretary determines the data is unreliable, in which case the cohort size may be increased until the Secretary determines the data is statistically reliable)—

(i) Prior award years within the same program—

(A) The fifth award year prior to the year for which the most recent data is available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to § 668.403;

(B) The sixth and seventh award years prior to the year for which the most recent data is available from the Federal agency with earnings data at the time

the earnings premium measure is calculated, pursuant to § 668.403;

(ii) For all programs within the same 4-digit CIP code and credential level, the fourth, fifth, sixth, and seventh award years prior to the year for which the most recent data is available from the Federal agency with earnings data at the time the earnings premium measure is calculated, pursuant to § 668.403.

* * * * *

Earnings. For the purposes of subparts Q and S of this part, wages, income as reported to the Internal Revenue Service, and other earned income, including from self-employment.

Earnings premium. The amount by which the median annual earnings of students who recently completed a program exceed the earnings threshold, as calculated under § 668.403. If the median annual earnings of recent completers is equal to the earnings threshold, the earnings premium is zero. If the median annual earnings of recent completers is less than the earnings threshold, the earnings premium is negative.

Earnings threshold. (1) For undergraduate programs offered by an eligible institution located in a State, based on data from the Census Bureau, the median earnings for working adults aged 25–34, with only a high school diploma (or recognized equivalent), who worked and were not enrolled in an eligible institution during the year of the associated measured earnings—

(i) In the State in which the institution is located; or

(ii) Nationally, if fewer than 50 percent of the students enrolled in the institution during the award year the calculations are made are from the State where the institution is located.

(2) For graduate programs offered by an eligible institution located in a State, based on data from the Census Bureau, the median earnings of working adults aged 25–34, with only a baccalaureate degree, who worked and were not enrolled in an eligible institution during the year of the associated measured earnings. The median earnings will be—

(i) The lowest of the median earnings of working adults—

(A) In the State in which the institution is located;

(B) In the same field of study under the two-digit CIP or four-digit CIP code, as such data is available and statistically reliable, in the State in which the institution is located; or

(C) Nationally in the same field of study under the two-digit CIP or four-digit CIP code, as such data is available and statistically reliable; or

(ii) If fewer than 50 percent of the students enrolled in the institution

during the award year the calculations are made are from the State where the institution is located, the lowest of the median earnings of working adults—

(A) Nationally; or

(B) Nationally in the same field of study under the two-digit CIP or four-digit CIP code, as such data is available and statistically reliable.

(3) For States where the Census Bureau Data necessary to perform the calculations set forth in paragraphs (1) and (2) of this definition are not available, the earnings threshold will be one dollar.

(4) For programs offered by eligible foreign institutions—

(i) For undergraduate programs at these institutions, based on data from the Census Bureau, the median earnings of working adults aged 25–34 in the United States, with only a high school diploma or recognized equivalent, who were not enrolled in an eligible institution during the year of the associated measured earnings; or

(ii) For graduate programs at these institutions, based on data from the Census Bureau, the median earnings of working adults aged 25–34, with only a baccalaureate degree, who were not enrolled in an eligible institution during the year of the associated measured earnings. The median earnings will be the lowest of the median earnings of working adults—

(A) Nationally in the United States; or

(B) Nationally in the United States in the same field of study under the two-digit CIP code or four-digit CIP code, as such data is available and statistically reliable.

* * * * *

Eligible non-GE program. An educational program (other than a GE program) that is subject to HEA Section 454(c), offered by an institution and included in the institution's participation in the title IV, HEA programs, identified by a combination of the institution's six-digit Office of Postsecondary Education ID (OPEID) number, the program's six-digit CIP code as assigned by the institution or determined by the Secretary, and the program's credential level. Includes all coursework associated with the program's credential level.

* * * * *

Federal agency with earnings data. A Federal agency with which the Department enters into an agreement to access earnings data for the earnings threshold or value-added earnings measure. The agency must have individual earnings data sufficient to match with title IV, HEA recipients who completed any eligible program during

the cohort period and may include agencies such as the Treasury Department (including the Internal Revenue Service), the Social Security Administration (SSA), the Department of Health and Human Services (HHS), and the Census Bureau.

* * * * *

Institutional grants and scholarships. Assistance that the institution or its affiliate controls or directs to reduce or offset the original amount of a student's institutional costs and that does not have to be repaid. Typically, an institutional grant or scholarship includes a grant, scholarship, fellowship, discount, or fee waiver, including a grant or scholarship which could convert to a loan if a student does not meet certain requirements. An institutional grant or scholarship does not include Federal education benefits; State, Tribal, local, or private grants and scholarships that the institution does not control or direct; the institutional share of Federal Campus-based programs; or assistance that must be repaid.

* * * * *

■ 6. Amend § 668.14 by revising paragraphs (h) through (k) and adding paragraph (l) to read as follows:

§ 668.14 Program participation agreement.

* * * * *

(h)(1) In addition to any other conditions that the Secretary may deem appropriate, if an institution does not comply with the provisions of § 668.16(t) (at time of enactment) in two out of any three consecutive award years, the institution will be placed on provisional status and the institution's low-earning outcome programs shall not qualify for title IV, HEA funds.

(2) The institution shall have the opportunity to appeal the Secretary's determination that the institution failed to meet the conditions in § 668.16(t) in two out of any three consecutive award years under subpart G of this part.

(3) Notwithstanding paragraph (h)(1) of this section, an institution's low-earning outcome program is not subject to an automatic loss of eligibility for title IV, HEA funds if—

(i) The institution is not participating in the Direct Loan program and has not participated in that program for the five most recently completed award years; or

(ii) The institution agrees, in an amendment to its program participation agreement, that it will use its authority under 34 CFR 685.203(m)(2) to prevent students from borrowing Direct Loans in the program for at least five years.

(4) The exception in paragraph (h)(3)(ii) of this section only applies if

the Secretary determines that the program has failed to satisfy the requirements of § 668.402, the program is not a low-earning outcome program, and the Secretary determines that it is in the best interest of students.

(i) The Secretary permits the extension of eligibility if, within 120 days of the Secretary's determination, the institution and the Secretary agree to add an amendment with the provisions in paragraph (h)(3)(ii) of this section to the institution's program participation agreement.

(ii) Once granted, the exception will continue to apply for as long as the institution agrees to prevent Direct Loan borrowing in the program.

(i)(1) A program participation agreement becomes effective on the date that the Secretary signs the agreement.

(2) A new program participation agreement supersedes any prior program participation agreement between the Secretary and the institution.

(j)(1) Except as provided in paragraphs (g) and (i) of this section, the Secretary terminates a program participation agreement through the proceedings in subpart G of this part.

(2) An institution may terminate a program participation agreement.

(3) If the Secretary or the institution terminates a program participation agreement under paragraph (f) of this section, the Secretary establishes the termination date.

(k) An institution's program participation agreement automatically expires on the date that—

(1) The institution changes ownership that results in a change in control as determined by the Secretary under 34 CFR part 600; or

(2) The institution's participation ends under the provisions of § 668.26(a) (1), (2), (4), or (7).

(l) An institution's program participation agreement no longer applies to or covers a location of the institution as of the date on which that location ceases to be a part of the participating institution.

■ 7. Amend § 668.16 by revising paragraph (t) to read as follows:

§ 668.16 Standards of administrative capability.

* * * * *

(t) Demonstrates that at least half of the institution's recipients of title IV, HEA funds and at least half of the institution's total title IV, HEA funds are not from low-earning outcome programs under subpart S of this part;

* * * * *

■ 8. Amend § 668.43 by revising and republishing paragraph (d) to read as follows:

§ 668.43 Institutional and programmatic information.

* * * * *

(d)(1) *Program information website.* The Secretary will establish and maintain a website with information about institutions and their educational programs. For this purpose, an institution must provide to the Department such information about the institution and its programs as the Secretary prescribes through a notice published in the **Federal Register**. The Secretary may conduct consumer testing to inform the design of the website.

(i) The website must include, but is not limited to, the following items, to the extent reasonably available:

(A) The published length of the program in calendar time (*i.e.*, weeks, months, years).

(B) As calculated by the Secretary, the median length of calendar time (*i.e.*, weeks, months, years) taken for full-time and less-than-full-time students to complete the program's academic requirements and obtain the degree or credential awarded by the program.

(C) The total number of individuals enrolled in the program during the most recently completed award year.

(D) The total cost of tuition and fees, and the total cost of books, supplies, and equipment, that a student would incur for completing the program within the published length of the program.

(E) Of the individuals enrolled in the program during the most recently completed award year, the percentage who received a Direct Loan program loan, a private loan, or both for enrollment in the program.

(F) As calculated by the Secretary, the median loan debt of students who completed the program during the most recently completed award year or for all students who completed or withdrew from the program during that award year.

(G) As provided by the Secretary, the median earnings of students who completed the program as obtained under § 668.404(c), or of all students who completed or withdrew from the program, during a period determined by the Secretary.

(H) Whether the program is programmatically accredited and the name of the accrediting agency, as reported to the Secretary.

(I) As calculated by the Secretary, the program's earnings premium measure.

(ii) The website may also include other information deemed appropriate by the Secretary, such as the following items:

(A) The primary occupations (by name, SOC code, or both) that the program prepares students to enter,

along with links to occupational profiles on O*NET (www.onetonline.org) or its successor site.

(B) As reported to or calculated by the Secretary, the program or institution's completion rates and withdrawal rates for full-time and less-than-full-time students.

(C) As calculated by the Secretary, the medians of the total cost of tuition and fees, and the total cost of books, supplies, and equipment, and the total net cost of attendance paid by students completing the program.

(D) As calculated by the Secretary, the loan repayment rate for students or graduates who entered repayment on Direct Loan program loans during a period determined by the Secretary.

(2) *Program web pages.* The institution must provide a prominent link to, and any other needed information to access, the website maintained by the Secretary on any web page containing cost, financial aid, or admissions information about the program or institution. The Secretary may require the institution to modify a web page if the information is not sufficiently prominent, readily accessible, clear, conspicuous, or direct.

(3) *Distribution to prospective students.* The institution must provide the relevant information to access the website maintained by the Secretary to any prospective student, or a third party acting on behalf of the prospective student, before the prospective student signs an enrollment agreement, completes registration, or makes a financial commitment to the institution.

(4) *Distribution to enrolled students.* The institution must provide the relevant information to access the website maintained by the Secretary to any enrolled title IV, HEA recipient prior to the start date of the first payment period associated with each subsequent award year in which the student continues enrollment at the institution.

■ 9. Amend § 668.91 by revising paragraph (a)(3)(vi) to read as follows:

§ 668.91 Initial and final decisions.

(a) * * *

(3) * * *

(vi) In a limitation or termination action against a GE program or eligible non-GE program based upon the program's failure to meet the requirements in § 668.403, the hearing official must limit or terminate the program's eligibility unless the hearing official concludes that the Secretary erred in the applicable calculation.

* * * * *

■ 10. Revise subpart Q to read as follows:

Subpart Q—Student Tuition and Transparency System

- Sec.
 668.401 Student tuition and transparency system scope and purpose.
 668.402 Student tuition and transparency system framework.
 668.403 Calculating earnings premium measure.
 668.404 Process for obtaining data and calculating earnings premium measure.
 668.405 Determination of the earnings premium measure.
 668.406 Reporting requirements.
 668.407 Severability.

§ 668.401 Student tuition and transparency system scope and purpose.

General. This subpart applies to a GE program or eligible non-GE program offered by an eligible institution, and establishes the rules and procedures under which—

- (a) An institution reports information about the program to the Secretary; and
- (b) The Secretary assesses the program's earnings outcomes.

§ 668.402 Student tuition and transparency system framework.

(a) *General.* The Secretary assesses the program's earnings outcomes using an earnings premium measure.

(b) *Earnings premium measure.* For each award year, the Secretary calculates the earnings premium measure for an eligible program, using the procedures in §§ 668.403 and 668.404.

(c) *Outcomes of the earnings premium measure.* (1) A program passes the earnings premium measure if the median annual earnings of the students who completed the program equal or exceed the earnings threshold.

(2) A program fails the earnings premium measure if the median annual earnings of the students who completed the program are less than the earnings threshold.

(3) If a program is designed to prepare a student for employment in a recognized occupation that qualifies for a deduction of tip income under 26 CFR 1.224–1(h), and 50 percent or more of individuals in the occupation receive income from tips, the program will not be considered to have passed or failed the earnings premium measure for any award year in which the Secretary evaluates earnings data from tax year 2025 or prior. In this circumstance, the Department will make earnings data and the earnings threshold that would have been used for the program publicly available.

§ 668.403 Calculating earnings premium measure.

(a) *General.* Except as provided under paragraph (d) of this section, for each

award year, the Secretary calculates the earnings premium measure for a program by determining whether the median annual earnings of the students who completed the program equal or exceed the earnings threshold.

(b) *Median annual earnings; earnings threshold.* (1) The Secretary obtains from a Federal agency with earnings data, under § 668.404, the median annual earnings of the students who completed the program during the cohort period for the fourth tax year following program completion, who are working and are not excluded under paragraph (c) of this section; and (2) The Secretary uses the median annual earnings of working adults using data from the Census Bureau to calculate the earnings threshold described in § 668.2.

(3) The Secretary determines the earnings thresholds and publishes the thresholds annually.

(c) *Exclusions.* The Secretary excludes a student from the earnings premium measure calculation if the Secretary determines that—

(1) One or more of the student's Direct Loan program loans are under consideration by the Secretary, or have been approved, for a discharge on the basis of the student's total and permanent disability, under 34 CFR 674.61, 682.402, or 685.212;

(2) The student was enrolled in any other educational program at the institution or at another eligible institution during the calendar year for which the Secretary obtains earnings information under paragraph (b)(1) of this section;

(3) For undergraduate programs, the student completed a higher credentialed undergraduate program at the institution subsequent to completing the program as of the end of the most recently completed award year prior to the calculation of the earnings premium measure under this section;

(4) For graduate programs, the student completed a higher credentialed graduate program at the institution subsequent to completing the program as of the end of the most recently completed award year prior to the calculation of the earnings premium measure under this section;

(5) The program in which the student was enrolled was an approved prison education program;

(6) The program in which the student was enrolled was a comprehensive transition and postsecondary program; or

(7) The student died.

(d) Earnings premium measures not issued. The Secretary does not issue the

earnings premium measure for a program under § 668.405 if—

(1) After applying the exclusions in paragraph (c) of this section, fewer than 30 students completed the program during the fully expanded cohort period; or

(2) The Federal agency with earnings data does not provide the median earnings for the program as provided under paragraph (b) of this section.

§ 668.404 Process for obtaining data and calculating earnings premium measure.

(a) *Administrative data.* In calculating the earnings premium measure for a program, the Secretary uses student enrollment, disbursement, and program data, or other data the institution is required to report to the Secretary to support its administration of, or participation in, the title IV, HEA programs. In accordance with procedures established by the Secretary, the institution must update or otherwise correct any reported data no later than 60 days after the end of an award year.

(b) *Process overview.* The Secretary uses the administrative data to—

(1) Compile lists of students who completed each program during the cohort period. The Secretary—

(i) Removes from those lists students who are excluded under § 668.403(c);

(ii) Provides the list to institutions; and

(iii) Allows the institution to correct the information reported by the institution on which the list was based, no later than 60 days after the date the Secretary provides the list to the institution;

(2) Obtain from a Federal agency with earnings data the median annual earnings of the students on each list, as provided in paragraph (c) of this section; and

(3) Calculate the earnings premium measure and provide it to the institution.

(c) *Obtaining earnings data.* For each list submitted to the Federal agency with earnings data, the agency returns to the Secretary the median annual earnings of the students on the list who are working and whom the Federal agency with earnings data has matched to earnings data, in aggregate and not in individual form.

(d) *Calculating earnings premium measure.* If the Federal agency with earnings data includes reports from records of earnings on at least 16 students, the Secretary uses the median annual earnings provided by the Federal agency with earnings data to calculate the earnings premium measure for each program.

§ 668.405 Determination of the earnings premium measure.

(a) For each award year for which the Secretary calculates the earnings premium measure for a program, the Secretary issues a notice of determination.

(b) The notice of determination informs the institution of the following:

(1) The earnings premium measure for each program as determined under § 668.403.

(2) The determination by the Secretary of whether each program is passing or failing, as described in § 668.402, and the consequences of that determination.

(3) Whether the institution is required to provide the student warning under § 668.605.

(4) Whether the program could become ineligible under subpart S of this part based on its final earnings premium measure for the next award year for which it is calculated for the program.

(5) The determination by the Secretary that the program is a low-earning outcome program and will become ineligible for Direct Loan funds under Subpart S of this part because the program has failed the earnings premium measure in two out of three consecutive award years for which the earnings premium measure is calculated.

§ 668.406 Reporting requirements.

(a) *Data elements.* In accordance with procedures established by the Secretary, an institution offering any GE program or eligible non-GE program must report to the Department—

(1) For each GE program and eligible non-GE program, for its most recently completed award year—

(i) The name, CIP code, credential level, and length of the program;

(ii) Whether the program is programmatically accredited and, if so, the name of the accrediting agency;

(iii) Whether the program meets licensure requirements or prepares students to sit for a licensure examination in any State, and, consistent with the requirements in 34 CFR 668.43(a)(5)(v), a list of all States where the institution has determined the program meets such requirements, including as part of the institution's obligation under 34 CFR 668.14(b)(32); and

(iv) The total number of students enrolled in the program during the most recently completed award year, including both recipients and non-recipients of title IV, HEA funds.

(2) For each student—

(i) Information needed to identify the student and the institution;

(ii) The date the student initially enrolled in the program;

(iii) The student's total cost of attendance (COA) for the award year under HEA section 472;

(iv) The total actual tuition and fees assessed to the student for the award year;

(v) The student's residency tuition status by State or district, as applicable;

(vi) The student's total allowance for books, supplies, and equipment from their COA for the award year under HEA section 472;

(vii) The student's total allowance for housing and food from their COA for the award year under HEA section 472;

(viii) The amount of institutional grants and scholarships disbursed to the student for the award year;

(ix) The amount of other Federal, State, Tribal, or private grants disbursed to the student for the award year; and

(x) The amount of any private education loans disbursed to the student for the award year for enrollment in the program that the institution is, or should reasonably be, aware of, including private education loans made by the institution;

(3) If the student completed or withdrew from the program during the award year—

(i) The total amount the student received from private education loans, as defined in 34 CFR 601.2(b), for enrollment in the program that the institution is, or should reasonably be, aware of;

(ii) The total amount of tuition and fees assessed the student for the student's entire enrollment in the program;

(iii) The total amount of the allowances for books, supplies, and equipment included in the student's title IV, HEA COA for each award year in which the student was enrolled in the program, or a higher amount if assessed the student by the institution for such expenses;

(iv) The total amount of institutional grants and scholarships provided for the student's entire enrollment in the program;

(v) The total amount of Federal, State, private, or other grants and scholarships provided for the student's entire enrollment in the program; and

(4) As described in a notice published by the Secretary in the **Federal Register**, any other information the Secretary requires the institution to report.

(b) *Initial and annual reporting.* (1)

An eligible institution must report the information required under paragraph (a) of this section no later than—

(i) October 1, following the date these regulations take effect, for the two most

recently completed award years prior to that date; and

(ii) For subsequent award years, October 1, following the end of the award year, unless the Secretary establishes different dates in a notice published in the **Federal Register**.

(2) For any award year, if an institution fails to provide all or some of the information required under paragraph (a) of this section, the institution must provide to the Secretary an explanation of why the institution failed to comply with any of the reporting requirements that is acceptable to the Secretary.

§ 668.407 Severability.

If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of the part and this subpart, and the application of this subpart's provisions to any other person, act, or practice, will not be affected thereby.

■ 11. Revise subpart S to read as follows:

Subpart S—Earnings Accountability

Sec.

668.601 Earnings accountability scope and purpose.

668.602 Earnings accountability criteria.

668.603 Low-earning outcome programs.

668.604 Certification requirements for GE programs and eligible non-GE programs.

668.605 Student warnings.

668.606 Severability.

§ 668.601 Earnings accountability scope and purpose.

(a) *General.* This subpart applies to an eligible non-GE program or a GE program offered by an eligible institution and establishes rules and procedures under which the Secretary determines that the program is eligible for Direct Loan program funds.

(b) *Exemption.* The provisions of this subpart shall not apply to programs at institutions that enroll only individuals with a documented *Specific Learning Disability* or *Autism*, as defined under 34 CFR 300.8.

§ 668.602 Earnings accountability criteria.

(a) A GE program or eligible non-GE program provides training that leads to acceptable earnings outcomes if the program—

(1) Satisfies the applicable certification requirements in § 668.604; and

(2) Is not a failing program under the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated.

(b) If the Secretary does not calculate or issue earnings premium measures for a program for an award year, the program receives no result under the earnings premium measure for that award year and remains in the same status under the earnings premium measure as the previous award year.

§ 668.603 Low-earning outcome programs.

(a) *Low-earning outcome programs.* If a GE program or eligible non-GE program is a failing program under the earnings premium measure in § 668.402 in two out of any three consecutive award years for which the program's earnings premium measure is calculated, the program is a low-earning outcome program and the Secretary notifies an institution of its determination that a program is a low-earning outcome program and the date that the program's participation in the Direct Loan program will end in a notice of determination under § 668.405.

(b) *Process for appeal.* An institution may appeal a determination under paragraph (a) of this section, through a process described by the Secretary, within 30 days of receipt of a notification of determination indicating that a program is a low-earning outcome program.

(1) An institution may only appeal an earnings premium measure that the program has failed in the three most recent consecutive award years for which the measure was calculated.

(2) An institution that timely submits an appeal that meets the requirements of this section is not subject to any consequences under paragraph (d) of this section while the Secretary considers the appeal.

(c) *Basis for appeal.* Institutions may not appeal the Secretary's determination under paragraph (a) except on the basis of an error in the Secretary's calculation of the program's earnings premium measure under § 668.403, including only—

(1) The individuals that are included in the list of completers provided to the Federal agency with earnings data under § 668.404;

(2) The determination of the appropriate earnings threshold under the definition of *earnings threshold* in § 668.2;

(3) The comparison of the median earnings determined by the Federal agency with earnings data and the earnings threshold for the program; and

(4) Such other bases for appeal determined by the Secretary.

(d) *Restrictions—(1) Direct Loan program ineligibility.* Except as provided in § 668.26(d), or as provided in paragraph (d)(4) of this section, an

institution may not disburse Direct Loan program funds to students enrolled in a low-earning outcome program.

(2) *Period of ineligibility.* An institution may not seek to reestablish the Direct Loan program eligibility of a failing program that it discontinued voluntarily either before or after the earnings premium measure is issued for that program, or reestablish the Direct Loan program eligibility of a program that is ineligible under the earnings premium measure, until two years following the earlier of the date the program loses eligibility under paragraph (a) of this section or the date the institution voluntarily discontinued the failing program.

(3) *Restoring eligibility.* A low-earning outcome program, or a failing program that an institution voluntarily discontinues, remains ineligible for Direct Loan program participation until the institution establishes the eligibility of that program under § 668.604(b).

(4) *Retaining eligibility during orderly program closure.* (i) Notwithstanding paragraph (d)(1) of this section, if the Secretary determines that a program has failed to satisfy the requirements of § 668.402, the program is not a low-earning outcome program, and the Secretary determines that it is in the best interest of students, the Secretary may allow such program to continue participation in the Direct Loan program. Such participation shall not exceed the lesser of 3 years or the full-time normal duration of the program. The Secretary permits the extension of eligibility if, within 120 days of the Secretary's determination, the institution and the Secretary agree to add an amendment to the institution's program participation agreement, that requires the institution to—

(A) Cease accepting new enrollments on or after the date of the agreement;

(B) Engage in an orderly closure of the program in which the institution provides an opportunity for enrolled individuals to complete their program regardless of their academic progress at the time of closure;

(C) Inform the institution's State authorizing agency and accrediting agency and to meet any program discontinuation or closure requirements of those agencies;

(D) Acknowledge that the program has been voluntarily discontinued and subject to the requirements of § 668.603(c)(2);

(E) Maintain the program under a warning status and provide warning notice to students in accordance with the requirements set forth in § 668.605, with the exception of (c)(1)(ii) of that section;

(F) Provide to students the academic and financial options to continue their education in another program to which the student's academic credit would transfer that has not failed to satisfy the requirements of § 668.402, either at the same institution or a different institution;

(G) Agree not to restart the same program or to start a program that shares the same 4-digit CIP code for at least two award years following the completion of the orderly closure described under paragraph (d)(4)(i)(B) of this section.

(ii) An institution may not add the addendum provided in § 668.603(c)(4)(i) in cases where the program or the institution based upon the program's compliance is subject to a probation or equivalent action by a recognized accrediting agency or State regulatory agency (including licensing Boards), or where the institution is subject to § 668.162(c) or (d)(2).

(5) *Limitation.* The ending of a program's participation in the Direct Loan program is not considered a limitation under § 668.94.

§ 668.604 Certification requirements for GE programs and eligible non-GE programs.

(a) *Program participation agreement certification.* As a condition of its continued participation in the title IV, HEA programs, an institution must certify in its program participation agreement with the Secretary under § 668.14 that each of its currently eligible GE programs and eligible non-GE programs included on its Eligibility and Certification Approval Report meets the requirements of paragraph (c) of this section. As provided under 34 CFR 600.21(a)(11)(vi), an institution must update the certification within 10 days if there are any changes in the approvals for a program, or other changes for a program that render an existing certification no longer accurate.

(b) *Establishing eligibility and disbursing funds.* (1) An institution establishes a program's eligibility for Direct Loan program funds by updating the list of the institution's Direct Loan-eligible programs maintained by the Department to include that program, as provided under 34 CFR 600.21(a)(11)(i). By updating the list of the institution's Direct Loan-eligible programs, the institution affirms that the program satisfies the certification requirements in paragraph (c) of this section. Except as provided in paragraphs (b)(2) and (3) of this section, after the institution updates its list of Direct Loan-eligible programs, the institution may disburse

Direct Loan program funds to students enrolled in that program.

(2) An institution with one or more failing programs that the institution voluntarily discontinued or that became ineligible as described in § 668.603(c) may not update its list of Direct Loan-eligible programs as outlined in this paragraph (b)(2).

(i) Until the two-year loss of eligibility period under § 668.603 has expired for the failing program, the institution may not update its list of Direct Loan-eligible programs to include a program that—

(A) Is offered at the same credential level as the failing program;

(B) Shares the same 4-digit CIP code as the failing program; and

(C) Shares one or more overlapping SOC codes, according to the CIP SOC Crosswalk that is provided by a Federal agency, as the failing program;

(ii) After the two-year loss of eligibility period under § 668.603 has ended, the institution may not update its list of Direct Loan-eligible programs to include the failing program if the program was also a failing program under § 668.402 in either of the two most recent award years; and

(iii) After the two-year loss of eligibility period under § 668.603 has ended, if the failing program was also a failing program under § 668.402 in either of the two most recent award years, the institution may not update its list of Direct Loan-eligible programs to include a program that—

(A) Is offered at the same credential level as the failing program;

(B) Shares the same 4-digit CIP code as the failing program; and

(C) Shares one or more overlapping SOC codes, according to the CIP SOC Crosswalk that is provided by a Federal agency, as the failing program.

(c) *Direct Loan program eligibility certifications.* An institution certifies for each Direct Loan-eligible program included on its Eligibility and Certification Approval Report, at the time and in the form specified in this section, that—

(1) The institution agrees to comply with the requirements of subparts Q and S of this part; and

(2) Such program is approved by a recognized accrediting agency or is otherwise included in the institution's accreditation by its recognized accrediting agency, or, if the institution is a public postsecondary vocational institution, the program is approved by a recognized State agency for the approval of public postsecondary vocational education in lieu of accreditation.

§ 668.605 Student warnings.

(a) *Events requiring a warning to students and prospective students.* The institution must provide a warning with respect to a GE program or eligible non-GE program to students and prospective students for any year for which the Secretary notifies an institution that the program could become ineligible for the Direct Loan program under this subpart based on its final earnings premium measure for the next award year for which it is calculated for the program.

(b) *Subsequent warning.* If a student or prospective student receives a warning under paragraph (a) of this section, but does not seek to enroll until more than 12 months after receiving the warning, the institution must again provide the warning to the student or prospective student, unless, since providing the initial warning, the program has passed the earnings premium measure for the two most recent consecutive award years in which the metric was calculated for the program.

(c) *Content of warning.* The institution must provide in the warning—

(1) A warning, as specified by the Secretary in a notice published in the **Federal Register**, that—

(i) The program has not passed standards established by the U.S. Department of Education based on the reported earnings of program graduates;

(ii) The program could lose access to Direct Loans based on the next calculated program metrics; and

(iii) For an institution that has failed to comply with the requirements of § 668.16(t) in at least one of the three most recent consecutive award years, the program could also lose access to the other title IV, HEA programs;

(2) The relevant information to access the program information website maintained by the Secretary described in § 668.43(d);

(3) A statement that the student must acknowledge having viewed the warning before the institution may disburse any title IV, HEA funds to the student; and

(4) For a student who is eligible for Pell Grant funds, a description of the student's remaining lifetime eligibility for Pell Grant funds and an explanation that all Pell Grant funds received for enrollment in the program count against the student's future lifetime eligibility.

(d) *Delivery to enrolled students.* (1) An institution must provide the warning required under this section in writing, by hand delivery, mail, or electronic means, to each student enrolled in the program no later than 30 days after the date of the Secretary's notice of determination under § 668.405 and

maintain documentation of its efforts to provide that warning.

(2) The warning must be the only substantive content contained in these written communications.

(3) The warning regarding the student's remaining Pell Grant eligibility under § 668.605(c)(4) must be provided to an enrolled student at the time that the institution makes a disbursement of Pell Grant funds to that student.

(e) *Delivery to prospective students.*

(1) An institution must provide the warning as required under this section to each prospective student or to each third party acting on behalf of the prospective student at the first contact about the program between the institution and the student or the third party acting on behalf of the student by—

(i) Hand-delivering the warning as a separate document to the prospective student or third party, individually or as part of a group presentation;

(ii) Sending the warning to the primary email address used by the institution for communicating with the prospective student or third party about the program, provided that the warning is the only substantive content in the email and that the warning is sent by a different method of delivery if the institution receives a response that the email could not be delivered; or

(iii) Providing the warning orally to the student or third party if the contact is by telephone.

(2) An institution may not enroll, register, or enter into a financial commitment with the prospective student with respect to the program earlier than three business days after the institution delivers the warning as described in paragraph (f) of this section.

(f) *Acknowledgment prior to enrollment and disbursement.* An institution may not allow a prospective student seeking title IV, HEA assistance to sign an enrollment agreement, complete registration, or make a financial commitment to the institution, or disburse title IV, HEA funds to the student until the student or prospective student completes the acknowledgment described in paragraph (c)(3) of this section.

(g) *Discharge claims.* The provision of a student warning or the acknowledgment described in paragraph (c)(3) of this section does not mitigate the institution's responsibility to provide accurate information to students concerning program status, nor will it be considered as dispositive evidence against a student's claim if applying for a loan discharge.

§ 688.606 Severability.

If any provision of this subpart or its application to any person, act, or practice is held invalid, the remainder of this part and subpart, and the application of this subpart's provisions to any other person, act, or practice, will not be affected thereby.

**PART 685—WILLIAM D. FORD
FEDERAL DIRECT LOAN PROGRAM**

■ 12. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1070g, 1087a, *et seq.*, unless otherwise noted.

■ 13. Effective August 31, 2026, amend § 685.102(a)(1) by adding, in alphabetical order, “Eligible non-GE program” and “Gainful employment program (GE program)” to read as follows:

§ 685.102 Definitions

(a) * * *
(1) * * *
Eligible non-GE program
* * * * *
Gainful employment program (GE program)
* * * * *

■ 14. Effective August 31, 2026 revise § 685.300(a) to read as follows:

§ 685.300 Agreements between an eligible school and the Secretary for participation in the Direct Loan program

(a) *General.* Participation of a school in the Direct Loan program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan program, a school must—

(1) Demonstrate to the satisfaction of the Secretary that the school meets the

requirements for eligibility under the Act and applicable regulations;

(2) Enter into a written program participation agreement with the Secretary; and

(3) As part of such agreement, in order to maintain eligibility for a GE program or an eligible non-GE program to participate in the Direct Loan program, show that such program meets the student tuition and transparency system requirements under 34 CFR part 668, subpart Q, and the earnings accountability requirements under 34 CFR part 668, subpart S.

* * * * *
[FR Doc. 2026–13286 Filed 6–30–26; 8:45 am]

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Part IV

Nuclear Regulatory Commission

10 CFR Parts 20, 61, 73 et al.

Integrated Low-Level Radioactive Waste Disposal; Proposed Rule

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 61, 73, and 150

[NRC–2011–0012, NRC–2015–0003, and NRC–2017–0081]

RIN 3150–AI92

Integrated Low-Level Radioactive Waste Disposal

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule and draft guidance; public meeting; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations that govern the land disposal of low-level radioactive waste to expand regulatory coverage to include certain transuranic wastes. The rule also introduces a new risk-informed framework for low-level waste disposal in which sites can develop waste acceptance criteria based on site-specific characteristics rather than using prescriptive limits. The proposed rule would allow for a graded approach: facilities that do not plan to accept significant quantities of long-lived radionuclides or Greater-Than-Class C waste will only need to meet a streamlined set of requirements, while those managing these waste streams must conduct technical assessments to ensure long-term safety. The proposed rule would also introduce new options for disposal of higher concentrations of waste, providing new alternatives for safe low-level waste management. These innovations support public health and environmental protection, as well as safe disposal of low-level radioactive waste, encourage operational efficiency, and offer greater flexibility for both current and future disposal facilities. In addition, the NRC is issuing draft implementing guidance for public comment.

DATES: Comments must be submitted electronically using <https://www.regulations.gov> no later than 11:59 p.m. eastern time on August 17, 2026.

ADDRESSES: Submit your comments, identified by Docket ID NRC–2011–0012, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

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 public records; they are publicly displayed exactly as received, and will not be deleted, modified, or redacted. Comments may be submitted anonymously.

Follow the search instructions on <https://www.regulations.gov> to view public comments.

You can read a plain language description of this proposed rule at <https://www.regulations.gov/docket/NRC-2011-0012>. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

George Tartal, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–0016, email: George.Tartal@nrc.gov; and Priya Yadav, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–6667, email: Priya.Yadav@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Executive Summary

A. Need for the Regulatory Action

The NRC is proposing to amend its regulations in part 61 of title 10 of the *Code of Federal Regulations* (10 CFR), “Licensing Requirements for Land Disposal of Radioactive Waste,” to require, for existing low-level waste (LLW) disposal facilities that accept LLW containing significant quantities of long-lived radionuclides and future applications for disposal of LLW (including Greater-Than-Class C (GTCC) waste), new and revised site-specific technical analyses. Currently, many GTCC waste streams are stranded at operating reactors, sealed-source facilities, and Department of Energy (DOE) facilities. As explained in the technical analysis supporting this rule, some of those GTCC waste streams may present radiological hazards that could be appropriate for land disposal. However, the NRC’s current regulations in part 61 are insufficiently flexible to accommodate land disposal of those waste streams, absent a special finding from the Commission. This rule would modernize the NRC’s regulations by permitting disposal of these waste streams in land disposal facilities, provided the applicant makes an appropriate safety case. This modernization will not only provide greater flexibility for addressing existing GTCC waste streams but would also widen the scope of disposal options for

waste streams from emerging technologies.

Providing this flexibility for future waste streams is part of a coherent Federal effort. While the DOE builds the industrial base for the nuclear lifecycle, through programs such as the Nuclear Lifecycle Innovation Campuses that would provide an integrated approach to managing the nuclear fuel cycle, the NRC’s efforts to modernize waste disposal will provide a clear licensing pathway for the back end of the fuel cycle. In concert, these activities will help reestablish the United States as a global nuclear energy leader with technically sound life cycle management approaches for all nuclear waste except spent nuclear fuel and high-level radioactive waste. However, while this rulemaking provides more flexible disposal options for waste classified as GTCC, it does not alter legal requirements or policies to dispose of high-level radioactive waste or spent fuel in a geological repository including the Nuclear Waste Policy Act, 42 U.S.C. 10101, *et seq.* Specifically, this proposed rule would not redefine what constitutes high-level radioactive waste.

The rule revisions would also permit the development of site-specific waste acceptance criteria (WAC) based on the results of these analyses. These amendments are needed to ensure that LLW streams that are significantly different from those considered during the development of the current regulations (*e.g.*, significant quantities of depleted uranium) can be disposed of safely in the near surface and meet the performance objectives for land disposal of LLW. These amendments would also allow the use of site-specific information to demonstrate compliance with performance objectives that are designed to protect public health and safety and the environment. The NRC is also proposing to consolidate and integrate criteria for NRC licensing of the disposal of GTCC waste streams that meet the regulatory requirements for land disposal. The NRC is also proposing editorial changes within 10 CFR part 61 and conforming changes to regulations in 10 CFR parts 20, 73, and 150. The proposed revisions improve alignment of NRC requirements with current health and safety standards.

This proposed rule would affect existing LLW facility licensees and future applicants to varying degrees. All future license applicants that are regulated by the NRC or by an Agreement State would be required to meet the revised regulations, subject to compatibility categories assigned to each NRC regulation for Agreement State equivalent regulatory frameworks.

Any currently licensed LLW site that plans to apply to NRC for a license to dispose of GTCC waste or plans to accept significant quantities of long-lived radionuclides after the effective date of this rule or after the effective date of equivalent Agreement State regulations, would be required to meet the revised regulations.

Currently operating LLW facilities that do not plan to apply to NRC for a license to dispose of GTCC waste or plan to accept significant quantities of long-lived radionuclides after the effective date of this rulemaking would not be required to adopt substantially new or revised requirements. Some existing requirements that apply to these facilities would be clarified.

Finally, the NRC has developed a draft guidance document for comment, NUREG-2175, Revision 1, "Guidance for Conducting Technical Analyses for 10 CFR part 61." This document provides guidance on the development of information and analyses submitted by licensees or license applicants to demonstrate that they meet the new regulatory requirements.

B. Major Changes

- Existing LLW facility licensees that do not accept significant quantities of long-lived radionuclides under Agreement State licenses: These facilities need not comply with the new proposed requirements in §§ 61.10(c), 61.13(a) through (e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b) and 61.58 and may instead continue to meet the existing part 61 requirements, which would be retained in §§ 61.13(f), 61.41(c), 61.42(c), and 61.50(c).

- Existing LLW facility licensees that do not apply to the NRC for a license to accept GTCC waste: These facilities need not comply with the requirements in §§ 61.10(c), 61.13(a) through (e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b) and 61.58 and may instead continue to meet existing part 61 requirements which would be retained in §§ 61.13(f), 61.41(c), 61.42(c) and 61.50(c).

- Existing LLW disposal facilities that do plan to accept GTCC waste or significant quantities of long-lived radionuclides: These facilities must comply with the new proposed technical analysis, intruder assessment, and other revised requirements.

- Introduction of site-specific and generic WAC: Allows facilities to develop waste acceptance criteria tailored to their site-specific technical analyses, or to use generic criteria based on existing LLW classification requirements (§ 61.58). This flexibility

supports safe and efficient disposal practices.

- Specification of compliance periods: Specification of a 1,000-year compliance period for sites that do not contain significant quantities of long-lived radionuclides or a 10,000-year compliance period for sites that are planning to accept significant quantities of long-lived radionuclides (§§ 61.2, 61.41(a), and 61.42(a)).

- Requirements for performance period analyses: Requires additional, potentially more qualitative analyses for post-closure periods beyond 10,000 years if significant quantities of long-lived radionuclides are disposed (§ 61.13(e)), to ensure long-term safety.

- New provisions for near-surface and specialized land disposal facilities: Introduces requirements for disposal of GTCC waste containing certain concentrations of radionuclides (§§ 61.13 and 61.52) at both near-surface and specialized land disposal facilities.

- Establishment of thresholds for radionuclide concentrations: Specification of thresholds for radionuclide concentrations above which GTCC waste is generally not acceptable for near-surface disposal, and for any type of land disposal. This ensures only suitable waste is managed at each facility type (§ 61.55).

- Clarification of NRC regulatory authority over GTCC waste: Provides that regulation of GTCC waste disposal is not an area of regulation that can be relinquished to Agreement States. As such, the NRC would retain authority over GTCC waste disposal.

- Technical analyses for GTCC waste: Requires operational safety assessment and analyses for demonstration of additional waste characteristic requirements to demonstrate safe disposal of GTCC waste (§§ 61.13(c) and 61.56).

- Criticality safety: Clarifies that requirements for avoiding accidental criticality during storage of special nuclear material (SNM) prior to disposal and waste emplacement for disposal do not apply for radioactive waste that meets the exemption requirements under 10 CFR 71.15(c) as non-fissile material (§ 61.16(b)) and requires that the near-surface disposal of GTCC waste streams containing SNM in quantities subject to 10 CFR 70.24 include design features to limit the re-concentration of fissile material following disposal (§ 61.16(b)(3)).

- Physical protection: Clarifies the applicable physical protection requirements for LLW containing dilute concentrations of SNM of low strategic significance or a Category III quantity of SNM (§ 73.67).

- "As low as is reasonably achievable" (ALARA) requirements: Replaces the "as low as is reasonably achievable" requirements in the performance objectives for protection of the general population from releases of radioactivity and protection of individuals during operations in §§ 61.41 and 61.43, respectively, with references to dose limits in 10 CFR part 20. Other requirements in the proposed rule continue to reflect a graded approach to dose management for part 61.

C. Costs and Benefits

The NRC prepared a draft regulatory analysis to determine the expected quantitative costs and benefits of this proposed rule and associated guidance as well as qualitative factors to be considered in the NRC's rulemaking decision. The conclusion from the 30-year analysis is that this rule and associated guidance would result in net cost savings to the industry, Agreement States, and the NRC of \$39.4 million using a 7-percent discount rate and \$69.9 million using a 3-percent discount rate. The net annualized cost savings at a 7-percent discount rate are approximately \$3.17 million per year, and \$3.57 million per year at a 3-percent discount rate.

The draft regulatory analysis also includes a qualitative analysis of the direct and indirect benefits from risks that could be avoided if the NRC adopts the rule. The principal qualitative benefits of the proposed rule include: (1) ensuring that LLW streams that are significantly different from those considered during the development of the current regulations (*e.g.*, significant quantities of depleted uranium, blended LLW, and GTCC waste streams) can be disposed of safely and meet the performance objectives for land disposal of LLW; (2) facilitating the use of site-specific information and up-to-date dosimetry methodology in site-specific technical analyses to ensure public health and safety is protected; and (3) promoting a risk-informed regulatory framework that specifies what requirements need to be met and provides licensees or applicants flexibility regarding what information or approach they use to satisfy those requirements.

For more information, please refer to the draft regulatory analysis cited in the Availability of Documents section of this proposed rule.

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2011–0012 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website*: Go to <https://www.regulations.gov> and search for Docket ID NRC–2011–0012.
- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly

available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- *NRC's PDR*: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time, Monday through Friday, except Federal holidays.

- *Public Meeting*: The NRC may conduct a public meeting to describe the proposed amendments and answer questions from the public on the proposed rule. If the NRC determines it will hold a public meeting, the NRC will publish a notice of the location, time, and agenda of the meeting on the NRC's public meeting website within 10 calendar days of the meeting. Stakeholders should monitor the NRC's public meeting website for information about the public meeting at: <https://www.nrc.gov/public-involve/public-meetings/index.cfm>.

B. Submitting Comments

Comments must be submitted electronically using <https://www.regulations.gov> no later than 11:59 p.m. eastern time on August 17, 2026. Please include Docket ID NRC–2011–0012 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment

submissions available to the public or entering the comment into ADAMS.

II. Executive Order 14300: Ordering the Reform of the Nuclear Regulatory Commission

On May 23, 2025, President Donald J. Trump signed Executive Order (E.O.) 14300, "Ordering the Reform of the Nuclear Regulatory Commission." Section 5, "Reforming and Modernizing the NRC's Regulations," requires the NRC to undertake a review and wholesale revision of its regulations and guidance documents as guided by the policies set forth in section 2 of the E.O. This rulemaking addresses section 5 of the E.O., focusing on the regulations in part 61 of title 10 of the *Code of Federal Regulations* (10 CFR). The proposed rule would introduce a new risk-informed framework for low-level waste disposal that would allow greater regulatory certainty on a disposal pathway for GTCC waste. These proposed revisions support public health and environmental protection, as well as safe disposal of LLW, encourage operational efficiency, and offer greater flexibility for both current and future disposal facilities.

III. Background

A. Existing Regulatory Framework

NRC Regulation of Low-Level Waste (LLW)

The NRC's licensing requirements for the land disposal of LLW can be found in 10 CFR part 61. The NRC originally promulgated 10 CFR part 61 on December 27, 1982 (47 FR 57446).

The purpose of LLW disposal is to isolate and contain the waste while it remains hazardous. The LLW disposal requirements emphasize a diversity of systems to achieve safety from the disposal of commercial LLW, including site selection, land disposal facility design and operation, LLW characteristics, and site closure. To limit reliance on institutional controls, part 61 emphasizes passive features (e.g., site stability, favorable site characteristics, and low-population density) rather than active systems to limit contact with and releases of LLW to the environment. Some examples include requiring that the disposal site design complement and improve upon the ability of the site's natural characteristics to ensure the performance objectives (i.e., a part of the regulatory safety standards for protecting the public and workers) will be met; imposing concentration limits on waste that presents a higher hazard through the waste classification requirements, which categorize LLW by its radioactive content and hazard level

(Class A, B, C, and Greater-Than-Class C (GTCC)); requiring the segregation of unstable waste from waste that must be stable for proper disposal; imposing requirements on waste form and packaging characteristics; and requiring the use of intrusion barriers for wastes that will not decay to levels that represent an acceptable impact should an inadvertent intruder contact the waste within 100 years.

The current regulations in 10 CFR part 61 cover all phases of near-surface commercial LLW disposal from site selection through facility design, licensing, operations, site closure, postclosure stabilization, and the end of active institutional controls. Under the existing regulatory framework, near-surface disposal refers to the placement of radioactive waste in engineered facilities located generally within the upper 30 meters of the earth's surface, as specified in NRC regulations at § 61.2, "Definitions." To grant a license, the NRC must conclude that there is reasonable assurance that the performance objectives in subpart C of part 61 will be met. To demonstrate that an applicant will meet these performance objectives, 10 CFR part 61 applicants need to prepare the analyses required by § 61.13, "Technical analyses."

Some radioactive material added to the AEA definition of byproduct material by Section 651(e) of the Energy Policy Act of 2005 has special status relating to its disposal at NRC or Agreement State licensed LLW disposal facilities. These "11e.(3) and (4) byproduct materials" include certain discrete sources of radium-226 (11e.(3)(A)), radioactive material resulting from operation of an accelerator (11e.(3)(B)), and certain other "discrete source[s] of naturally occurring radioactive material, other than source material" (11e.(4)). Pursuant to AEA Sections 81b. and c., 11e.(3) and (4) byproduct materials intended for disposal are not considered LLW under the Low-Level Waste Policy Act but may nevertheless be disposed of at near-surface LLW disposal facilities. In addition, AEA Section 81c. ensures that 11e.(3) and (4) byproduct material may also be disposed of at hazardous waste facilities.

To demonstrate that the general population is protected from releases of radioactivity, licensees and applicants are currently required to prepare an analysis of exposure pathways leading to potential radiological doses to the general population. The original 10 CFR part 61 did not impose a specific performance timeframe for use in the analysis to protect the general

population, and Agreement States that currently regulate the existing land disposal facilities differ in the analysis timeframes they require.

The existing framework also requires that licensees demonstrate that potential inadvertent intruders into the LLW disposal site will be protected. Inadvertent intruders might occupy the disposal site after closure of the land disposal facility and may not be aware of the radiation hazard from the buried LLW. Disposal site landowners or custodial agents are required to carry out an institutional control program that ensures that no such occupation or improper use of the site occurs. However, the NRC only permits licensees to take credit for institutional controls in their technical analyses for up to 100 years following closure and transfer of control of the disposal site to the owner, even if a longer institutional control program is required by an Agreement State regulator. Under the existing regulations, protection of inadvertent intruders is demonstrated by compliance with the LLW classification (§ 61.55, "Waste classification") and segregation requirements (§ 61.52, "Land disposal facility operation and disposal site closure"), and by providing adequate barriers to inadvertent intrusion.

The NRC developed the LLW classification requirements as part of the original 10 CFR part 61 rulemaking. Explicit dose limits for an inadvertent intruder were not provided in the original 10 CFR part 61 because an inadvertent intruder dose assessment was not required, but the LLW classification concentration limits for radionuclides, in tables 1 and 2 of § 61.55, were based on a range of critical organ doses, including an annual whole-body dose of 5 milliSievert (mSv) (500 millirems (mrem)) to a hypothetical inadvertent intruder. The LLW classification tables were developed assuming that only a fraction of the LLW being disposed would approach the LLW classification limits. The analysis used to develop the 10 CFR part 61 LLW classification system is conservative in nature. Nonetheless, in a theoretical scenario under the current regulations, if an inadvertent intruder is exposed to a large volume of disposed LLW near or at the classification limits, protection of an inadvertent intruder may not be assured. To address this issue, for licensees that do not meet the criteria in § 61.1(b), the new inadvertent intruder assessment would require licensees to analyze the LLW disposed at each site in accordance with the site-specific waste acceptance criteria (WAC) to demonstrate that the annual

limit of 5 mSv (500 mrem) total effective dose or total effective dose equivalent to the inadvertent intruder is not exceeded.

Low-Level Radioactive Waste Classification System

The NRC developed 10 CFR part 61 based on assumptions regarding the types of LLW likely to go into a commercial land disposal facility at the time the original rule was promulgated in 1982. These assumptions were based on a survey of LLW generators, and the results were published in NUREG-0945, Volumes 1 through 3, "Final Environmental Impact Statement on 10 CFR part 61, 'Licensing Requirements for Land Disposal of Radioactive Waste.'" The results of this survey ultimately formed the regulatory basis for the source terms used in the analysis to define the allowable isotopic concentration limits in tables 1 and 2 of § 61.55 that established three classes of LLW (Class A, Class B, Class C) and criteria for GTCC. Table 1 of § 61.55 provides limiting concentrations for long-lived radionuclides, and table 2 of § 61.55 provides limiting concentrations for short-lived radionuclides. Class A LLW is the least hazardous to the inadvertent intruder and requires the fewest controls, while Class C LLW is more hazardous and requires additional controls. As the LLW class increases in hazard, greater controls (e.g., protection for a longer period of time or greater burial depth) are required to reduce the risk from disposal of the LLW. For example, Class C LLW may require either greater burial depth (e.g., 5 meters (m) (16 feet (ft))) or an engineered barrier that will deter inadvertent intrusion for 500 years.

As part of the original 10 CFR part 61 rulemaking, the NRC considered inadvertent intrusion receptor scenarios and the physical stability and isotopic concentration of the LLW. These isotopic concentration limits were based on the NRC's understanding of the characteristics and volumes of commercial LLW reasonably expected for commercial disposal through the year 2000, as well as the disposal methods likely to be used.

In the statement of considerations for the final rule for the original 10 CFR part 61, the Commission noted (1) waste that is stable for a long period helps to ensure the long-term stability of the site after the site is closed and helps to assure against water infiltration caused by failure of the disposal covers and, with the improved leaching properties implicit in a stable waste form, minimizes the potential for radionuclide migration in groundwater, and (2)

stability also plays an important role in protecting an inadvertent intruder, since the stable waste form is recognizable for a long period of time and minimizes any effects from dispersion of the waste upon intrusion.

The Commission also noted that to the extent practicable, wasteforms or containers should be designed to maintain gross physical properties and identity over 300 years, approximately the time required for Class B waste to decay to acceptable levels.

Finally, appendix G to 10 CFR part 20, “Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,” imposes manifest requirements on shipments of LLW consigned for disposal. Manifests for LLW shipments must identify the LLW classification and provide a certification that the LLW is properly classified, described, packaged, marked, and labeled.

The Role of Agreement States in the Regulation of LLW Disposal

Section 274b. of the AEA, “Cooperation with States” authorizes the NRC to enter into an agreement with a State whereby the NRC discontinues its regulatory authority over certain material, and the State assumes that authority (therefore becoming an “Agreement State”). Agreement States can assume authority from the NRC for one or more of the following categories of materials within the State: (1) byproduct materials; (2) source materials; and (3) special nuclear material (SNM) in quantities not sufficient to form a critical mass.

Currently, there are four operating LLW disposal facilities for Class A, B, and C waste, and all are located in and licensed by Agreement States: EnergySolutions in Clive, Utah; U.S. Ecology, Inc. in Richland, Washington; Waste Control Specialists LLC in Andrews, Texas; and Energy Solutions in Barnwell, South Carolina. In accordance with Section 274 of the AEA, the NRC has found these Agreement States’ regulatory programs are adequate to protect public health and safety and compatible with the NRC’s program. These Agreement States have also adopted regulations equivalent to 10 CFR part 61. Even Agreement States without a LLW disposal facility are required to adopt equivalent requirements of those sections of 10 CFR part 61 that have basic radiation protection and transboundary implications because LLW is generated in all States.

Regulation of GTCC Waste

The NRC previously established three classes of LLW (Class A, Class B, Class C). The current regulation at § 61.55(a)(2)(iv) was promulgated May 25, 1989 (54 FR 22578) and prescribes that GTCC waste must be disposed of in a geologic repository as defined in 10 CFR part 60 or part 63 unless proposals for disposal of such waste in a disposal site licensed pursuant to part 61 are approved by the Commission. As presented within the 2019 draft regulatory basis, the NRC has determined that most GTCC waste streams are potentially suitable for near-surface disposal.

Section 3(b)(1) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRPAA) (42 U.S.C. 2021) designates the disposal of certain federally owned or generated LLW and all GTCC waste (as defined by the version of 10 CFR 61.55 in effect on January 26, 1983) as a Federal responsibility. Section 3(b)(3) of the LLRPAA required the Department of Energy (DOE) to submit to Congress a comprehensive report with recommendations ensuring the safe disposal of all GTCC waste no later than 1 year after its enactment. In February 1987, the DOE completed this action by issuing a report to Congress entitled, “Recommendations for Management Greater-Than-Class C Low-Level Radioactive Waste, DOE/NE-0077.” In the 1987 report, DOE acknowledged its responsibility for the disposal of commercially generated GTCC waste, as described in section 3(b)(1)(D) of the LLRPAA.

On February 25, 2016, the DOE issued its “Final Environmental Impact Statement for the Disposal of Greater-Than-Class C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste” (FEIS). In the FEIS, the DOE stated that its preferred alternative for the disposal of GTCC waste is disposal in the DOE’s Waste Isolation Pilot Plant (WIPP) geologic repository near Carlsbad, New Mexico, and/or land disposal at generic commercial facilities. Currently, WIPP is authorized to accept only defense generated transuranic (TRU) waste pursuant to the Waste Isolation Pilot Plant Land Withdrawal Act. Unless there is a legislative change, GTCC waste disposal at WIPP is not an option. The NRC has no regulatory role over LLW disposal at WIPP.

In a March 2016 **Federal Register** notice, the DOE announced the availability of the FEIS. The DOE’s proposed action was to construct and operate a new facility or facilities, or use

an existing facility or facilities, for the disposal of GTCC LLW and GTCC-like waste. The DOE defines GTCC-like waste as radioactive waste that is owned or generated by the DOE (including LLW and non-defense generated TRU waste), has no identified path to disposal, and has characteristics similar to those of GTCC LLW waste suggesting that a common disposal approach may be appropriate. Though the 2016 FEIS analyzed generic commercial facilities, it did not analyze a specific commercial facility because, while there was interest from vendors, no vendors provided specific information on disposal locations and methods. In its November 2017 report to Congress, the DOE affirmed that its preferred alternative for the disposal of GTCC and GTCC-like waste is land disposal at generic commercial facilities and/or the WIPP geologic repository. In October 2018, DOE published “Environmental Assessment for the Disposal of Greater-Than-Class C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste at Waste Control Specialists, Andrews County, Texas,” in which it evaluated its proposal to dispose of the entire GTCC LLW and GTCC-like waste inventory detailed in the 2016 FEIS in the Waste Control Specialists’ Federal Waste Facility situated in Texas.

Accordingly, this proposed rule would address land disposal requirements for GTCC waste. GTCC-like waste would need to meet NRC requirements when an NRC licensee assumes responsibility for management of the material under its NRC license, which typically would occur when the licensee accepts the shipment of material for disposal. At that point in time, NRC regulations would apply and, if the material meets the criteria for GTCC waste, it would be subject to the requirements for GTCC waste disposal. Therefore, in this rulemaking, the NRC does not distinguish between GTCC and GTCC-like waste.

B. Previous Rulemaking Activities

This proposed rule was predated by two Commission-directed activities related to 10 CFR part 61: low-level radioactive waste disposal and disposal of GTCC and transuranic waste.

i. Low-Level Radioactive Waste Disposal

On July 18, 2013, the NRC staff submitted SECY-13-0075, “Proposed Rule: Low-Level Radioactive Waste Disposal (10 CFR part 61) (RIN-3150-AI92),” to the Commission with a proposed rule to amend 10 CFR part 61. The NRC staff explained that the potential for LLW streams to differ significantly in quantity and

concentration from that initially considered by the 10 CFR part 61 regulations warranted an update to the overall regulatory framework to ensure the protection of the public health and safety. These waste streams include depleted uranium and blended LLW streams (e.g., blending of some types of Class B and C wastes with Class A wastes to produce a Class A mixture that can be disposed of at LLW facilities licensed to dispose of Class A waste) in quantities greater than previously expected. In addition, new technologies, such as advanced reactors, might result in the generation of different LLW streams that have not previously been considered.

In SRM-SECY-13-0075, dated February 12, 2014, the Commission approved publication of that proposed rule. The NRC published the proposed rule in the **Federal Register** on March 26, 2015 (80 FR 16081) for public comment. The comments represented a wide variety of viewpoints. As a result of the comments, the NRC staff made significant changes in the draft final rule. The NRC staff also had numerous interactions with the Advisory Committee on Reactor Safeguards (ACRS), Radiation Protection and Nuclear Materials Subcommittee and full committee, before and after publication of the proposed rule. Summaries and transcripts of these meetings can be found at the ACRS website, <https://www.nrc.gov/reading-rm/doc-collections/acrs/agenda/index.html>.

In SECY-16-0106, “Final Rule: Low-Level Radioactive Waste Disposal (10 CFR part 61) (RIN 3150-AI92),” dated September 15, 2016, the NRC staff submitted a draft final 10 CFR part 61 rule to the Commission. Enclosure 1 to SECY-16-0106 contains NRC responses to the public comments received on that proposed rule. In SRM-SECY-16-0106, dated September 8, 2017, the Commission directed the staff to revise the draft final rule and to publish it as a supplemental proposed rule for public comment. The proposed rule was merged into a parallel rulemaking effort, as explained in Section III.B.iii of this proposed rule.

ii. Disposal of Greater-Than-Class C and Transuranic Waste Regulatory Basis

In September 2014, the Commission directed the staff to provide a historical perspective on GTCC waste disposal in SRM-M140918, “Staff Requirements—Briefing on Management of Low-Level Waste, High-Level Waste, and Spent Nuclear Fuel.” Following the September 2014 Commission direction, on January 30, 2015, the Texas Commission on

Environmental Quality (TCEQ) submitted a letter to the NRC staff regarding whether the State of Texas had authority to regulate the disposal of GTCC waste. In response to the Commission’s direction and TCEQ’s letter, the staff submitted SECY-15-0094, dated July 17, 2015, to provide the Commission with a historical perspective on the disposal of GTCC waste and to seek Commission approval of the staff’s recommendation to allow the State of Texas to license the disposal of GTCC waste.

In SRM-SECY-15-0094, dated December 22, 2015, the Commission directed the NRC staff to prepare a regulatory basis for the disposal of GTCC waste through means other than deep geologic disposal, including near-surface disposal, and to provide the regulatory basis to the Commission for information within 6 months of completing the 10 CFR part 61 rule. The Commission further directed that the regulatory basis should analyze whether, in accordance with Section 274c.(4) of the AEA, the disposal of GTCC waste presents a hazard such that the NRC should retain authority over its disposal. The Commission directed that, if the staff concluded that some or all GTCC waste is potentially suitable for near-surface disposal, the staff should then proceed to develop a proposed rule to include disposal criteria for licensing the disposal of such waste under 10 CFR part 61. The Commission also affirmed that the case-by-case review contemplated in 10 CFR 61.55(a)(2)(iv) is available to parties who seek to dispose of GTCC waste in the near term. In addition, the Commission approved the staff’s recommendation to address transuranic waste disposal in the definition of “waste” in 10 CFR 61.2.

On October 23, 2018, in SRM-M181011, the Commission directed staff to decouple, to the extent practicable, the issuance of the draft GTCC waste regulatory basis directed in SRM-SECY-15-0094 from Commission action on the 10 CFR part 61 rulemaking to allow for earlier public engagement on staff’s analysis of potential regulatory barriers to the disposal of GTCC waste.

A draft regulatory basis, “Disposal of Greater-than-Class C (GTCC) and Transuranic Waste,” was issued for public comment on July 22, 2019 (84 FR 35037). The NRC staff concluded in its regulatory basis that most of the GTCC waste streams were potentially suitable for near-surface disposal (i.e., approximately 80 percent of the total volume of all GTCC waste analyzed at that time), provided appropriate controls are implemented and a sufficient site-specific analysis is

conducted to ensure protection to inadvertent intruders and offsite individuals. Site-specific analyses and refinement in the waste stream inventories could also result in a differing quantity of GTCC waste identified in the DOE FEIS potentially acceptable for near-surface disposal than was determined in NRC’s generic analysis.

Additionally, in the 2019 regulatory basis the NRC staff determined that most GTCC waste identified in the DOE FEIS could be safely regulated by an Agreement State (i.e., approximately 75 percent of the total volume of all GTCC waste). However, the NRC has re-examined the prior conclusion and determined that in accordance with Section 3(b) of the LLRWPA, disposal of GTCC waste must remain within the NRC’s exclusive authority. This reexamination of NRC’s retention of authority over disposal of GTCC is discussed in further detail in section IV.B of this proposed rule.

The public comment documents on the regulatory basis are available for review in <https://www.regulations.gov> under Docket ID NRC-2017-0081. As stated in the **Federal Register** notice that issued the regulatory basis, the NRC did not provide formal written responses to each of the comments received on the draft regulatory basis. However, the NRC reviewed the comments in each submission, grouped the comments by category, and developed a summary of and responses to the comments. A brief overview of the categorization of the comments on the GTCC regulatory basis and how they informed the proposed rule follows.

The NRC received over 70 individual comment submissions from members of the public, environmental groups, industry stakeholders, a Tribal nation, various State agencies, and the DOE, and approximately 7,000 form letters from environmental groups. Specific concerns included: the role of generic versus site-specific analyses in determining the safety of near-surface disposal of GTCC waste; the compliance period for long-lived radioactive waste; the role of Agreement States in the licensing of disposal of GTCC waste; protection of the inadvertent intruder; and characteristics of GTCC waste that could impact operational safety (e.g., criticality controls). This proposed rule and the document summarizing the responses to comments provides further discussion of these concerns and describes the proposed regulatory requirements that address these concerns, and in certain cases identifies where additional guidance has been developed by the NRC.

C. Integration of the Rulemakings

On October 21, 2020, the NRC staff submitted SECY–20–0098, “Path Forward and Recommendations for Certain Low-Level Radioactive Waste Disposal Rulemakings,” to the Commission. In the paper, the staff recommended that the two Commission-directed rulemaking activities that could result in amendments to 10 CFR part 61 (Low-Level Radioactive Waste Disposal draft final rule and the GTCC waste draft regulatory basis) be consolidated and integrated into one proposed rule based on overlapping technical requirements, expected cost savings, consideration of stakeholder input, and efficiencies. In SRM–SECY–20–0098, “Staff Requirements—SECY–20–0098—Path Forward and Recommendations for Certain Low-Level Radioactive Waste

Disposal Rulemakings,” dated April 5, 2022, the Commission approved the staff’s recommendation to issue a new proposed rule that consolidates and integrates criteria for licensing and disposal of GTCC waste and 10 CFR part 61 rulemaking activities.

On May 29, 2024, the NRC staff submitted to the Commission SECY–24–0045, “Proposed Rule: Integrated Low-Level Radioactive Waste Disposal (RIN 3150–AI92; NRC–2011–0012).” On September 11, 2025, the Commission approved the staff’s request to withdraw SECY–24–0045 and other rulemaking papers because they were in the scope of rules to be issued pursuant to Executive Order 14300, “Ordering the Reform of the Nuclear Regulatory Commission” (“Staff Requirements—SECY–24–0045—Withdrawal of Rulemaking Plan and Proposed Rules

(SECY–21–0067, SECY–210110, SECY–23–0062, SECY–24–0045)”).

D. Public Interactions During Proposed Rule Development

The NRC conducted several outreach activities with stakeholders during the development of the proposed rule. These activities included holding public meetings to share preliminary proposed rule concepts and to receive public feedback. These interactions also included discussions on the draft proposed rule guidance. The public feedback received was considered during the development of this proposed rule. The following table provides a list of the recent stakeholder interactions conducted during the proposed rule development.

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Recent Stakeholder Interactions on Low-Level Radioactive Waste

Meeting	Date(s)	Location
National Conference of Radiation Control Program Directors (CRCPD)	May 16 -19, 2022	Tucson, AZ
LLW Forum Fall Meeting	October 12, 2022	Baltimore, MD
Agreement State LLW Workshop	October 19, 2022	Salt Lake City, UT
Fuel Facilities Stakeholder Fall Meeting	October 19, 2022	Rockville, MD
Waste Management Symposium Meeting	February 26-March 2, 2023	Phoenix, AZ
NRC Regulatory Information Conference	March 14-16, 2023	Rockville, MD
Organization of Agreement States (OAS) /CRCPD Monthly Call	monthly	virtual
LLW Forum Spring Meeting	March 22-23 2023	Charleston, SC
Fuel Facilities Stakeholder Spring Meeting	May 3, 2023	Rockville, MD
CRCPD National Conference on Radiation Control	May 11, 2023	Houston, TX
Integrated LLW Rulemaking Public Meeting	May 17, 2023	virtual
State Liaison Officers Annual Conference	June 8, 2023	Rockville, MD
Performance and Risk Assessment Community of Practice Webinar	July 13, 2023	virtual
Oregon Health Authority Radiation Protection Services meeting with Oregon Dept. of Energy	July 17, 2023	virtual
EPRI International Low- and Intermediate-Level Waste Conference	July 26-28, 2023	Nashville, TN
OAS Annual Meeting	August 7-10, 2023	Seattle, WA
LLW Forum Fall Meeting	October 3-4, 2023	Salt Lake City, UT
International Conference on the Safety of Radioactive Waste Management, Decommissioning, Environmental Protection and Remediation: Ensuring Safety and Enabling Sustainability	November 6-10, 2023	Vienna, Austria
Advisory Committee on Reactor Safeguards Subcommittee Meeting	December 6, 2023	Rockville, MD and virtual
Integrated LLW Rulemaking Public Meeting	January 23, 2024	virtual
Advisory Committee on Reactor Safeguards Full Committee Meeting	February 7, 2024	Rockville, MD and virtual
Waste Management Symposium Meeting	March 10-14, 2024	Phoenix, AZ
LLW Forum Spring Meeting	April 3-4, 2024	Orlando, FL
Waste Management Symposium Meeting	March 9-13, 2026	Phoenix, AZ
LLW Forum Spring Meeting	April 8-9, 2026	San Diego, CA
Integrated LLW Rulemaking Public Meeting	TBD	Rockville, MD and virtual

IV. Discussion

A. Objectives of This Proposed Rule

This proposed rule would amend 10 CFR part 61 for existing low-level waste disposal facilities that accept LLW containing significant quantities of long-lived radionuclides and future applications for disposal of LLW, including GTCC wastes. It would require new and revised site-specific technical analyses and other requirements and would permit the development of site-specific WAC based on the results of these analyses. These amendments will also better align the requirements with current health and safety standards by allowing the application of new dosimetry models (e.g., as used in 10 CFR part 20). Additionally, this proposed rule will amend 10 CFR part 61 to provide specific regulatory requirements for the land disposal of GTCC waste streams, including radiological protection requirements to protect individuals during the facility's operational period and after the closure of the disposal facility, inadvertent intruders, and offsite individuals. This proposed rule will also amend 10 CFR parts 20 and 61 to revise the definition of "waste" such that LLW that is acceptable for disposal under 10 CFR part 61 no longer excludes "transuranic waste." Lastly, this proposed rule will (1) amend 10 CFR part 150 to allow contaminated equipment or waste incidental to reprocessing that has been evaluated and approved as material to be disposed at a near-surface land disposal facility, and (2) amend 10 CFR part 73 to exempt certain waste material at a near-surface disposal facility from the requirements for physical protection of SNM of low strategic significance.

B. Applicability and NRC Authority Over GTCC Disposal

This proposed rule will apply to existing and future LLW disposal facilities that are regulated by the NRC or an Agreement State. Currently licensed LLW sites that do not plan to accept GTCC waste or significant quantities of long-lived radionuclides after the effective date of this rulemaking will not be required to comply with new regulations under a new provision in 10 CFR part 61.

i. Application of New Requirements for Existing Licensees

The current regulation in 10 CFR 61.1(a) includes a statement that the applicability of requirements in 10 CFR part 61 to existing LLW facility licensees on the effective date of the rule will be determined on a case-by-

case basis and implemented through license conditions or orders. The NRC proposes to delete this statement, and as directed in SRM-SECY-16-0106, revise the existing language in 10 CFR 61.1 to add a new paragraph (b) to allow currently licensed LLW facilities that do not plan to accept significant quantities of long-lived radionuclides and do not plan to apply to the NRC for a license to dispose of GTCC waste after the effective date of this rulemaking to continue to meet the original 10 CFR part 61 requirements for §§ 61.13, 61.41, 61.42, and 61.50 that are found in revised sections §§ 61.13(f), 61.41(c), 61.42(c), and 61.50(c). Licensees that meet the § 61.1(b) criteria could continue their current waste acceptance practices and would not be required to comply with new proposed requirements in §§ 61.10(c), 61.13(a) through 61.13(e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b), and 61.58. Significant quantities of long-lived radionuclides are defined in the proposed rule to mean an amount (volume or mass) and concentration that could, if released, result in the performance objectives of the proposed rule not being met. Some GTCC waste includes significant quantities of long-lived radionuclides.

All LLW disposal facilities licensed after the effective date of this rulemaking will be required to meet the new requirements in §§ 61.10(c), 61.13(a) through 61.13(e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b), and 61.58, regardless of the quantities of long-lived radionuclides that they plan to accept for disposal and regardless of whether they apply to the NRC for a license to dispose of GTCC waste. LLW land disposal facilities already licensed prior to the effective date of this rulemaking that plan to accept significant quantities of long-lived radionuclides or plan to apply to the NRC for a license to dispose of GTCC after the effective date of this rulemaking will continue to be required to meet the current 10 CFR part 61 requirements until: (1) licensed to allow the disposal of significant quantities of long-lived radionuclides, (2) licensed to dispose of GTCC, or (3) application for license renewal (§ 61.27), site closure (§ 61.28), or updates required under § 61.24(l).

ii. NRC Authority Over GTCC Waste

As discussed above, in 2020, the Commission directed the consolidated rulemaking to provide for "Agreement State licensing of those GTCC waste streams that meet the regulatory requirements for near-surface disposal and do not present a hazard such that

the NRC should retain disposal authority." At the time, the Commission determined that the better interpretation of LLRWPA was that authority to license a disposal facility for GTCC waste can be relinquished to Agreement States.

Upon reexamination of the LLRWPA, the Commission now finds the plain language reading of the LLRWPA, where the Federal Government must retain sole authority over the regulation of GTCC waste, to be the better interpretation. Section 3 of the LLRWPA states: (1) the Federal Government is responsible for GTCC waste disposal; and (2) the NRC must license any facility for the disposal of GTCC waste resulting from NRC-licensed activities. Section 3(a)(1) delineates the waste streams that are the States' responsibility, while Section 3(b)(1) lists the specific waste streams that are the Federal Government's responsibility—and Section 3(b)(1) includes GTCC waste. Crucially, Section 3(b)(2) specifically states that the NRC shall license any facility for GTCC waste disposal. The entirety of Section 3, and, in particular, the language in Section 3(b)(2), indicate that licensing of disposal facilities for GTCC waste must be done by the NRC and not Agreement States.

Therefore, consistent with the best reading of LLRWPA, this proposed rule would retain NRC sole authority over licensing GTCC waste disposal facilities.

C. Technical Areas With Proposed Revisions to Requirements

This proposed rule would amend requirements in several technical areas. First, the definition of LLW, which applies to all existing and future licensees, will now include TRU.

Next are several technical topics that most directly apply to those facilities that do not meet the criteria in proposed 10 CFR 61.1(b)—i.e., they are licensed after the effective date of this rulemaking, they plan to accept significant quantities of long-lived radionuclides, or they plan to apply to NRC for a license to dispose of GTCC waste. These topics include:

- Site-Specific, Graded Approach to Compliance Period;
- New and Revised Technical Analyses, including a performance assessment (§ 61.13(a)), an inadvertent intruder assessment (§ 61.13(b)), an operational safety assessment (§ 61.13(c)), a site stability assessment (§ 61.13(d)), and performance period analyses (§ 61.13(e));
- Revised Performance Objectives (§§ 61.41 through 61.44);

- Flexibility for Facilities to Develop Site-Specific Waste Acceptance Criteria (§ 61.58); and
- Safety Case for new applications, including defense-in-depth (§§ 61.10 and 61.23).

With respect to technical areas that address GTCC waste disposal, this proposed rule offers several new provisions, including:

- Safety Criteria and Limits for Licensing Land Disposal of GTCC Waste;
- Disposal Depth;
- Physical Protection of LLW Including GTCC Waste; and
- Criticality Safety of LLW Including GTCC Waste.

Lastly, this proposed rule discusses Agreement State licensing of LLW disposal and includes revisions related to the replacement of references to ALARA with references to 10 CFR 20.1101(b).

i. Inclusion of Transuranic Waste in the Definition of LLW

The NRC proposes to revise the definition of LLW to address transuranic waste, as directed in SRM–SECY–15–0094, and in accordance with revisions in the definition resulting from the Low-Level Radioactive Waste Policy Amendments Act of 1985. Specifically, the NRC proposes to delete the term “transuranic waste” from the second sentence of the “waste” definition paragraph in 10 CFR 20.1003 and 10 CFR 61.2, which currently excludes transuranic waste from what constitutes LLW. This change would apply to all existing and future licensees. In the current regulation, transuranic waste is excluded from the definition of LLW while transuranic radionuclides are not. It is typical for LLW to contain transuranic radionuclides in limited concentrations, and up to 100 nanocuries per gram (nCi/g) of transuranic radionuclides is permitted for disposal within the 10 CFR 61.55 limits. The proposed revision to the definition of LLW would allow the safety and suitability of the disposal of waste containing higher concentrations of transuranic radionuclides to be assessed with site-specific technical analyses. The definition of “waste” in 10 CFR 20.1003 and 10 CFR 61.2 is also revised consistent with Section 3(f) of the American Medical Isotopes Production Act of 2011, which provides that notwithstanding section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101), radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly and for which there

is no further use shall be considered low-level radioactive waste if the material is acceptable under Federal requirements for disposal as low-level radioactive waste.

ii. Site-Specific, Graded Approach to Compliance Period

Consistent with SRM–SECY–20–0098, in this proposed rule the NRC considered establishing a site-specific, graded approach based on when the peak dose is projected to occur or establishing a longer compliance period for disposal sites containing significant quantities of long-lived radionuclides. This proposed rule would implement a site-specific, graded approach for the compliance period:

1. For currently licensed land disposal facilities that meet the § 61.1(b) criteria, these licensees would not be required to meet the revised requirements (e.g., proposed revisions to § 61.10(c), which includes a new requirement for a safety case and § 61.50(a) and (b) revised disposal site suitability requirements).

2. For land disposal sites, either current licensees or future applicants that plan to dispose of LLW with significant quantities of long-lived radionuclides that are not GTCC waste, after the effective date of this rulemaking would be required to complete a performance assessment using a compliance period of 10,000 years and an annual dose limit of 0.25 mSv (25 mrem) for the protection of the general population from releases of radioactivity. Similarly, licensees or applicants would be required to complete an inadvertent intruder assessment with an annual dose limit of 5 mSv (500 mrem) for the 10,000-year compliance period. These licensees or applicants would also have to complete performance period analyses to understand and effectively manage future doses resulting from the disposal of the long-lived radionuclides beyond 10,000 years.

3. Future applicants that plan to dispose of GTCC waste with significant quantities of long-lived radionuclides after the effective date of this rulemaking would also be required to use a 10,000-year compliance period, an annual dose limit of 0.25 mSv (25 mrem) for the protection of the general population, and an annual dose limit of 5 mSv (500 mrem) for the protection of an inadvertent intruder. A more detailed description of the requirements for GTCC waste is provided in Section IV.C.vii of this proposed rule.

The current regulations in 10 CFR part 61 do not provide a specific time period to demonstrate compliance with

the performance objectives. The original regulatory basis for 10 CFR part 61 and the related guidance in NUREG–1573, “A Performance Assessment Methodology for Low-Level Radioactive Waste Disposal Facilities: Recommendations of NRC’s Performance Assessment Working Group,” recognized the need to use an analysis timeframe commensurate with the persistence of the hazard of the source. In selecting an analysis timeframe, the general practice is to consider the characteristics of the LLW, the analysis framework (e.g., assumed scenarios, receptors, and pathways), societal uncertainties, and uncertainty in predicting the behavior of natural systems over time. Typically, both technical factors (e.g., the characteristics and persistence of the radiological hazard attributed to the LLW) and socioeconomic factors are considered. The purpose of analyzing a land disposal facility is to provide reasonable assurance that adequate protection of public health and safety will be achieved while the hazard exists. To achieve that purpose, the analyses must demonstrate acceptable performance of the land disposal facility.

The NRC evaluated approaches used by other countries and international agencies for managing the radiological risks from the disposal of LLW containing long-lived radionuclides. Many approaches evaluated are similar to the NRC approach. For example, some organizations impose a requirement to identify impacts from the disposal of LLW containing long-lived radionuclides using technical analyses. Results of those analyses are used to impose appropriate restrictions on LLW disposal, if necessary. Similarly, almost every country that the NRC considered places restrictions on how much LLW can be disposed of in the near-surface environment. The NRC also limits LLW disposal amounts, but uses a performance-based approach by requiring licensees to demonstrate that someone who lives near the site will not receive a dose exceeding the regulatory limit. In contrast, some countries do not allow near-surface disposal of LLW containing long-lived radionuclides; however, the NRC has not found that approach to be necessary to ensure safety. Like the NRC’s existing regulatory framework, most countries place explicit numerical limits on concentrations of LLW containing long-lived alpha-emitting radionuclides. These concentration limits are commonly set by regulators based on generic technical analyses or policy decisions rather than on the results of

site-specific technical analyses. Technical analyses are performed, but only for LLW that satisfies the generic limits. This approach is very similar to what was done for the initial development of the original 10 CFR part 61. The original requirements in 10 CFR part 61 supplemented technical analyses with LLW concentration limits and other disposal requirements, such as minimum disposal depth for certain types of LLW. However, the drawback of that approach is that regulating multiple land disposal facilities using generic technical analyses results in potentially overly conservative limits because the concentration limits for all facilities are based on the most limiting conditions across the various sites to provide reasonable assurance of adequate protection of public health and safety. Therefore, the NRC is adopting a more risk-informed approach by providing greater flexibility to use site-specific considerations (*e.g.*, greater depth to disposal, more robust wasteforms, greater distance to groundwater) as the basis for waste acceptance criteria.

Other countries have used regulatory approaches that vary considerably in the methodology used to achieve protection of future generations from the disposal of LLW. However, countries and international safety organizations consistently apply limiting conditions on the near-surface disposal of LLW (*e.g.*, they prohibit disposal, or they impose concentration limits, or disposal depth requirements, or flux limits, or they require development of long-term analyses). Consequently, very limited amounts and concentrations of uranium-bearing wastes have been disposed internationally. Technical analyses are used by licensees, applicants, and regulators domestically and internationally to understand how a land disposal facility, together with the general environment, may perform and include the potential impacts of uncertainties on public health and safety. There are many sources of uncertainty associated with projecting the future radiological risks from disposal of LLW which include, but are not limited to, natural, engineered, and societal factors. The NRC's selection of analyses timeframes for the evaluation of the disposal of LLW in this proposed rule considers the different sources of uncertainty and how the uncertainties may impact projected future radiological risk.

One of the factors underlying this rulemaking is the unique radiological characteristics of depleted uranium when compared to traditional LLW. Depleted uranium is very long-lived, and there is a substantial quantity of

depleted uranium that is being considered for disposal in commercial land disposal facilities. In addition, the hazard of depleted uranium increases over very long periods of time because of the slow decay of uranium and the ingrowth of progeny. The time at which the concentration of radionuclides in the LLW is within one order of magnitude of the peak concentration is sensitive to the assumed isotopic mass fractions in the initial LLW. For depleted uranium, this time is approximately 10,000 years or longer. Accordingly, a compliance period of 1,000 years is not likely to sufficiently capture the decay and ingrowth characteristics of significant quantities of depleted uranium. Therefore, land disposal facilities that dispose of significant quantities of depleted uranium (or other long-lived radionuclides) would be required to use a compliance period of 10,000 years.

Further, the NRC's approach to analysis timeframes is suitable because, in addition to the 10,000-year compliance period, licensees must also complete performance period analyses for depleted uranium and other long-lived radionuclides to understand and effectively manage future doses resulting from the disposal of the long-lived radionuclides after 10,000 years. This proposed rule balances differing views associated with how impacts over very long time periods should be evaluated by having a maximum 10,000-year compliance period, followed by performance period analyses beyond 10,000 years, when significant quantities of long-lived radionuclides would be disposed.

This approach provides reasonable assurance that public health and safety are protected and only imposes a regulatory burden upon licensees or applicants when it is necessary due to the risks associated with the LLW that is accepted for disposal. An applicant wishing to use a 1,000-year compliance period would demonstrate that the LLW to be accepted for disposal will not contain significant quantities of long-lived radionuclides such that the disposal would require a 10,000-year compliance period. An evaluation of the inventory can be used to demonstrate that the performance objectives would not be exceeded. Licensees or applicants may use the draft guidance in NUREG-2175, Revision 1, to determine significant quantities of long-lived radionuclides for their specific land disposal facilities.

iii. New and Revised Technical Analyses

This proposed rule would require a new applicant and licensees that do not meet the criteria in § 61.1(b) to prepare technical analyses consistent with §§ 61.13(a) through (e) to demonstrate that their land disposal facilities and design meet the performance objectives. Existing licensees that meet the criteria in § 61.1(b) may instead comply with proposed § 61.13(f), which retains the requirements in current 10 CFR 61.13(a) through (d). The current regulations already require technical analyses; however, the NRC is amending 10 CFR 61.13 to provide additional details for analyses requirements (revising certain technical analyses) as well as requiring new analyses.

Under this proposed rule, except for licensees that meet the criteria in § 61.1(b), licensees or applicants would be required to prepare the following as part of their technical analyses: (a) a revised analysis, called a performance assessment, to demonstrate the protection of the general population from releases of radioactivity (§ 61.41); (b) a new analysis,¹ called an inadvertent intruder assessment, to demonstrate the protection of inadvertent intruders (§ 61.42); (c) an operational safety assessment to demonstrate the protection of individuals during operations (§ 61.43); (d) performance period analyses for licensees or applicants using the 10,000-year compliance period to evaluate how the disposal system may mitigate the long-term risk from disposal of significant quantities of long-lived radionuclides in the LLW inventory (§§ 61.41(b) and 61.42(b)); and (e) a site stability assessment to demonstrate the stability of the site after closure (§ 61.44).

Consistent with the current requirements in §§ 61.27 and 61.28, existing licensees would be required to update their current technical analyses upon the next license renewal and site closure. Licensees would also be required to update their technical analyses before receiving new waste streams not analyzed in their current technical analyses, and as otherwise required by Agreement State regulations.

For all the required updates during license renewal, site closure, or before receiving new waste streams, existing licensees who meet the criteria in 10

¹ The inadvertent intruder assessment analysis is new only from the standpoint that it was not required in the original regulations. This analysis has been performed for some U.S.-operating facilities and for many international facilities.

CFR 61.1(b) may choose to comply with the original part 61 regulations for technical analyses, which would be retained in 10 CFR 61.13(f), that generally require: (1) demonstrating protection of the general population from releases of radioactivity, (2) analyses of the protection of individuals from inadvertent intrusion, (3) analyses of the protection of individuals during operations, and (4) analyses of the long-term stability of the disposal site (*i.e.*, current §§ 61.13(a) through (d)). These licensees may also continue to use the timeframes in their analyses deemed acceptable by the appropriate regulator prior to the revisions to 10 CFR part 61 in the proposed rule.

For required updates prior to site closure, as set forth in the proposed 10 CFR 61.28, revisions to the technical analyses at site closure must consider the waste disposed of during operations and reflect significant changes to the human activities occurring in and around the site. The proposed rule would also require that an application for site closure must include the total volume and mass of waste that was disposed of as well as the total radioactivity in curies of each radionuclide that was disposed of. The NRC has developed draft guidance in NUREG-2175, Revision 1, that would facilitate the development of information and analyses to support licensees in addressing the regulatory requirements.

Under the proposed rule, the licensee would be required to operate the land disposal facility in a manner consistent with the technical analyses. In addition, as set forth in the proposed 10 CFR 61.24(l), new applicants and licensees that do not meet the criteria in § 61.1(b) would evaluate whether updates to the technical analyses are warranted if significant changes have occurred at the site or before receiving new waste streams not analyzed in the most recent approved technical analyses. The required analyses are set forth and described as follows:

1. Performance Assessment

Compliance with the first performance objective of subpart C of 10 CFR part 61, which provides protection of the general population from releases of radioactivity, would continue to be demonstrated with a technical analysis. The NRC proposes to rename this analysis in current § 61.13(a) as a “performance assessment.” Under the proposed rule, an applicant or licensee not meeting the criteria in § 61.1(b) would conduct a performance assessment to demonstrate the protection of the general population

from releases of radioactivity, thereby meeting the performance objective set forth in § 61.41(a). A performance assessment would evaluate the projected behavior of an LLW disposal site and the uncertainties in its projected behavior. The performance assessment would include the specific characteristics of the disposal site (*e.g.*, hydrology, meteorology, geochemistry, biology, geomorphology) and degradation, deterioration, or alteration processes of the engineered barriers (including the waste form and container) and its natural system. The performance assessment would also identify interactions between the disposal site characteristics and engineered barriers that might affect the performance of the LLW disposal site. The performance assessment would examine the effects of these processes and interactions on the ability of the LLW disposal site to limit releases and would calculate the projected annual dose to a member of the public for comparison with the appropriate performance objective. The results of a performance assessment would assist in providing reasonable assurance that the general population is adequately protected from releases of radioactivity. The NRC proposes to revise its regulations to require licensees that do not meet the criteria in § 61.1(b) to complete a performance assessment to demonstrate compliance with the public dose limit of 0.25 mSv (25 mrem) required in 10 CFR 61.41(a) for the duration of the compliance period.

With the exception of existing licensees that meet the criteria in § 61.1(b), the dose limit would apply to a compliance period of 1,000 years after closure, or 10,000 years after closure if there are significant quantities of long-lived radionuclides in the LLW that will be disposed of after the effective date of this rulemaking. The licensee or applicant would provide a technical rationale to its regulator to support the decision to use a 1,000-year compliance period. Should a 10,000-year compliance period be necessary, the licensee or applicant would also be required to conduct performance period analyses beyond 10,000 years to demonstrate that releases from the disposal site are effectively managed. Draft guidance is provided in NUREG-2175, Revision 1, that can be used to help determine what is a significant quantity of long-lived radionuclides.

Under the proposed rule, a licensee or applicant must evaluate: the interactions between the disposal site and engineered barriers that might affect performance of the disposal site; radionuclide transport characteristics of

the waste; features, events, and processes that might affect demonstrating compliance with § 61.41(a); contaminant transport pathways and processes in environmental media; and uncertainties and variability in the projected performance of the disposal site and surrounding environment. In the performance assessment, a licensee or applicant would be required to use a dose methodology consistent with the dose methodology specified in the standards for radiation protection set forth in part 20 of this chapter. The weighting factors used in the calculation of the dose would be required to be consistent with the methodology used to perform the calculation.

2. Inadvertent Intruder Assessment

In 10 CFR part 61, the NRC recognizes that it is possible, though unlikely, that an inadvertent intruder might occupy a disposal site in the future and engage in normal activities without knowing that they are receiving radiation exposure from buried LLW. Therefore, the second performance objective in subpart C of 10 CFR part 61 is the protection of inadvertent intruders. The current regulations have a performance objective and related technical analysis requirements to demonstrate protection of individuals from inadvertent intrusion. Licensees who meet the requirements of 10 CFR 61.1(b) have the option of using those existing technical requirements, which are retained in the proposed 10 CFR 61.13(f).

This proposed rule would add a requirement in 10 CFR 61.13 for licensees that do not meet the criteria in § 61.1(b) to conduct a site-specific inadvertent intruder assessment to demonstrate compliance with § 61.42(a) and (b). The inadvertent intruder assessment would quantitatively estimate the radiological exposure of an inadvertent intruder at a LLW disposal site who is unknowingly exposed to radiation from the LLW following an assumed loss of institutional controls after the end of the active institutional control period. The results of the inadvertent intruder assessment would be compared to the performance objective in § 61.42(a). The inadvertent intruder assessment would assume that an inadvertent intruder occupies the disposal site and engages in agricultural and residential activities and other reasonably foreseeable pursuits that are consistent with the activities occurring in and around the site at the time of development of the inadvertent intruder assessment; identify barriers to inadvertent intrusion that inhibit contact with the waste or limit radiation

exposure from the waste and provide a basis for the barriers degree of effectiveness; and account for uncertainties and variability in the projected performance of the disposal site and surrounding environment. For near-surface disposal facilities, the inadvertent intrusion assessment would include the projected dose for an individual who inadvertently disrupts or contacts the waste. For waste disposal in a specialized land disposal facility, the inadvertent intruder assessment must also demonstrate that the engineered barriers and natural features ensure that an inadvertent intruder will not disrupt or contact emplaced waste during any part of the compliance period in which the waste remains a radiological hazard. Therefore, for a specialized land disposal facility, the inadvertent intruder assessment would not include the projected dose from direct contact with the waste but would include the projected dose from onsite exposure to released radioactivity (e.g. from contaminated groundwater pumped onsite). More information on new requirements for specialized land disposal facilities is provided in Section IV.C.vii of this proposed rule.

For new licensees and existing licensees that do not meet the requirements of 10 CFR 61.1(b), the NRC is proposing that licensees perform a site-specific inadvertent intrusion assessment with a 5 mSv/yr (500 mrem/yr) dose limit. Existing licensees that meet the criteria in § 61.1(b) would have the option to use the existing technical analysis requirements, which are retained in § 61.13(f).

For the licensees that perform a site-specific intruder assessment (*i.e.*, licensees that do not meet the criteria for § 61.1(b)), the NRC is also proposing an inadvertent intruder annual dose limit of 5 mSv (500 mrem) for the compliance period in the 10 CFR 61.42(a) performance objective, consistent with the critical organ dose limits used to develop the LLW classification tables in the original 10 CFR part 61. The regulatory basis for the current 10 CFR part 61 assumed that inadvertent intrusion occurred following a cessation of an active institutional control period administered by the landowner or custodial agent. Institutional control of the disposal site was expected to occur beyond the active institutional control period; however, control becomes increasingly difficult to assure for longer periods of time and therefore it could not be relied upon to provide adequate assurance of public safety. Therefore, an inadvertent intruder was assumed to

occupy the LLW disposal site and engage in normal activities, such as agriculture or dwelling construction. The analysis in the regulatory basis assumed that the inadvertent intruder directly contacted the disposed LLW and was exposed to radionuclides through inhalation of contaminated air, direct radiation, ingestion of contaminated food and water, and inadvertent ingestion of soil. The NRC based the LLW classification tables in the current § 61.55 on radionuclide concentrations that would yield an annual dose comparable to 5 mSv (500 mrem) and adjustments to those values based on expectations about the composition of waste streams, among other factors.

The annual dose limits used to develop the LLW classification tables were selected from a range of values that were consistent with exposure guidelines of different orders of magnitude that were applicable at that time. In NUREG-0945, the NRC selected a range of critical organ dose limits, including a whole-body annual dose of 5 mSv (500 mrem) considering safety, costs, disposal efficiency, and the potential for increased disposal of waste containing long-lived radionuclides that could increase the hazard for long time periods. The NRC reaffirmed the foregoing selection in its denial of a petition for rulemaking PRM-61-2, "New England Coalition on Nuclear Pollution, Inc.; Denial of Petition for Rulemaking," dated March 29, 1994, and continues to believe that an annual dose limit of 5 mSv (500 mrem) total effective dose or total effective dose equivalent provides an acceptable level of protection to an inadvertent intruder.

Given the uncertainty in predicting human behavior into the distant future and to limit associated speculation, the proposed inadvertent intruder assessment assumes an inadvertent intruder occupies the disposal site and engages in activities and other reasonably foreseeable pursuits consistent with expected activities in and around the disposal site at the time of the assessment and that might unknowingly expose the person to radiation emitted or released from the waste in the disposal units. The NRC has prepared draft guidance in NUREG-2175, Revision 1, for the inadvertent intruder assessment that describes approaches that the NRC staff would find acceptable for determining reasonably foreseeable inadvertent intruder activities that are consistent with activities in and around the land disposal facility. The draft guidance also describes how licensees or applicants could take credit for physical

characteristics (*e.g.*, water quality) and societal information (*e.g.*, land use patterns) related to the land disposal facility to limit speculation about the types of activities in which an inadvertent intruder might engage. The NRC is not proposing that licensees or applicants should assume that contact with the LLW by an inadvertent intruder is certain to occur. A 5 mSv (500 mrem) dose limit for the inadvertent intruder, compared to a 0.25 mSv (25 mrem) annual dose limit for the public during the compliance period in § 61.41(a), provides a dose limit that considers both the health risk to the inadvertent intruder and the likelihood of the inadvertent intruder receptor scenario. Furthermore, as in the current regulations, engineered barriers and disposal practices, such as greater disposal depth, could be considered in the inadvertent intruder assessment. For example, if the disposal site implements a protective cover of at least 5-m (16-ft) thickness, it would not be reasonable to consider a receptor scenario in which (1) a residential dwelling foundation is excavated below 5 m (16 ft) and (2) waste is exhumed from a disposal unit if it is not normal to construct foundations in the surrounding area to that depth.

In summary, the NRC proposes new regulations in 10 CFR 61.13(b) that would specify that licensees that do not meet the criteria in § 61.1(b) must conduct an inadvertent intruder assessment to demonstrate compliance with the inadvertent intruder dose limit of 5 mSv (500 mrem) in the proposed 10 CFR 61.42(a) for the duration of the compliance period. The dose limit would apply to a compliance period of 1,000 years after closure or 10,000 years after closure if there are significant quantities of long-lived radionuclides in the LLW that will be disposed after the effective date of this rulemaking. Should a 10,000-year compliance period be necessary, the licensee or applicant would then be required to conduct performance period analyses beyond 10,000 years, to characterize inadvertent intruder exposures.

3. Operational Safety Assessment

Because GTCC waste may require additional operational safety procedures and specialized handling, the NRC proposes to add requirements to the analyses of the protection of individuals during operations in 10 CFR 61.13(c). Under the proposed rule, licensees that do not meet the criteria in § 61.1(b) would conduct an operational safety assessment to demonstrate that exposures to individuals during operation will be controlled to meet the

requirements of 10 CFR part 20, thereby meeting the performance objective set forth in § 61.43.

The operational safety assessment would be required to include analyses of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. These analyses could be qualitative and could credit administrative controls and procedures. Operational safety assessments involving GTCC waste would also be required to include quantitative analyses of expected exposures due to unlikely accidents (including fire, handling events, and other credible accidents) and the identification of safety features to prevent and mitigate accidents. Draft NUREG-2175, Revision 1 includes guidance on performing operational safety assessments for GTCC waste.

Licensees or applicants for licenses to operate LLW disposal facilities handling and disposing of Class A, B, and C wastes would complete operational safety assessments through mostly qualitative analyses using management controls such as operational procedures, training and qualifications, radiological protection systems, monitoring, and inspection. Existing LLW disposal facilities have been very successful using management controls to provide a high-level of protection to workers and the public during operations. Licensees of disposal facilities or applicants requesting NRC authorization for handling and disposing of GTCC wastes would likely use similar approaches to satisfying operational safety requirements but would need to complete a quantitative operational safety assessment. Under the proposed rule, an operational safety assessment should be more detailed and comprehensive as the level of hazard posed by the waste increases.

4. Site Stability Assessment

The current regulations in § 61.50 require that LLW disposal sites not be susceptible to erosion, flooding, seismic activity, or other disruptive events or processes to such a degree or frequency that compliance with the 10 CFR part 61 performance objectives cannot be demonstrated with reasonable assurance. Under the current and proposed rule, all applicants and licensees must demonstrate that the § 61.44 performance objective for the stability at the disposal site after closure will be met. For licensees that do not meet the criteria in § 61.1(b), this proposed rule would provide more details in 10 CFR 61.13(d) and would require that the site stability assessment must demonstrate that long-term

stability of the disposal site can be ensured and that there will not be a need for ongoing active maintenance following site closure, thereby meeting the performance objective set forth in § 61.44 of this part.

The NRC has developed draft guidance stating that the site stability assessment should focus on stability of the wasteform, stability of the engineered land disposal facility, and geomorphic stability of the disposal site. For disposal of traditional LLW (*i.e.*, the range and type of LLW that was analyzed for preparation of the current 10 CFR part 61), site stability assessments would likely focus on the wasteform and engineered features. For disposal of LLW containing significant quantities of long-lived radionuclides, the focus would likely be on the engineered land disposal facility and geomorphic stability of the disposal site. The extent of the site stability assessments would be strongly influenced by the radiological characteristics of waste to be disposed. Under the proposed rule, stability of wasteforms, disposal units, engineered barriers (such as cover systems), disposal site, land disposal facility, and the general environment may all be within the scope of the site stability assessment.

5. Performance Period Analyses

A long-term analysis (*e.g.*, longer than 10,000 years) was not considered necessary in current 10 CFR part 61 because of the waste streams being disposed at that time. The original regulatory system was designed to ensure that the short- and long-term impacts were limited by regulatory requirements such as the LLW classification system and based upon waste inventories expected to be disposed of at that time.

As set forth in the proposed § 61.13(e), licensees that do not meet the criteria in § 61.1(b) and applicants that plan to dispose of LLW containing significant quantities of long-lived radionuclides would be required to prepare long-term analyses, termed “performance period analyses,” that assess how the land disposal facility and site characteristics limit the potential long-term radiological impacts, consistent with available data and current scientific understanding. The performance period analyses would be required only when a compliance period of 10,000 years is used by the applicant or licensee. The proposed requirement for the performance period analyses is not a dose limit, but rather a requirement that releases of radioactivity from the disposal site and

exposures to the inadvertent intruder must be effectively managed during the performance period. The NRC considered a variety of requirements for performance period analyses. The requirement for effective management of doses was selected because it allows socioeconomic information to be considered in a risk-informed manner. Considering the timeframes involved, uncertainties may be considerable and therefore the precision typically assigned to a dose limit is not warranted. Although a dose limit is not prescribed, doses or concentrations and fluxes of radionuclides in the environment may be calculated, as they are commonly used in comparing alternative approaches. Acceptable approaches to performing the analyses for the performance period are described in draft guidance NUREG-2175, Revision 1.

In the performance period analyses, a licensee would be required to identify and describe the features of the design and site characteristics that will demonstrate that the performance objectives set forth in the proposed §§ 61.41(b) and 61.42(b) will be met. These analyses would also help determine whether additional measures are needed at a disposal site to ensure the protection of the general population and the inadvertent intruder from disposal of LLW containing long-lived radionuclides. The performance period analyses would determine whether new or additional limitations are needed for the disposal of some LLW streams at certain land disposal facilities.

No ending time for the performance period analyses is specified in this proposed rule. Several different factors influenced this decision. First, the analyses may demonstrate the time when the peak impact is likely to occur such that further calculation beyond when peak dose occurs is unnecessary. Because long-term impacts are driven by site-specific characteristics and the LLW that is disposed, the timing of peak impacts may differ substantially at each land disposal facility. A licensee must demonstrate that releases are effectively managed, ensuring that facilities and disposal units are not under-designed. Second, the analyses that are developed for the performance period may differ from traditional projections of long-term radiological doses. Performance period analyses may demonstrate that the performance period requirements have been satisfied irrespective of peak radiological impacts. There is uncertainty in the projected radiological risk to future populations from LLW disposal that may be based on different assumptions about the behavior and

characteristics of future society. Because of this uncertainty, this proposed rule focuses on a demonstration of how the natural and engineered barriers of the disposal system could limit future releases of material rather than the exact radiological impact to an individual or group.

iv. Revised Performance Objectives

The NRC is proposing revisions to the performance objectives found in §§ 61.41 through 61.44. The performance objectives at § 61.41, “Protection of the general population from releases of radioactivity,” and § 61.42, “Protection of individuals from inadvertent intrusion,” would be divided into two sections, (a) and (b), that distinguish between demonstrating meeting the dose limits for the compliance period and effectively managing releases of radioactivity from the land disposal site or exposures to the inadvertent intruder during the performance period. Both §§ 61.41 and 61.42 also would include an item (c), that maintains the current 10 CFR part 61 regulations that licensees who meet the criteria in § 61.1(b) would be required to comply with (instead of (a) and (b)).

The current performance objective at § 61.41 requires that concentrations of radioactive material that may be released from the disposal site to groundwater, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 25 mrem to the whole body, 75 mrem to the thyroid, and 25 mrem to any other organ of any member of the public. In this proposed rule, consistent with the direction provided in Staff Requirements—COMWDM-11-0002/COMGEA-11-0002—Revision To 10 CFR part 61 (January 19, 2012), the NRC is proposing to move the current regulation’s whole body and organ dose limits to § 61.41(c) for licensees that meet the criteria in § 61.1(b) and add an annual dose of 0.25 mSv (25 mrem) in § 61.41(a) that would require all other applicants and licensees to use a dose methodology consistent with the dose methodology specified in the standards for radiation protection set forth in part 20 of this chapter. The weighting factors used in the calculation of the dose would be required to be consistent with the methodology used to perform the calculation.

The current performance objective at § 61.42 requires the design, operation, and closure of the land disposal facility must ensure protection of an inadvertent intruder into the disposal site who occupies the site or contacts the waste at any time after active

institutional controls over the disposal site are removed. In this proposed rule, the NRC is proposing a new inadvertent intruder annual dose limit of 5 mSv (500 mrem) for the compliance period in the 10 CFR 61.42 performance objective, which is comparable to the dose limits used to develop the LLW classification tables in the original 10 CFR part 61. The dose limit would be imposed in § 61.42(a), which would not apply to licensees who meet the criteria in § 61.1(b). These licensees would instead comply with the current regulations that are maintained in § 61.42(c).

The current performance objective at § 61.43, “Protection of individuals during operations” requires that operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in part 20 of this chapter, except for releases of radioactivity in effluents from the land disposal facility governed by § 61.41 of this part. In this proposed rule, the NRC is proposing to revise the performance objective at § 61.43 to specify an annual dose limit (rather than referencing § 61.41) and add that compliance with this section must be demonstrated through the operational safety assessment.

The current performance objective at § 61.44, “Stability of the disposal site after closure,” requires that the disposal facility be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site and to eliminate to the extent practicable the need for ongoing active maintenance of the disposal site following closure so that only surveillance, monitoring, or minor custodial care are required. In this proposed rule, the NRC is proposing to revise the performance objective at § 61.44 to indicate that compliance with this section must be demonstrated through the site stability assessment. The land disposal facility would be required to be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site. The NRC is not proposing to specify that stability of the disposal site must be demonstrated for the compliance period, because instability is only significant if it translates to health and safety impacts and stakeholders provided input that such a demonstration out to potentially 10,000 years is difficult to support with modeling tools currently available. Compliance with the 10 CFR 61.44 performance objective would require demonstration of long-term stability to the degree it is important to continue to isolate and contain the LLW. Some instability may be tolerable. Site stability would be required to be

evaluated for the compliance period, but that demonstration could transition from justifying that adequate dimensional stability will be achieved early in the compliance period to demonstrating that expected instability later in the compliance period would not compromise compliance with §§ 61.41 and 61.42.

v. Flexibility for Facilities To Develop Site-Specific Waste Acceptance Criteria

The NRC is proposing to amend 10 CFR 61.58 to require land disposal facility licensees that do not meet the § 61.1(b) criteria to implement WAC approved by the Commission (or Agreement State regulator) that provide reasonable assurance that the performance objectives of subpart C of 10 CFR part 61 will be met. The revisions would provide a risk informed approach to establishing waste acceptance criteria rather than relying on prescriptive, conservative limits. The proposed revisions include a minimum set of requirements for determining waste that is acceptable for disposal. The proposed revisions (e.g., site-specific WAC, waste characterization, waste certification) would ensure that the type of information included in the WAC is adequate to characterize the waste and certify its acceptability for disposal.

The NRC’s current waste acceptance requirements can be found in subpart D of 10 CFR part 61 and specify technical requirements for land disposal facilities for commercial LLW. The NRC is not proposing to revise the general organization of these requirements. The technical requirements specify the classes and characteristics of LLW that are acceptable for near-surface disposal, as well as other requirements. Section 61.55 defines the classes of LLW that are generally acceptable for near-surface disposal (i.e., the LLW classification system). Section 61.56 defines the minimum characteristics for all classes of LLW and characteristics intended to provide stability of certain LLW (i.e., Class B, Class C, and GTCC LLW). Additionally, § 61.52(a) specifies requirements for near-surface disposal facility operation, including segregation and intruder barrier requirements for various classes of LLW. In the current regulations, § 61.58 allows the NRC to authorize other provisions for the classification and characteristics of waste. The NRC is proposing that the new waste acceptance requirements replace the requirements permitting alternative classification and characteristics in the current § 61.58, and the alternative classification and characteristics provision in the current

§ 61.58 would be retained and moved to new § 61.55(c). Requests for alternative classification and characteristics could still be made through § 61.6, “Exemptions.”

Differences between actual site conditions and practices at land disposal facilities and the generic assumptions used to develop the LLW classification system may result in the radionuclide concentration limits being overly restrictive. If radionuclide concentration limits are overly restrictive based on actual site characteristics, facility design, and operational practices, the LLW classification system would ensure the safe disposal of LLW, but it could impose unnecessary regulatory burdens on licensees and LLW generators. In addition, wastes may be proposed for disposal that are significantly different from those analyzed to develop the generic concentration limits found in the current regulation. The addition of the proposed requirement for an inadvertent intruder assessment would require that these significantly different wastes are analyzed to ensure that the 10 CFR part 61 performance objectives would be met prior to being accepted for disposal. The flexibility for licensees to develop site-specific WAC would provide assurance that public health and safety will be protected, while offering flexibility for facilities with strong site characteristics, design, and operational practices. This flexibility is constrained for existing Agreement State licensees by the requirement that waste with radionuclide concentrations in excess of the Class C limits codified at 42 U.S.C. 2021c(b)(1)(D) on a sum-of-fractions basis must be disposed of in a site licensed by the Commission.

This proposed rule would revise 10 CFR 61.58 to require that WAC may be either generic WAC, based on the concentration limits in § 61.55 and the waste characteristics in 10 CFR 61.56, or site-specific WAC based on the results of the technical analyses described in § 61.13. Because licensees other than those meeting the § 61.1(b) criteria would be required to develop WAC for the acceptability of LLW for disposal, this proposed rule also would revise appendix G to 10 CFR part 20 to conform to the new requirements for LLW acceptance. Waste generators would continue to comply with LLW manifesting requirements in appendix G to 10 CFR part 20 and should continue to classify LLW for shipment in accordance with the waste class as prescribed in 10 CFR 61.55 (Class A, B, C, or GTCC), such that there are no changes to current LLW shipment and

transportation practices and Department of Transportation regulations.

vi. Safety Case

Licensees are responsible for demonstrating that their land disposal facilities are constructed, operated, and closed safely. To this end, 10 CFR part 61 establishes the requirements that licensees must meet to operate a land disposal facility. While the NRC concluded that the requirements specified in § 61.10, “Content of applications,” through § 61.16, “Other information,” together with the performance objectives of subpart C and the technical requirements of subpart D, ensure that a licensee or an applicant demonstrates the safety of a proposed land disposal facility, the current regulations do not require the development of a “safety case.” As directed by the Commission in SRM-SECY-13-0075, and to better align with international practice and provide greater transparency of safety decisions with stakeholders, the NRC is proposing to add a requirement for a safety case for new applicants and licensees that do not meet the criteria in § 61.1(b). A safety case is a high-level evaluation of the information and analyses that support the licensee’s or applicant’s demonstration that the land disposal facility will be constructed and operated safely. The safety case, which would be a component of an application, would provide a summary of the safety basis that the disposal site will be capable of isolating waste and limiting releases to the environment; describe the strength and reliability of the technical analyses described in § 61.13; and include consideration of defense-in-depth protections and safety relevant aspects of the site, the facility design, and the managerial, engineering, regulatory, and institutional controls.

The purpose of a safety case is to inform the decision whether to grant a license for a land disposal facility and provide a summary of the safety basis that the land disposal facility will be designed, constructed, operated, and closed safely. As such, the NRC is proposing to amend § 61.10 to require that an application must include the safety case. This proposed rule would also amend 10 CFR 61.23 to require that the safety case is adequate to support the decision to issue a license.

The primary components of the safety case are the results of the § 61.13 analyses. The NRC envisions that the safety case for a land disposal facility would evolve over time as new information is gained during the various phases of the facility’s development and operation (e.g., site-specific information

on types, forms, and activities of LLW disposed at the site; hydrology; geography). Therefore, the NRC proposes to require the safety case be updated at license renewal if new information that could significantly impact safety of the facility is acquired. The NRC is also proposing to amend 10 CFR 61.28 to require that the application for site closure of a licensed land disposal facility include a final revision to the safety case. This requirement does not apply to licensees who meet the criteria in § 61.1(b).

The defense-in-depth principle has served as a cornerstone of the NRC’s regulatory framework for nuclear reactors, and it provides an important tool for making regulatory decisions in the face of significant uncertainties. The NRC has applied the concept of defense-in-depth throughout its regulations to ensure the safety of licensed facilities through requirements for multiple, independent layers of defense, and, where possible, redundant safety systems. Traditionally, the reliance on independence and redundancy of barriers has been used to provide assurance of safety when reliable, quantitative assessments of barrier reliability are unavailable. The NRC maintains, as it has in other regulations for disposal (such as for high-level radioactive waste), that the application of the defense-in-depth concept to a LLW land disposal facility is appropriate and reasonable.

Licensees applying defense-in-depth protections for land disposal facilities need to recognize differences between operating facilities and closed land disposal facilities. While waste is being disposed, and before a land disposal facility is closed, defense-in-depth protections provide for active and passive safety systems commensurate with the hazard and complexity of the activities. Licensees applying defense-in-depth principles for regulation of land disposal facility performance for long time periods following site closure, however, must account for the difference between an operating land disposal facility with active safety systems and the potential for active control and intervention (*i.e.*, taking action to address) and a closed land disposal facility, which relies upon passive barriers. A closed disposal site is a passive system, and assessment of its safety over long timeframes is best evaluated through consideration of the relative likelihood of threats to its integrity and performance. With respect to the long-term performance of the disposal site, and in particular for the disposal of long-lived radionuclides, defense-in-depth is provided through

the diversity and capabilities of the components and attributes of the disposal site (*e.g.*, wasteform, container, engineered features, depth of the disposal unit below the land surface, hydrologic and geochemical characteristics).

Diversity in the capabilities of the components and attributes of the disposal site and its design increases the resilience of the disposal site to contend with unanticipated degradation or external challenges. This diversity also compensates, in part, for uncertainties in the long-term estimation of performance of the disposal site. The NRC continues to hold that each layer of defense must make a definite contribution to the isolation of the waste, so that the NRC can find with reasonable assurance that no single layer of defense will be relied upon exclusively to achieve the overall safety objectives over the compliance period. Disposal of LLW is predicated on the expectation that attributes of the disposal site, in combination with engineered features, will minimize the migration of radionuclides away from the disposal site. However, the capabilities of site characteristics and engineered features are subject to many uncertainties. Engineered features generally are considered more durable over short time periods as compared to periods longer than a few hundred years when uncertainties in degradation rates and natural events may be more significant. The NRC expects that licensees will rely on both the natural site characteristics and the engineered features, in combination, to provide defense-in-depth protections and reasonable assurance that the overall performance of the disposal site will be adequate over long time periods.

Defense-in-depth includes, but is not limited to, the use of siting, wasteforms and radionuclide content, engineered features, and geologic features of the land disposal facility to enhance the waste isolation resiliency of the disposal site. In addition, defense-in-depth is used to mitigate the effects of large uncertainties identified during the development of the technical analyses. Therefore, NRC is proposing that licensees or applicants, as part of the safety case specified at § 61.10(c),

describe the defense-in-depth protections that enhance the resiliency of the facility in complying with the performance objectives specified at §§ 61.41 and 61.43.

vii. Safety Criteria and Limits for Licensing Land Disposal of GTCC Waste

The proposed rule introduces new provisions for specialized land disposal facilities, which are designed to safely dispose of waste streams with radionuclide concentrations exceeding the limits for near-surface disposal. These facilities must demonstrate, through a combination of engineered barriers and natural features, that inadvertent intruders will not disrupt or contact emplaced waste during the compliance period. The rule specifies technical requirements, including minimum disposal depths and performance objectives, to ensure long-term safety and environmental protection for these higher-risk waste streams. This approach provides additional disposal options for GTCC waste and supports a risk-informed, performance-based regulatory framework for low-level radioactive waste management.

The classification scheme for low-level radioactive wastes at 10 CFR part 61 is predicated on radiological risk, with Class A posing the lowest and GTCC posing the greatest risks. Commensurate with these risks, the regulations at 10 CFR part 61 provide for graded approaches for disposal of the different waste classes to ensure adequate protection of the health and safety of the public, inadvertent intruders, and workers.

For disposal of Class A, B, and C wastes, the NRC's existing regulations include requirements for disposal that align with the waste classes. For protection of inadvertent intruders, the NRC evaluated a variety of potential exposure pathways and receptors and developed limiting concentrations, as well as other requirements, to provide protection. Class A waste was assumed to be disposed with no intruder barriers and be disturbed by excavation for construction of a home after 100 years of institutional control. Class B waste is required to be disposed in a stable wasteform, which was also assumed to

provide a recognizable wasteform and therefore limited the assumed exposure time to a short "discovery" scenario after 100 years of institutional control. Class C waste is required to be disposed of at a depth of at least 5 m or with a 500-year intruder barrier, which was assumed to provide an additional 400 years for radioactive decay after the end of institutional controls before intrusion could occur. The importance of disposal depth for Class C and GTCC waste was, and still is, that at a sufficient depth the exposure of inadvertent intruders would be via drilling to acquire resources rather than excavation of a foundation for construction of a home. Drilling typically results in disturbance of a much smaller volume of buried waste. Even if waste is disposed deeply at a facility, the concentrations provided by table 1 and 2 of 10 CFR 61.55 are based on the assumption of shallow burial and subsequent excavation.

Unlike waste that has been disposed at currently operating LLW facilities, the radiological characteristics of GTCC wastes are quite varied—some GTCC wastes have mostly short-lived radionuclides while others have more long-lived radionuclides. GTCC wastes may have concentrations of short- and long-lived radionuclides that are significantly larger than in Class A, B, or C LLW.

The proposed safety criteria and limits for licensing land disposal of GTCC waste account for these unusual characteristics. For GTCC waste, NRC's 2019 regulatory basis document concluded that some GTCC waste streams with concentrations of transuranic alpha-emitting radionuclides below 10,000 nanocuries per gram are suitable for near-surface disposal. In a 2026 supplement to the 2019 technical analysis of hazards document that supported the 2019 draft regulatory basis document, NRC determined that additional GTCC waste streams could be generally acceptable for disposal in a specialized land disposal facility.

Specifically, the NRC determined that waste streams with the radionuclide concentrations not exceeding the values in the following table could be generally acceptable for disposal in a specialized land disposal facility.

**Upper Limit of Radionuclide Concentrations in GTCC Waste Generally Acceptable
for Land Disposal**

Radionuclide	Concentration
Sum of alpha emitting radionuclides with half-life greater than 50 years	18.5 megabecquerel per gram (500 microcuries per gram)
Sum of beta and photon emitting radionuclides with half-life greater than 50 years	1.85×10^5 gigabecquerel per cubic meter (5,000 curies per cubic meter)
Sum of beta and photon emitting radionuclides with half-life greater than 50 years in activated metal	1.85×10^6 gigabecquerel per cubic meter (50,000 curies per cubic meter)
Tc-99	1.85×10^4 gigabecquerel per cubic meter (500 curies per cubic meter)
I-129	370 gigabecquerel per cubic meter (10 curies per cubic meter)

For land disposal facilities, the NRC proposes new requirements for protection of the public after closure of the disposal facility (§ 61.41(a) and (b)), protection of the public who may inadvertently use the disposal facility after closure (§ 61.42(a) and (b)), and protection of the public during operations (§ 61.43). The NRC considered a variety of approaches to provide criteria that would ensure protection of public health and safety from the disposal of GTCC wastes. In the United States, there are multiple operating disposal facilities located in different environments using different designs. They also accept different concentrations and quantities of waste. Facilities that may be developed in the future are likely to have corresponding differences. Requiring prescriptive design features in regulations is difficult in light of these different facilities in different environments disposing of different wastes. High-quality, site-specific technical analyses can more effectively and efficiently be used to identify design, operational, and other limits to provide protection.

Because GTCC wastes exceed the concentrations of Class C waste, some additional prescriptive requirements are warranted. For near-surface disposal facilities, the NRC is proposing minimum requirements for GTCC waste of a 500-year intruder barrier and a 5-m (16-ft) disposal depth. This would ensure that at least 500 years of decay will occur before an intruder could interact with the waste and when they do interact it is unlikely to be from excavation given the depth at which the waste is disposed. Depending on the characteristics of the GTCC waste, an applicant would be able to identify in the technical analyses those additional

barriers or performance characteristics that are necessary to provide protection, such as a greater disposal depth or an intruder barrier of greater longevity. The disposal depth will need to be maintained for as long as the waste is hazardous.

The NRC is proposing an upper limit for GTCC waste disposal of long-lived transuranic radionuclides in near-surface disposal of 370,000 becquerel per gram (Bq/g) (10,000 nCi/g). Previously, the NRC staff had analyzed the disposal of different types of GTCC waste and determined that, when the waste approaches concentrations of long-lived transuranic radionuclides of 370,000 Bq/g (10,000 nCi/g), it can be very difficult to establish that an intruder who inadvertently drills a well into the waste in the future would not receive an acute dose more than 0.5 mSv (500 mrem) (84 FR 35037; July 22, 2019). Therefore, the NRC is proposing this upper limit for the concentration of long-lived transuranic radionuclides in waste for near-surface disposal. However, with special technology or designs a licensee may be able to justify that performance criteria could be met with quantities in excess of this limit. Such circumstances would be evaluated on a case-by-case basis.

The NRC is proposing an upper limit for GTCC waste land disposal as shown in the table in this section of the proposed rule entitled "Upper Limit of Radionuclide Concentrations in GTCC Waste Generally Acceptable for Land Disposal." At a specialized land disposal facility, the NRC is proposing that an applicant must demonstrate that an inadvertent intruder will not disrupt or contact emplaced waste during any part of the compliance period in which the waste remains a radiological hazard.

In addition, the NRC is proposing that the licensee or applicant must demonstrate that an inadvertent intruder will not receive a dose exceeding 5 mSv (500 mrem) from unlikely but plausible onsite releases of radioactivity from the waste (e.g., which could occur from using potentially contaminated groundwater pumped onsite).

Because of the difficulty of demonstrating that engineered intrusion barriers will function effectively for thousands of years into the future, the proposed rule would require licensees or applicants to demonstrate that a combination of engineered barriers and natural features will prevent an inadvertent intruder from disrupting or contacting emplaced waste while it remains a radiological hazard during the compliance period (i.e., either 1,000 or 10,000 years). For example, one such natural feature might be disposal at significant depth in chemically reducing saline water under any potable aquifer an inadvertent intruder could potentially attempt to access. One such engineered feature could be a deflection plate made of a sufficient thickness of a hard, corrosion-resistant metal, such as titanium or appropriately designed alloys, which may be cost prohibitive over a large near-surface facility but could be cost effective over a small footprint, such as over a borehole waste disposal unit.

Safety of the public and workers during operation of a low-level waste disposal facility has traditionally been achieved using management controls, active and passive safety features, procedures, inspections, training, emergency response, and monitoring. The NRC evaluated accidents (e.g., fires and drops) when the waste

classification system was developed, but accident scenarios did not result in modifications to limiting derived concentrations. The disposal of GTCC waste could, under certain accident conditions, result in increased offsite impacts to a member of the public. For this reason, the NRC is proposing requirements for an operational safety assessment in 10 CFR 61.13 and proposing that these assessments be quantitative for GTCC wastes.

In addition, GTCC waste may have unique characteristics compared to Class A, B, and C low-level wastes. These characteristics include heat generation, radiolysis, criticality, and dispersibility. The NRC is proposing additional waste characteristics requirements in § 61.56(c) specific to GTCC wastes that a licensee must consider. These requirements would ensure that the technical analyses are comprehensive and necessary restrictions, limits, or design modifications to account for the unique characteristics are identified and implemented.

viii. Disposal Depth

The NRC proposes different disposal depth considerations for GTCC disposal in near-surface and specialized facilities. For near-surface disposal, the NRC proposes to include a minimum disposal depth requirement of 5 meters for GTCC wastes and for waste with significant quantities of long-lived radionuclides (*e.g.*, depleted uranium). This approach would help ensure that uncertainties associated with future human activities and geomorphic evolution of landforms are mitigated by simple and easily implemented design-based requirements. A licensee would also be permitted to use greater disposal depth to mitigate uncertainties. The GTCC wastes would also be required to be disposed with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years. For waste streams with significant quantities of long-lived radionuclides, the longevity of intruder barriers and site conditions need to be factored into the approach used to protect against an inadvertent intrusion at a closed disposal site. Because the proposed rule would also define a specialized land disposal facility to exclude near-surface disposal, waste disposed in a specialized land disposal facility would be a minimum of 30 meters below the ground surface. Furthermore, disposal of waste at significant depth (*e.g.*, below any potable water) could be a natural feature that, in combination with engineered barriers, would preclude an inadvertent intruder from disrupting or

contacting emplaced waste while it remains a radiological hazard.

Requiring that certain wastes must be disposed at a minimum depth is a method used throughout the world to limit the accessibility to the waste. Some wastes may contain radionuclides that persist for long periods of time (thousands of years and longer). Other wastes, such as some GTCC wastes, may contain short-lived radionuclides in concentrations that are higher than in A, B, and C wastes. In general, near-surface disposal is used as the disposal concept for wastes that contain limited amounts of short- and long-lived radionuclides. The NRC also requires that inadvertent intruders be protected from the disposal of LLW. In the current regulations, use of the classification tables, site ownership requirements, and institutional controls provide this protection for Class A and B wastes. In addition, to achieve protection for Class C waste, the NRC currently requires that the waste must be disposed so that the top of the waste is a minimum of 5 meters below the top of the cover or must be disposed with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years. The basis for this requirement is that if an intruder were to excavate into a closed disposal facility potentially large volumes of waste would be exhumed. Radiological impacts to inadvertent intruders are driven by the concentrations of radionuclides, which in turn are a product of the amount of waste exhumed and the volume of media in which it is dispersed in the environment. The imposition of a depth requirement for certain wastes ensures that normal means of excavation, if they were to occur, will not disturb the waste. Rather, the NRC assumed that drilling or some other form of less intrusive disturbance may occur.

The NRC is proposing to require different reference points for the determination of disposal depth for different types of waste. The NRC is requiring the reference point for determination of the disposal depth for Class C wastes to ensure that if inadvertent intrusion were to occur before sufficient decay of radioactivity in the waste, that the disturbance would not be from excavation, but rather from drilling for a well. For GTCC waste or waste with significant quantities of long-lived radionuclides (*e.g.*, depleted uranium) the reference point for the depth requirement is the land surface. This is to help mitigate uncertainties in the long-term performance of the disposal system impacted by natural and anthropogenic surface processes

and events for waste that will not decay sufficiently for long periods of time.

ix. Physical Protection of LLW Including GTCC Waste

The NRC is proposing to revise its physical security regulations to clarify physical protection requirements for SNM being disposed in a land disposal facility licensed by the NRC. These revisions would take into account the material attractiveness of the SNM and are intended to provide a set of security measures that would reduce the regulatory burden on licensees of such facilities.

As discussed in the DOE FEIS], GTCC waste streams are quite varied. Some of the GTCC waste streams may contain quantities of SNM that would require physical protection measures. Additionally, specific wastes that fall under Classes A, B, C low-level radioactive wastes could contain sufficient quantities of SNM that could require physical protection under the current regulations. The current regulations at 10 CFR part 61 require any application to receive and possess SNM in quantities subject to the requirements of 10 CFR part 73 (Physical Protection of Plants and Materials) to include information on how the physical security requirements will be met (see 10 CFR 61.16). These requirements are limited to quantities of SNM prior to disposal and do not apply to quantities that have been disposed.

The objective of physical protection of radioactive waste at a land disposal facility is to prevent the theft or diversion of radioactive material with the intent of nefarious purposes (*e.g.*, potential use in an improvised nuclear device [IND]), and limiting, as appropriate, the potential for a successful sabotage event. The regulations at 10 CFR part 73 require, in part, the establishment and maintenance of a physical protection system that will have capabilities for the protection of SNM at fixed sites. A low-level waste disposal facility is expected to only have dilute concentrations of SNM in quantities of low strategic significance; therefore, multiple thefts would be required for an adversary to obtain a formula quantity of plutonium, uranium-233, or high enriched uranium.

In the physical security context, material attractiveness refers to form and concentration of the material, the relative ease of theft or diversion, and the capability level required to process material containing SNM for use in an IND. Material in forms and concentrations that are more difficult to readily turn into an IND are considered less attractive for potential theft or

diversion. A radioactive waste disposal facility presents some unique challenges to an adversary seeking to obtain SNM for use in an IND. These challenges include the following:

1. Radioactive waste containers are very similar in appearance.

Radioactive waste containing SNM at a land disposal facility can be expected to be stored in similar containers as other waste types. For theft or diversion of SNM to occur, an adversary would need to have knowledge of which containers have higher concentrations of SNM, therefore increasing the volume of waste that would need to be stolen to obtain a quantity of SNM potentially useful for an IND.

2. Radioactive waste only contains dilute amounts of SNM.

Processes and activities using SNM can generate waste material containing SNM; however, SNM that is readily separable from a waste stream is typically removed, resulting in low concentrations of SNM in waste materials. Low concentrations of SNM in waste materials present difficulties in separating SNM from waste material due to the need to process large volumes of waste material. Dilution of SNM in radioactive waste materials inhibits an adversary's ability to acquire and use the material in an IND. Greater levels of material dilution create a set of progressively greater complexities associated with material acquisition (because of material weight and size) and processing (because of larger equipment and process scales, increased processing timelines, and higher cost). Additionally, the increased time and resource burden on the adversary to process dilute material increases the chances for timely interruption of adversary actions and material recovery by law enforcement organizations. The SNM in waste material is typically highly dilute and distributed through a high volume of waste. This limits the attractiveness of this material as a target for theft or diversion.

3. Separation of SNM as usable material for an IND can be complex.

Separation of SNM from radioactive waste material for an IND can be complicated for radioactive waste streams due to the presence of both non-radioactive material and other radionuclides and isotopes of uranium and plutonium.

Radioactive waste containing low concentrations of SNM that is not readily separable from the radioactive waste presents adversaries with greater technical, operational, and logistical challenges when conducting SNM processing operations and constructing an IND. All of these challenges result in

such waste materials being more difficult to steal and easier to recover. For example, obtaining a formula quantity of strategic SNM from radioactive waste at a concentration of 0.01% of SNM would require theft and subsequent processing of tens of tons of radioactive waste. Assuming that an adversary was able to select primarily those packages with plutonium at a concentration very near to a concentration of 0.01% (*e.g.*, assume half of the diverted waste containers contain SNM at concentrations much less than 0.01%), an adversary would need 40 metric tons of radioactive waste or on the order of 100 waste drums. Although detection of the diversion of a single radioactive waste drum may go unnoticed, diversion or theft of tens of drums is easily detected. A large pickup truck (*e.g.*, one-ton truck) could potentially remove five waste drums. Theft of 100 drums would be far more noticeable, take longer to load, and require significantly more SNM waste to be available at the time of the theft. Further, the additional limitation that the quantity is of low strategic significance would require multiple thefts even if the adversary successfully found and removed only those packages with an amount of SNM at the maximum quantity to be considered of low strategic significance (*e.g.*, regardless of truck size and number of waste containers removed an adversary would need a larger quantity of low strategic significance material than is present at the facility, prior to disposal, to obtain sufficient material for the purpose of constructing an IND assuming the adversary could separate all the SNM from the waste). Multiple attempts at removing all the SNM waste containers present at a facility would be extremely unlikely to succeed without detection.

Additionally, the International Atomic Energy Agency (IAEA) has provided recommendations on physical protection (INFCIRC/225/Revision 5, IAEA Nuclear Security Series No. 13, IAEA, Vienna (2011)) that recognizes a graded approach for physical protection based on the attractiveness of the material. Paragraph 4.7 of the IAEA report states that nuclear material, which is in a form that is no longer usable for any nuclear activity, minimizes environmental dispersal and is practicably irrecoverable, may be protected against unauthorized removal in accordance with prudent management practice.

The limited attractiveness of radioactive waste with specific characteristics (*i.e.*, quantity of material of low strategic significance containing

very dilute concentrations of SNM such as 0.01%, SNM that is not readily separable from the non-SNM waste material using equipment commercially available to individuals—such as bulk screening and sifting equipment) provides a reasonable demarcation for physical protection of radioactive waste materials at a land disposal facility.

The NRC is proposing a revision to its regulations at 10 CFR part 73 to include an exemption from the physical protection requirements in 10 CFR 73.67 for SNM of limited attractiveness at a land disposal facility licensed by the NRC. The NRC's proposed approach is similar to exemptions currently specified at § 73.67(b)(1)(i) through (iii) that exempt materials containing SNM from the requirements of § 73.67 due to specific attributes and characteristics of the material. Adding an exemption to § 73.67(b)(1) for radioactive waste containing SNM of limited attractiveness would allow for more risk-informed security requirements for land disposal facilities accepting such waste than is currently provided for in § 73.56(b)(1)(i) through (iii).

These proposed changes to part 73 would affect only facilities licensed by the NRC and not Agreement State licensees because the security requirements in 10 CFR part 73 were promulgated pursuant to the NRC's authority to protect the common defense and security. Consistent with section 274 of the AEA, the NRC cannot discontinue its regulatory authority over matters related to common defense and security.

The exemption from the requirements at § 73.67 for radioactive waste containing SNM to be disposed at a land disposal facility that is of limited attractiveness for theft and diversion would not exempt the licensee from physical protection and security requirements in other parts of NRC's regulations. Any land disposal facility is still required to provide physical protection and security for radioactive material under 10 CFR part 20, subpart I, as well as other physical protection requirements under 10 CFR part 37 for radioactive waste regulated by that part. This proposed revision is intended to provide appropriate flexibility to NRC regulating Class A, B, C, and GTCC wastes that meet the requirements for safe disposal at a near-surface disposal facility. Draft NUREG–2175, Revision 1 would provide guidance regarding physical protection.

x. Criticality Safety of LLW Including GTCC Waste

The current regulations at § 61.16(b) identify other safety information

concerning criticality that, if appropriate, is required for demonstrating criticality safety. The NRC is proposing to revise § 61.16(b) with respect to criticality safety during operations so that NRC applicants and licensees would not be required to consider radioactive waste containing fissile material meeting the requirements specified at § 71.15(c). As specified in the first sentence of § 61.23(j), which is current existing language, an applicant must demonstrate the adequacy of its criticality safety procedures to protect the public health and safety and provide reasonable assurance that the requirements of § 70.24, "Criticality accident requirements," will be met, insofar as they are applicable to SNM to be possessed before disposal under the license. These requirements would apply when a licensee is authorized to possess SNM in a quantity exceeding the amounts specified at § 70.24(a) (e.g., 700 grams (g) of U-235, 450 grams of plutonium). The second sentence of § 61.23(j) is new regulatory text and applies only to disposal of GTCC waste.

Some of the GTCC waste streams described in the DOE's FEIS contain SNM in quantities and concentrations significantly greater than that associated with Class A, B, and C wastes. The NRC staff is proposing revisions to provide for appropriate criticality controls for GTCC waste (1) during the operation period of a land disposal facility prior to disposal (*i.e.*, receipt, handling, emplacement of waste) and (2) after the operational period has ended and the facility is closed (*i.e.*, waste is no longer being disposed).

Most GTCC waste in DOE's FEIS is expected to be packaged in a variety of different container types depending on the type of waste and radionuclides present (e.g., sealed sources in a 210 L (55-gallon) sized container, a stainless-steel activated metal canister, a standard waste box that holds approximately five times more waste volume than a 210 L (55-gallon) drum). Future GTCC wastes from a reprocessing facility may be disposed in specialized canisters used for very specific wasteforms. These wasteforms could also include SNM in a quantity exceeding the amounts specified at § 70.24(a). As GTCC waste containers are received at a land disposal facility, the requirements for criticality safety would apply when the threshold amounts specified at § 70.24(a) are exceeded for those waste containers that are not yet disposed (*i.e.*, waste containers on the surface of the facility). In general, criticality safety would be associated with the configuration of those waste packages

containing SNM during storage on the surface and how they are emplaced within a disposal unit (e.g., both the stacking of waste containers and the areal array of packages).

The NRC has previously considered specific configurations of waste packages containing fissile material in the context of transportation packages that are also appropriate for criticality safety during operations at a low-level waste facility with waste packages containing similar fissile material. In particular, 10 CFR part 71 provides exemptions from classification of radioactive material as fissile material when specific requirements are met (e.g., § 71.15(c) provides an exemption for low concentrations of solid fissile material commingled with solid nonfissile material meeting certain specifications). NUREG/CR-7239, "Review of Exemptions and General License for Fissile Material in 10 CFR [Part] 71," provides explanatory information on the background, intent, and anticipated use of the provisions to assist fissile material licensees in their interpretation and application of the provisions such that criticality safety is ensured during transportation activities. This document states that criticality safety risk depends on several factors including the mass, concentration, or isotopic distribution of the fissile material and the system geometry and surrounding materials (reflectors) that might reflect neutrons back into the package (NUREG/CR-7239, page 1).

The NRC is proposing to amend § 61.16 to adopt an exemption at 10 CFR 71.15 for the disposal of certain solid fissile material at low-level waste disposal facilities because the criticality considerations for transportation packages are also appropriate for operations at a low-level waste facility. The NRC's transportation regulations at 10 CFR 71.15 provide that certain material is exempt from classification as fissile material under conditions for the fissile material type, quantity, form, moderation, and mass concentration for which there are no credible means to achieve a critical condition under normal conditions of transport or hypothetical accident conditions. The intent of including exemptions from classification as fissile material in the regulations is to reduce the burden and cost imposed for packages that contain quantities and concentrations of fissile material that are low risk in terms of potential for inadvertent criticality in transport. These packages can be shipped without a packaging assessment for criticality safety purposes and require little or no regulatory oversight

to ensure inadvertent criticality will not occur (NUREG/CR-7239, page 16).

The exemption for low concentrations of solid fissile material at § 71.15(c) is a condition that is applicable to radioactive waste packages containing waste material that meets the requirements for the exemption. NUREG/CR-7239 considered a variety of scenarios and accident conditions in analyzing the safety margin provided by the low concentration exemption at § 71.15(c), which requires at least 2000 grams of solid nonfissile material for every gram of fissile material. These accident conditions included fire, water immersion, reconfiguration into a worst-case geometry, and the combining of material from multiple packages.

As stated in NUREG/CR-7239, the criteria for exemption from classification as fissile material are designed to maintain the fissile concentration, fissile mass, and/or fissile enrichment sufficiently low that accidental criticality is not credible under normal conditions of transport or hypothetical accident conditions, as defined in 10 CFR part 71. Under normal conditions of transport, a single package could easily be shown to remain subcritical; however, the fissile exemptions also consider the accumulation of fissile mass as a result of the commingling of multiple packages. Therefore, the fissile mass or mass concentration must be sufficiently low, based on conservative assumptions, to assure a subcritical arrangement for transport of individual or multiple packages. The exemption criteria are based on worst-case or optimal conditions, including: unlimited accumulation; optimum moderation by water; presence of low-neutron-absorbing moderators such as beryllium, graphite, or hydrogenous material enriched in deuterium; spherical geometry; and pure fissile content (*i.e.*, plutonium-239, plutonium-241, uranium-235, or uranium-233, without nonfissile uranium and plutonium nuclides). For purposes of ensuring criticality safety, the exemptions consider that the material can be released from any packaging during transport, may reconfigure into a worst-case geometric arrangement, may combine with material from other transport vehicles, and may be subject to the fire and water immersion conditions assumed as part of the criticality safety assessment for package designs approved to transport fissile material.

NUREG/CR-7239 is a bounding analysis for a land disposal facility because the accidents analyzed for NUREG/CR-7239 (fire, water

immersion, reconfiguration into worst-case geometry, unlimited accumulation from multiple packages) are representative of extreme accidents and conditions during operations at a disposal facility (e.g., handling accidents, flooding, fires). The concentrations that form the basis for the exemption at § 71.15(c) are based on accident scenarios analyzed in NUREG/CR-7239. Importantly, if the exemption at § 71.15(c) were adopted for low-level waste facilities, it would not restrict the number and configuration of the waste packages stored on the surface or emplaced within a disposal unit. However, such an exemption would place certain requirements on the commingling of fissile and nonfissile material and homogeneity of the wasteform, which are also addressed in NUREG/CR-7239.

Homogeneity of the wasteform is important to ensure that heterogeneities within the wasteforms are such that it would not be credible to accumulate the volume and configuration of fissile material to introduce criticality concerns. Small heterogeneous volumes can be expected to exist in a number of wasteforms, however, the requirement that 180 g of fissile material be distributed within a minimum of 360,000 g (360 kilogram (kg)) of contiguous nonfissile material provides added assurance that redistribution of the potentially heterogeneous portions of the fissile material will not result in a criticality concern (see NUREG/CR-7239 pages 20 and 21 for further details).

In summary, the NRC considers the exemption at § 71.15(c) and the associated criteria for its implementation to be appropriate for waste packages received, handled, stored, and emplaced at a land disposal facility. NUREG/CR-7239 provides extensive evaluations of criticality risk over a range of accident conditions designed to enhance the likelihood of a criticality (e.g., fire, waste immersion, reconfiguration into a worst-case geometry, and the combining of material from multiple packages). NUREG/CR-7239 demonstrated that even under these optimum conditions for a criticality to occur there is still a large safety margin in preventing a criticality (NUREG/CR-7239; Figure 3). The NRC is therefore proposing to revise § 61.16(b) with respect to criticality safety during operations so that an applicant for an NRC license would not be required to consider radioactive waste containing fissile material meeting the requirements specified at § 71.15(c). Draft guidance is provided in

NUREG-2175, Revision 1 regarding criticality controls during operations.

Following the cessation of operations and after a land disposal facility is closed, the overall amount of GTCC waste disposed could contain significant amounts of fissile material (i.e., greater than a critical mass). The DOE's FEIS accounted for approximately 12,000m³ of waste streams that, when combined, have the potential to include large quantities of fissile material (e.g., tens to hundreds of kilograms). Depending on the wasteform and disposal system design, reconcentration of fissile material could occur following disposal as containers degrade and radionuclides are mobilized by infiltrating water. An applicant should consider the potential for reconcentration of fissile material contained in GTCC waste at a facility that disposes of significant amounts of fissile material. The NRC is proposing to add a requirement in § 61.16(b)(3) that an applicant must provide information identifying the design attributes that limit the potential for reconcentration of fissile material following disposal when disposing of more than a critical mass of material in a disposal unit. Draft guidance is provided in NUREG-2175, Revision 1 to help determine what is a significant quantity of long-lived radionuclides. The NRC has provided draft guidance in NUREG-2175, Revision 1, related to postclosure criticality safety considerations. For example, NUREG-2175 contains guidance regarding the potential for reconcentration of fissile material.

Although the exemption at § 71.15(c) for designating SNM radioactive waste material as non-fissile was evaluated in the context of land disposal of GTCC radioactive waste rather than Classes A, B, and, C low-level waste, the basis for this exemption is equally valid for Classes A, B, and C radioactive waste because radionuclides are fissile or non-fissile regardless of waste class. Application of this exemption to Classes A, B, and C low-level waste would provide NRC licensees with the flexibility to dispose of certain, limited waste streams containing fissile material.

Section 274b.(3) of the AEA precludes the NRC from relinquishing its authority over SNM unless the material quantities are not sufficient to form a critical mass. Those limits are defined in 10 CFR 150.11, "Critical mass." The Commission Staff Requirements Memorandum on SECY-98-226, "Issuance of a Section 274f, Atomic Energy Act Order to Exempt Envirocare of Utah, Inc. From Licensing Requirements for Special Nuclear

Material in Diffuse Waste That Will be Regulated by the State of Utah," issued on October 22, 1998, allowed the NRC to conclude that an exemption from 10 CFR part 70 license requirements for a land disposal facility could be based on concentration limits and other considerations to ensure that quantities greater than a critical mass are safe. As stated in SECY-98-226: "At the time Part 150 was developed, the Commission likely did not envision that large quantities of diffuse waste containing low concentrations of SNM would be generated. Therefore, mass limits that are in part 150 have little relevance to large quantities of diffuse waste containing low U-235 concentrations, other than providing absolute assurance of criticality safety by preventing accumulation of a critical mass" (September 29, 1998).

For over 20 years, the NRC has implemented a process for commercial LLW sites located in an NRC Agreement State that allows for Agreement State authority over the receipt, possession, and disposal of quantities SNM greater than a critical mass that are safe under certain prescribed conditions. That process must have the support of the NRC Agreement State in which the commercial LLW site is located with an effective NRC Exemption Order for SNM.

Currently, there are two near-surface disposal facilities with an NRC Exemption Order for SNM:

1. NRC Exemption Order for SNM to EnergySolutions-Utah is from January 2003 (68 FR 7399; February 13, 2003); but, with the name change from Envirocare-Utah to EnergySolutions-Utah from May 2006 (71 FR 34168; June 13, 2006).

2. NRC Exemption Order for SNM to Waste Control Specialists LLC-Texas is from December 2014 (79 FR 73647; December 11, 2014), as supplemented by the five NRC letters dated September 23, 2016, September 26, 2017, December 19, 2018, December 7, 2020, and June 8, 2022.

The proposed changes to § 61.16(b)(1) and (2) for disposal of radioactive waste would not change the current orders for Energy Solutions-Utah and Waste Control Specialists LLC-Texas.

xi. Agreement State Authorities Under 10 CFR Part 150

The NRC is proposing several changes to 10 CFR part 150 to clarify LLW disposal activities that can be regulated by Agreement States and which activities must be regulated by the NRC. As discussed in Section IV. B. ii. of this proposed rule, the NRC has determined that it may not relinquish its regulatory

authority with respect to the disposal of GTCC waste. Section 3 of the LLRWPA delineates the LLW disposal responsibilities between the States and the Federal Government. Section 3(b)(1) of the LLRWPA provides that the Federal Government is responsible for regulating and providing for the disposal of GTCC waste streams. Section 3(b)(2) of the LLRWPA provides that all radioactive waste designated a Federal responsibility pursuant to (b)(1)(D) (a section which pertains to GTCC waste) that results from activities licensed by the NRC under the AEA shall be disposed of in a facility licensed by the NRC that the Commission determines is adequate to protect the public health and safety. Accordingly, the NRC is proposing to amend 10 CFR 150.15(a) to reflect that disposal of GTCC waste is an activity that must be exclusively licensed by the NRC.

Additionally, the NRC is proposing to revise 10 CFR 150.15(a)(4) to maintain federal oversight in determining which wastes are incidental to reprocessing but also allow the Agreement States to regulate disposal sites that receive this waste if it is Class A, B, or C. Section 150.15(a)(4) precludes, on a generic basis, Agreement State authority for the transfer, storage, or disposal of radioactive waste material resulting from the separation in a production facility of SNM from irradiated nuclear reactor fuel (reprocessing waste). This exclusion was adopted by the Atomic Energy Commission (AEC) in 1962 without a distinction whether the radioactive waste was high-level or low-level waste. At that time, the AEC determined that high-level radioactive waste should not be disposed of without a license from the AEC and stated the States would have control over land disposal of LLW (27 FR 1350; February 14, 1962).

The concept of waste incidental to reprocessing, or waste that can be managed based on the risk rather than the source, has been recognized since 1969 when the AEC issued a proposed rulemaking regarding the siting of reprocessing facilities. Waste incidental to reprocessing can include a variety of items (e.g., ion exchange beds, sludges, contaminated laboratory items, clothing, tools, and equipment). The history of NRC's role in waste incidental to reprocessing is provided in NUREG-1854, "NRC Staff Guidance for Activities Related to U.S. Department of Energy Waste Determinations." In 1993, the Commission approved specific criteria for determining whether a waste was incidental to reprocessing and appropriate for disposal as low-level

waste (58 FR 12342; March 4, 1993). The determination is made by the appropriate Federal regulator (NRC for commercial licensees; DOE for wastes generated by DOE) for the waste generator to treat the waste as incidental and appropriate for land disposal.

Accordingly, the NRC is proposing revisions to clarify that Agreement States may still regulate the transfer, storage or disposal of contaminated equipment or waste incidental to reprocessing that has been evaluated and approved as material to be disposed at a near-surface land disposal facility. Stated differently, while the Federal government retains authority over reprocessing facilities, Agreement States may regulate waste determined to be incidental to reprocessing that qualifies as Class A, B, or C.

xii. ALARA Discussion

The proposed rule replaces the ALARA references in § 61.41 and 61.43 with a reference back to 10 CFR 20.1101(b). The proposed cross-reference will provide consistency across NRC's regulatory framework and allow part 61 to remain consistent with any changes to part 20.

xiii. Commencement of Construction

The NRC proposes to clarify the definition of "commencement of construction" and add a definition for "construction" consistent with changes made in a 2011 rulemaking for licensing and approval processes for byproduct, source, and special nuclear materials licenses, and irradiators (76 FR 56951; September 15, 2011). A licensee may commence construction, at its own risk, provided there is no nexus to radiological safety.

xiv. Preoperational Monitoring Data Collection

The NRC proposes to amend § 61.53(a) to remove the requirement that an applicant conduct a preoperational monitoring program as the source of the required environmental data on disposal site characteristics. This amendment would allow applicants flexibility to rely on multiple sources of information, such as pre-existing environmental data, as applicable, as part of the required environmental data submission.

xv. Unofficial Redline Strikeout

The NRC prepared an unofficial redline strikeout version of the proposed changes to regulatory text that is intended to help the reader identify the proposed changes. This document compares the proposed changes to the NRC's regulations to the current

regulations in the CFR. The unofficial redline strikeout version of the proposed rule is publicly available and is listed in the "Availability of Documents" section.

V. Specific Request for Comment

The NRC is seeking advice and recommendations from the public on the proposed rule. The NRC is particularly interested in comments and supporting rationale from the public on the following:

1. The proposed rule contemplates performance evaluations that can cover periods up to 10,000 years and qualitative analyses of periods beyond those time frames. The new specialized land disposal category for GTCC waste encompasses a wide range of concentrations of long-lived alpha-emitting radionuclides, generally from 10,000 to 500,000 nCi/g, with the potential for higher concentrations through the site-specific waste acceptance criteria process. Because this approach is new and applies to GTCC waste streams with potentially high concentrations of long-lived alpha emitters, the NRC seeks stakeholder perspectives on:

- (a) What challenges could arise from performing analyses over these timeframes?

- (b) What steps can the agency take to clarify expectations and to help applicants and licensees maximize the realism and fidelity of these analyses?

- (c) What alternative approaches, such as durations or additional qualitative factors graded by the concentration of waste, should the NRC consider to improve the effectiveness or clarity of either the compliance period or the performance period?

2. Under the proposed rule, the NRC would license disposal of GTCC waste streams under part 61.

- (a) What steps can the NRC take to ensure that states' insights are considered and received with respect to licensing GTCC facilities?

- (b) Does part 61, subpart F, appropriately enable states to consider and provide input in NRC licensing of GTCC facilities?

3. Proposed section 61.58(e) requires licensees to undertake an annual review of the inputs to the site-specific performance analysis. Does the annual review provide sufficient flexibility to licensees?

4. Advanced reactors, advanced reactor fuels, emerging reprocessing approaches, and expanded medical and industrial uses of radioisotopes will potentially generate novel GTCC streams. A clear disposal pathway for

these emerging waste streams is essential.

(a) Do the proposed concentration limits, performance assessment methodology and waste characterization expectations remain valid for these emerging waste streams?

(b) Are there alternatives or other considerations that should be addressed to accommodate novel GTCC waste streams?

5. In the draft regulatory analysis, the NRC's cost-benefit evaluation focusses primarily on quantified costs and averted storage costs associated with earlier disposal of GTCC waste. The analysis notes that many potential benefits—such as increased disposal efficiencies, expanded disposal options for generators, and reductions in long term uncertainties—were not quantified.

(a) To help the NRC further inform and enhance the regulatory analysis, the NRC requests stakeholder input on any additional data, analyses, or supporting information that could help characterize costs or benefits not currently quantified. Specifically, the NRC is seeking information, operational experience, or cost data that the NRC can leverage to refine or expand the analysis of impacts associated with the proposed rule. Benefits of providing an alternative path for disposal for reprocessing wastes and other waste streams, which previously would not have been considered for land disposal, are of particular interest to the NRC.

6. The proposed rule permits the use of site-specific Waste Acceptance Criteria (WAC) for GTCC specialized land disposal, which could allow for the disposal of waste with concentrations exceeding the standard specified limits established for GTCC specialized land disposal.

(a) What are the expected benefits and drawbacks of allowing a higher GTCC specialized land disposal limit with a site-specific WAC? What specific use cases are expected to leverage these flexibilities and what benefits are anticipated for these use cases if the flexibilities are adopted? Please provide quantitative information and description of use cases to the extent possible; however, qualitative assessments would be useful, as well.

(b) Are there potential qualitative or quantitative limits on the concentration of activity allowed in a GTCC specialized land disposal with a site-specific WAC that the NRC should

consider? Are there any practical use cases that would be challenged by limiting the concentration?

7. The proposed rule would require an application for a LLW disposal facility to include a safety case as newly defined in this proposed rule. The safety case is an integrated, concise, and transparent synthesis of technical analyses, site characteristics, facility design, and management/regulatory controls that collectively demonstrate how the facility will meet the performance objectives in subpart C of part 61. The safety case is intended to support the licensee's demonstration that the land disposal facility will be constructed and operated safely and facilitate effective review by the NRC and public understanding. Recognizing that most of the technical elements are already required under current regulations, this proposed requirement seeks to ensure these elements are integrated and communicated in a coherent manner.

(a) Is the guidance provided in draft NUREG-2175 sufficient to address the appropriate scope, structure, and level of detail that should be included in the safety case for land disposal facility license applications? If not, what additional guidance or clarifications would be beneficial to ensure the safety case provides a clear, integrated, and risk-informed basis for regulatory decision-making?

(b) Are there international or domestic best practices regarding the scope of the safety case that NRC should consider?

(c) *Are there additional guidance documents or supporting materials that should be updated or developed to facilitate effective implementation of the safety case requirement?*

Provide the basis for your responses, including any relevant experience, best practices, or suggestions for further clarifying the safety case requirement in the final rule.

VI. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of LLW disposal facilities. The companies that own these facilities do not fall within the scope of the definition of "small entities" set forth in

the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

Any small entity subject to this regulation that determines, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this opinion in a comment that indicates—

(a) The licensee's size and how the proposed regulation would impose a significant economic burden on the licensee as compared to the economic burden on a larger licensee;

(b) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities;

(c) The benefits that would accrue or the detriments that would be avoided if the proposed regulations were modified as suggested by the licensee;

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group; and

(e) How the proposed regulation, as modified, would still adequately protect public health and safety.

Comments should be submitted as indicated under the **ADDRESSES** caption.

VII. Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The NRC requests public comment on the draft regulatory analysis. The regulatory analysis is available as indicated in the "Availability of Documents" section of this document. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** caption of this document. The conclusion from the analysis is that this proposed rule and associated guidance will result in net cost savings to the industry, the NRC, and Agreement States of \$39.4 million using a 7-percent discount rate and \$69.9 million using a 3-percent discount rate, using a 30-year analysis period. Detailed information on the costs and cost savings is presented in Table 1.

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Table 1—Total Costs and Cost Savings of Proposed Rule

[In 2024 dollars]

Attribute	Costs		
	Undiscounted	Discounted (7%)	Discounted (3%)
Industry Total:	\$0	\$0	\$0
DOE Total:	\$0	\$0	\$0
NRC Total:	310,000	270,000	290,000
AS Total:	500,000	340,000	420,000
Net:	810,000	610,000	710,000
Annualized:		49,158	36,224
Attribute	Cost Savings		
	Undiscounted	Discounted (7%)	Discounted (3%)
Industry Total:	(\$570,000)	(\$430,000)	(\$500,000)
DOE Total:	(\$109,720,000)	(\$39,170,000)	(\$69,640,000)
NRC Total:	(260,000)	(170,000)	(210,000)
AS Total:	(50,000)	(40,000)	(50,000)
Net:	(110,870,000)	(39,950,000)	(70,600,000)
Annualized:		(3,220,000)	(3,602,000)
Attribute	Net Cost Savings		
	Undiscounted	Discounted (7%)	Discounted (3%)
Industry Net:	(\$570,000)	(\$430,000)	(\$500,000)
DOE Total:	(\$109,720,000)	(\$39,170,000)	(\$69,640,000)
NRC Net:	50,000	100,000	80,000
AS Net:	450,000	300,000	370,000
Net:	(110,060,000)	(39,350,000)	(69,890,000)
Annualized:		(3,171,000)	(3,566,000)
Qualitative Benefits:	Public Confidence, Improvements in Knowledge, Regulatory Flexibility		

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VIII. Backfitting and Issue Finality

The NRC has determined that the backfitting provisions in 10 CFR 50.109, 53.1390, 70.76, 72.62, and 76.76 and the issue finality provisions in 10 CFR parts 52 and 53 do not apply to this proposed rule. This rulemaking would apply to applicants for a new low-level waste facility license, current low-level waste facility licensees, and current low-level waste facility licensees that submit an application to the NRC to dispose of GTCC waste or submit a license amendment request to dispose of significant quantities of long-lived radionuclides, the application for which

is submitted after the effective date of this rulemaking. These licensees would be regulated in accordance with 10 CFR part 61. As 10 CFR part 61 contains no backfitting provisions, and these licensees are not within the scope of an NRC regulation that contains a backfitting or issue finality provision, this proposed rule is not within the scope of the NRC's backfitting and issue finality provisions.

However, while this proposed rule is not within the scope of NRC's backfitting and issue finality provisions, the NRC nevertheless considered what new or revised regulations in proposed 10 CFR part 61 should apply to existing facilities. Proposed § 61.1(b)(1) lists the

new or revised regulations that need not apply to existing licensees. To arrive at the regulations listed in proposed § 61.1(b)(1), the NRC relied upon principles in its backfitting regulations. The regulations listed in proposed § 61.1(b)(1) need not apply to licensees that are conducting activities that already have a clear safety basis. As a consequence, the NRC determined that a consideration of backfitting principles warrants excusing those licensees from adopting the new regulations.

IX. Cumulative Effects of Regulation

The NRC seeks to minimize potential negative consequences resulting from the cumulative effects of regulation

(CER). The NRC believes that the de-regulatory impacts of this rulemaking activity are unlikely to cause implementation challenges for stakeholders. In addition, during the pendency of this rulemaking, the NRC is deprioritizing issuance of regulatory actions that might influence the implementation date for the new rule requirements (e.g., orders, generic communications, license amendment requests, and inspection findings of a generic nature).

To fully understand any potential CER implications that could result from this rulemaking, the NRC is asking the following questions. Response to these questions is voluntary and any input will be considered during development of the final rule.

1. The NRC is proposing an effective date that will be 30 days after the date of publication of a final rule. Does this provide sufficient time to implement the proposed requirements? Please provide a rationale for your response.

2. Are there unintended consequences related to this rulemaking and how should they be addressed? Please provide a rationale for your response.

3. Please comment on the NRC's cost and benefit estimates in the regulatory analysis that supports this proposed rule.

X. Plain Writing

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

XI. National Environmental Policy Act

A. Introduction

The NRC has prepared this environmental assessment (EA) of the

proposed rule amending low-level radioactive waste disposal regulations to determine the significance of the environmental effects of the proposed agency action in accordance with the National Environmental Policy Act of 1969, as amended (NEPA) and NRC's NEPA implementing regulations in 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.” As explained in this assessment, the NRC has determined that the proposed agency action to amend low-level radioactive waste disposal regulations would have no significant effect on the quality of the human environment.

B. Environmental Impact of the Proposed Agency Action

Proposed rule changes would occur in 10 CFR parts 20, 61, 73, and 150. Conforming changes would be made to guidance consistent with changes to regulations. Table B–1 lists the sections of the regulations being changed and affected guidance.

Table B-1 Regulations Under Consideration in the Low-Level Radioactive Waste Disposal Rulemaking

Regulations	Guidance
20.1003, Appendix G to Part 20, 61.1, 61.2, 61.3, 61.4, 61.7, 61.8, 61.9, 61.9a, 61.10, 61.12, 61.13, 61.16, 61.20, 61.22, 61.23, 61.24, 61.25, 61.26, 61.27, 61.28, 61.29, 61.30, 61.32, 61.41, 61.42, 61.43, 61.44, 61.50, 61.51, 61.52, 61.53, 61.55, 61.56, 61.57, 61.58, 61.59, 61.61, 61.62, 61.63, 61.71, 61.73, 61.80, 61.81, 61.82, 61.84, 73.67, 150.11, 150.14, 150.15	NUREG-2175, Rev. 1

Conforming changes are administrative actions with no physical environmental effect and provide for the appropriate administrative and regulatory framework for package certification under title 10 of the CFR. An example would be adding a reference to a newly created subsection in an existing regulation. All proposed amendments to NRC regulations in the proposed rule occur within their affected regulation.

i. Rule Amendments Addressed Under Categorical Exclusion

The NRC has determined that some of the changes to the regulations identified in this proposed rule meet criteria for categorical exclusion under § 51.22, “Categorical exclusions.” Categorical exclusions provide a mechanism to identify Federal actions that normally do not have a significant environmental

effect on the human environment and for which neither an environmental assessment nor environmental impact statement is normally required. This ensures that resources are not expended on the environmental analysis of proposed actions that do not present the potential for significant environmental effects. Rule amendments with applicable categorical exclusions are presented in Table B–2 in this assessment and no further NEPA analysis is required.

These proposed rule amendments belong to categories of actions that the Commission, by rule or regulation, has declared to be a categorical exclusion, after first finding that the actions within the category do not individually or cumulatively have a significant effect on the human environment. In reviewing the list of regulations in Table B–1, the NRC has determined that several of the

rule amendments are actions eligible for categorical exclusion under § 51.22(a)(1) or § 51.22(a)(3). Specifically, § 51.22(a)(1) cites actions that are administrative, procedural, or solely financial in nature, including, for example: issuance of or changes to procedures for filing and reviewing applications, recordkeeping or reporting requirements, and amendments to the regulations in this chapter that are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations. Also, § 51.22(a)(3) cites amendments to parts 1, 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 19, 21, 25, 26, 55, 75, 95, 110, 140, 150, 160, 170, or 171 of this chapter.

The following rulemaking actions meet the criterion for categorical exclusion under § 51.22(a)(1) or § 51.22(a)(3):

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Table B-2 Rule Amendments Covered by Categorical Exclusion

Rule Amendments	Categorical Exclusion	Reason
61.10	§ 51.22(a)(1)	Actions that are administrative, procedural, or solely financial in nature, including, for example (i), Issuance of or changes to procedures for filing and reviewing applications. The proposed rule amends procedures in 10 CFR 61.10 for filing and reviewing applications to receive, possess and dispose of waste containing or contaminated with source, byproduct, or special nuclear material by land disposal.
61.80	§ 51.22(a)(1)	Example (ii). Issuance of or changes to recordkeeping or reporting requirements. The proposed rule amends record keeping and reporting requirements in 10 CFR 61.80.
20.1003; 61.2; 61.3; 61.4; 61.7; 61.8; 61.9; 61.9a; 61.20; 61.22; 61.26; 61.27; 61.29; 61.30; 61.32; 61.44; 61.53; 61.57; 61.59; 61.61; 61.62; 61.63; 61.71; 61.73; 61.81; 61.82; 61.84	§ 51.22(a)(1)	Examples (iv) and (vi). Issuance of or changes to administrative procedures or requirements and amendments to the regulations that are corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations. These amendments are administrative, corrective or of a minor or nonpolicy nature and do not substantially modify existing regulations. Clarifications and procedural corrections include replacing the word “shall” with “must”, updating definitions, and conforming changes based on changes in other regulations and removing no longer relevant text. In addition, regulatory requirements in 10 CFR 61.7 would be removed to eliminate redundancy, because a description of waste classifications used in 10 CFR part 61 is added to revised § 61.55 and to guidance.
150.11; 150.14; 150.15	§ 51.22(a)(3)	Amendments belong to a category of actions which the Commission, by rule or regulation, has declared to be a categorical exclusion.

These proposed rule amendments, meeting criteria for categorical exclusion under § 51.22, consist of administrative and procedural changes—taking place in an office setting, relying on paper or electronic (e.g., computer) screen to demonstrate compliance would not authorize any site-specific action on the part of the NRC or licensee. They clarify NRC regulations and would not change radiation protection and emergency preparedness requirements while continuing to provide reasonable assurance of adequate protection of public health and safety.

ii. Rule Amendments Requiring Environmental Assessment

The NRC also identified rule amendments that do not meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22. The NRC evaluated these proposed rule amendments for their potential to have an effect on the quality of the human environment and determined that the proposed agency action (this rulemaking) would not have a significant environmental effect. Most environmental effects would be the same for a given facility regardless of whether the NRC approves these amendments. However, some amendments involve safety

requirements that differ from those under the existing regulatory framework. Therefore, the following analysis focuses on whether these different safety requirements would lead to different environmental effects than those expected under the NRC’s existing regulations. As explained in this assessment, these rule amendments would clarify NRC regulations, would continue to provide reasonable assurance of adequate protection of public health and safety, and therefore, would result in no new or different environmental effects. The following table presents the basis for why these proposed rule amendments would have no significant environmental effects.

**Table B-3 Basis for No Significant Environmental Effects Determination for
Rule Amendments Not Covered by a Categorical Exclusion**

Rule Amendments	Basis for No Significant Environmental Effects
Appendix G to Part 20; 61.1; 61.12; 61.13; 61.16; 61.23; 61.24; 61.25; 61.28; 61.41; 61.42; 61.43; 61.50; 61.51; 61.52; 61.55; 61.56; 61.58; and 73.67	The proposed rule would amend regulations in 10 CFR parts 20, 61, and 73 to: (1) align 10 CFR part 61 requirements with other NRC health and safety standards. (2) require new and revised site-specific technical analyses, performance assessments, and permit the development of site-specific land disposal facility criteria for low-level radioactive waste acceptance based on the results of these analyses, and (3) create a pathway, and waste characteristic and classification requirements, for land disposal of Greater-Than-Class-C (GTCC) waste streams. (4) Appendix G to 10 CFR part 20, "Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests," imposes manifest requirements on shipments of low-level radioactive waste. Manifests must identify the classification and provide a certification that the low-level radioactive waste is properly classified, described, packaged, marked, and labeled. (5) specify technical requirements for specialized land disposal facilities for the disposal of certain GTCC waste streams. (6) establish site suitability, design, operation and closure requirements for both near surface and specialized land disposal facilities. (7) provide flexibility for site-specific waste acceptance criteria. (8) create an additional exemption to the requirements in 10 CFR 73.67 for NRC licensees. These amendments increase regulatory clarity by specifying requirements for the technical analyses needed to demonstrate that performance objectives are met. They also provide greater flexibility for applicants and licensees to design and operate their LLW disposal sites in accordance with the site-specific conditions at their facility. The regulations concerning specialized land disposal facilities ensure GTCC waste at higher concentrations will be disposed safely, and in accordance with performance-based methodologies. Licensees and applicants would need to request and receive separate regulatory approval before undertaking disposal actions pursuant to these new requirements. Consequently, this rulemaking provides the

Rule Amendments	Basis for No Significant Environmental Effects
	basis for any procedure granting the license but does not, by its own operation, provide a license for disposal actions. Consequently, this rulemaking provides the basis for any license action but does not, by its own operation, provide a license for construction or disposal activities. Applicants must comply with NRC or Agreement State regulations before they can receive a license. These amendments would not physically change the environment, and the NRC has determined that this proposed agency action will not have a significant effect on the quality of the human environment.

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The proposed rule amendments listed in Table B-3 would modernize existing NRC regulations while ensuring the continued safe, effective, and efficient low-level radioactive waste disposal regulations and continuing to provide reasonable assurance of adequate protection of public health and safety and the environment. As noted in Table B-3, the proposed amendments would not authorize any site-specific action on the part of the NRC or licensee and would have no significantly different environmental effects than those from the current regulatory framework.

C. Summary of the Environmental Impacts of the Proposed Agency Action

Implementation of the proposed rule would result in no physical changes to the environment, and, therefore, the NRC has determined that this proposed agency action will not have a significant effect on the quality of the human environment. Proposed rule amendments are administrative in application, matters of procedure, clarify record keeping and reporting requirements, maintains ample margins of safety for public exposure, and would provide an equivalent level of safety and security as current NRC regulations.

Since no physical changes would occur in the human environment, the proposed agency action (rulemaking) would not affect any threatened or endangered species or historic properties. Accordingly, the NRC finds that the proposed rulemaking would have no significant environmental impact.

D. Environmental Impacts of the Alternative to the Proposed Agency Action

Under the no-action alternative (i.e., the status quo), NRC regulations would remain unchanged. As stated in section B of this EA, the proposed rule would

not have a significant effect on the quality of the human environment. Therefore, the no action alternative and the proposed agency action (rulemaking) would have the same environmental effect, although there would be costs attributable to reviewing the environmental effects of exemption and license amendment requests under the no action alternative. Licensees would continue to comply with existing NRC regulations or request regulatory relief (exemption) from the regulations. The NRC would continue to evaluate the environmental effects of exemption and license amendment requests. The averted costs (benefits) of the rulemaking would not occur. The regulatory analysis for the proposed rule provides information about the costs and benefits of the no action alternative and the proposed agency action (refer to the Availability of Documents section of this proposed rule).

E. Agencies and Persons Consulted

The NRC is requesting public comments on the proposed rule, draft EA and Finding of No Significant Impact (FONSI). The NRC will consider public comments in the development of the final rule, EA, and FONSI and will issue the EA and FONSI when it publishes the final rule.

The proposed rule is one step in the rulemaking process. During the development of this proposed rule, the NRC conducted public meetings and other interactions with stakeholders. As discussed in Section C, the proposed rule provisions would not have a significant effect on the quality of the human environment or impact threatened or endangered species or critical habitat, and the NRC has determined that section 7 consultation under the Endangered Species Act of 1973, as amended, is not necessary. The proposed regulatory changes do not

involve any ground disturbing activities or visual effects that would adversely affect historic properties. Therefore, the NRC has determined that consultation is not required under section 106 of the National Historic Preservation Act of 1966, as amended.

F. Draft Finding of No Significant Impact

The NRC has prepared this EA to determine the environmental effects of the proposed agency action (rulemaking). Proposed rule amendments are primarily administrative or procedural in nature and therefore would not have any physical environmental effect. As explained in the EA, the NRC has determined the proposed rulemaking would not change radiation protection and emergency preparedness requirements or overall risk, would continue to provide reasonable assurance of adequate protection of public health and safety, and would result in no new or different environmental effects. Therefore, the NRC concludes that the proposed regulatory changes would not have a significant effect on the quality of the human environment. Based on this conclusion, the NRC has determined there is no need to prepare an environmental impact statement. Accordingly, the NRC finds the proposed agency action would have no significant environmental impact.

XII. Paperwork Reduction Act

This proposed rule contains new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. *et seq.*). This proposed rule has been submitted to the Office of Management and Budget for review and approval of the information collections. The proposed changes to 10 CFR parts 20, 73 and 150 do not contain any new or amended collections of

information subject to the Paperwork Reduction Act of 1995.

Type of submission: Revision.

The title of the information collection: Information Collections Contained in the Integrated Low-Level Radioactive Waste Disposal Proposed Rule.

OMB approval number(s): 3150–0135.

The form number if applicable: Not applicable.

How often the collection is required or requested: Information is required to be submitted with an application for a new facility or an amendment to an existing facility. Records are required to be retained as they are generated or completed.

Who will be required or asked to respond: Current and future LLW disposal facilities that are regulated by the NRC or an Agreement State.

An estimate of the number of annual responses: 4.

The estimated number of annual respondents: 4.

An estimate of the total number of hours needed annually to comply with the information collection requirement or request: 160 hours (0 hours reporting + 160 hours recordkeeping + 0 hours third party disclosure).

Abstract: The NRC is proposing to amend its regulations to require LLW disposal facilities to conduct site-specific technical analyses to demonstrate compliance with the performance objectives of 10 CFR part 61. The intent of the rule is to ensure performance objectives are met at disposal sites for disposal of LLW that was not analyzed in the original 10 CFR part 61 regulatory basis (e.g., significant quantities of depleted uranium, GTCC waste). The site-specific technical analyses would include compliance period analyses with both a performance assessment and an intruder assessment, performance period analyses to evaluate how the disposal system could mitigate the risk from long-lived LLW, and an LLW acceptance plan identifying the WAC for the disposal facility. In addition, licensees must review their LLW acceptance plan annually and update analyses as part of the application for closure.

The information collection would be conducted to demonstrate compliance with the performance objectives in 10 CFR part 61 and develop criteria for LLW acceptance based on the results of these analyses that would continue to ensure the safe disposal of LLW. Information would be used by the NRC to ensure compliance with the performance objectives in subpart C of 10 CFR part 61 to ensure that LLW streams that are significantly different from those considered during the

development of the original regulations can be disposed of safely and meet the performance objectives for land disposal of LLW. These amendments would also increase the use of site-specific information to better ensure that public health and safety continues to be protected.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility? Please explain your response.

2. Is the estimate of the burden of the proposed information collection accurate? Please explain your response.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected? Please explain your response.

4. How can the burden of the proposed information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the Office of Management and Budget (OMB) clearance package and proposed rule are available in the “Availability of Documents” section of this document or may be viewed free of charge by contacting the NRC’s Public Document Room reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. You may obtain information and comment on submissions related to the OMB clearance documents by searching on <https://www.regulations.gov> under Docket ID NRC–2011–0012.

You may submit comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the issues mentioned in this section, by the following method:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2011–0012.

Submit comments by July 31, 2026.

Public Protection Notification

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

XIII. Executive Orders

The following are Executive Orders that are related to this proposed rule:

A. Executive Order 12866: Regulatory Planning and Review (as Amended by Executive Order 14215, Ensuring Accountability for All Agencies)

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

B. Executive Order 14154: Unleashing American Energy

The NRC has examined this proposed rule and has determined that it is consistent with the policies and directives outlined in E.O. 14154.

C. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is tentatively determined to be a deregulatory action as defined by E.O. 14192. An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” The proposed rule and associated guidance, if finalized, would be expected to result in net cost savings to the industry and the NRC of \$39.2 million using a 7-percent discount rate and \$69.7 million using a 3-percent discount rate, over the 30-year analysis period. The annualized costs are approximately \$49,200 per year at a 7 percent discount rate, and \$36,200 per year at a 3 percent discount rate. The annualized cost savings are approximately \$3.21 million per year at a 7 percent discount rate, and \$3.59 million per year at a 3 percent discount rate. Therefore, the annualized net cost savings are estimated at \$3.16 million per year at a 7 percent discount rate and \$3.55 million per year at a 3 percent discount rate. Accordingly, this proposed rule would be expected to have total costs less than zero, and therefore would qualify as an E.O. 14192 deregulatory action if finalized. Details on the estimated costs of this proposed rule can be found in Section VII of this document, “Regulatory Analysis.”

D. Executive Order 14270: Zero-Based Regulatory Budgeting To Unleash American Energy

E.O. 14270, “Zero-Based Regulatory Budgeting to Unleash American Energy,” requires the NRC to insert a conditional sunset date into all new or amended NRC regulations provided the regulations are (1) promulgated under the AEA, the Energy Reorganization Act

of 1974, as amended (ERA), or the Nuclear Waste Policy Act of 1982, as amended (NWPAA); (2) not statutorily required; and (3) not part of the NRC's permitting regime. The NRC determined that the regulatory changes proposed in this rule are for licensing and oversight of LLW disposal facilities, which are part of the NRC's permitting regime. Therefore, the NRC views this rulemaking to be outside the scope of Executive Order 14270 and did not insert conditional sunset dates for the regulatory changes in this proposed rule.

E. Executive Order 14294: Fighting Overcriminalization in Federal Regulations

This proposed rule includes Federal regulations that, if adopted, would be enforceable by criminal penalty, as authorized by Section 223 of the AEA. Therefore, per Executive Order 14294, those regulations constitute "criminal regulatory offenses."

For the purposes of Section 223 of the AEA, the NRC is issuing this proposed rule that would amend 10 CFR parts 61, 73, and 150 under one or more of Sections 161b, 161i, or 161o of the AEA, except as noted in 10 CFR 61.84(b), 73.81(b), and 150.33(b), respectively. The applicability of criminal penalties to regulations in parts 20, 61, 73, and 150 is set forth in §§ 61.84, 73.81, and 150.33, respectively. Willful violations of the 10 CFR parts 61, 73, and 150 regulations, other than those listed in §§ 61.84(b), 73.81(b), and 150.33(b) (including as updated by this proposed rule), would be subject to criminal enforcement.

XIV. Criminal Penalties

This proposed rule includes Federal regulations that, if adopted, would be enforceable by criminal penalty, as authorized by Section 223 of the AEA. Therefore, per E.O. 14294, those regulations constitute "criminal regulatory offenses."

For the purposes of Section 223 of the AEA, the NRC is issuing this proposed rule that would amend 10 CFR parts 61, 73, and 150 under one or more of Sections 161b, 161i, or 161o of the AEA, except as noted in 10 CFR 61.84(b), 73.81(b), and 150.33(b), respectively. The applicability of criminal penalties to regulations in parts 20, 61, 73, and 150 is set forth in §§ 61.84, 73.81, and 150.33, respectively. Willful violations of the 10 CFR parts 61, 73, and 150 regulations, other than those listed in §§ 61.84(b), 73.81(b), and 150.33(b) (including as updated by this proposed rule), would be subject to criminal enforcement.

XV. Coordination With NRC Agreement States

The NRC coordinated with the Agreement States during the development of this rulemaking, through consultation with the Standing Committee on Compatibility for the review of the rulemaking and the compatibility determinations.

XVI. Compatibility of Agreement State Regulations

On the basis of the "Agreement State Program Policy Statement" approved by the Commission on October 2, 2017, and published in the **Federal Register** (82 FR 48535; October 18, 2017), NRC program elements can be placed into six categories (A, B, C, D, NRC, or health and safety (H&S)) to form the basis for evaluating and classifying the program elements. Under the Policy Statement, a program element means any component or function of a radiation control regulatory program, including regulations and other legally binding requirements imposed on regulated persons, which contributes to implementation of that program.

Compatibility Category A are those program elements that include basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. Compatibility Category A program elements adopted by an Agreement State should be essentially identical to those of the NRC to provide uniformity in the regulation of agreement material on a nationwide basis.

Compatibility Category B pertains to a limited number of program elements that cross jurisdictional boundaries and should be addressed to ensure uniformity of regulation on a nationwide basis. For Compatibility Category B, the Agreement State program element shall be essentially identical to that of NRC. Program elements in Compatibility Category C include those program elements that are important for an Agreement State to have in order to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a national basis. An Agreement State program shall embody the essential objectives of the Category C program elements.

Under Category C, Agreement State program elements may be more restrictive than NRC program elements; however, they should not be so restrictive as to prohibit a practice authorized by the Atomic Energy Act of 1954 (AEA), as amended, and in the

national interest without an adequate public health and safety or environmental basis related to radiation protection.

Compatibility Category D are those program elements that do not meet any of the criteria of Category A, B, or C, and are not required to be adopted by Agreement States for purposes of compatibility. An Agreement State has the flexibility to adopt and implement program elements within the State's jurisdiction that are not addressed by the NRC or that are not required for compatibility (*i.e.*, Compatibility Category D). However, such program elements of an Agreement State relating to agreement material shall (1) not create conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis; (2) not preclude a practice authorized by the AEA and in the national interest; and (3) not preclude the ability of the NRC to evaluate the effectiveness of Agreement State programs for agreement material with respect to protection of public health and safety.

Compatibility Category NRC are those program elements that address areas of regulation that cannot be relinquished to the Agreement States under the AEA, or provisions of Title 10 of the Code of Federal Regulations. The NRC maintains regulatory authority over these program elements and the Agreement States must not adopt these NRC program elements. However, an Agreement State may inform its licensees of these NRC requirements through a mechanism under the State's administrative procedure laws, as long as the State adopts these provisions solely for the purposes of notification, and does not exercise any regulatory authority as a result. Regardless of a requirement's compatibility category, if any portion of that requirement addresses areas reserved to the NRC, that portion is designated as a Compatibility Category NRC.

Category H&S program elements embody the basic health and safety aspects of the NRC's program elements. Although H&S program elements are not required for purposes of compatibility, they do have particular health and safety significance. The Agreement State must adopt the essential objectives of such program elements to maintain an adequate program.

The proposed rule is a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. The NRC is proposing to designate those aspects of

the proposed rule in 10 CFR parts 20 and 150, 10 CFR 61.55 through 61.57 (note, all Agreement States are currently required to adopt 10 CFR 61.58, however this requirement has been redesignated as 10 CFR 61.55(c) and the new 61.58 is only applicable to LLW licensees), and the definition of waste acceptance criteria in 10 CFR 61.2 as Compatibility Category B since they have cross jurisdictional impacts (*e.g.*, for shipping waste consistently across States) regardless of whether they have exercised their authority to license an operating LLW disposal facility. The NRC is proposing to designate the new requirements in 10 CFR 61.58 as Compatibility Category C. These new requirements provide flexibility for facilities to develop site-specific waste acceptance criteria. While this flexibility itself is important for Agreement States to adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern of regulation, the State may be more restrictive in implementing the site-specific waste acceptance criteria for their licensees. That said, consistent with Compatibility Category C, all State equivalent regulations to 10 CFR 61.58 must embody the essential objectives of the regulation, namely that the type of information included in the WAC is adequate to characterize the waste and certify its acceptability for disposal.

Further, the NRC is proposing to designate 10 CFR 61.1(b) as

Compatibility Category B. At a high level, proposed 10 CFR 61.1(b) would allow entities licensed before the effective date of this rule and that do not accept Greater-Than-Class C waste or a significant quantity of long-lived radionuclides to continue their current waste acceptance practices. The proposed 10 CFR 61.1(b) criteria must be adopted in an essentially identical manner in order to ensure uniformity of regulation on a nationwide basis. Otherwise, licensees could be subject to a patchwork of ranging requirements such that existing licensees would be required to meet new requirements in one jurisdiction but not another.

The NRC is also proposing to change the compatibility or adequacy category for some of the proposed amended regulations. For example, the NRC is proposing to change the category for 10 CFR 61.10(a) from Category D to Category H&S. Under the proposed rule 10 CFR 61.10(a) concerns the content of applications and specifies that an application must consist of general information, specific technical information, technical analyses, institutional information, and financial information as set forth in §§ 61.11 through 61.16. With the exception of 61.16, which is Category NRC, the NRC is proposing designating §§ 61.11 through 61.15 H&S as well. Taken together, §§ 61.10 through 61.15 require an application demonstrates the facility can meet the performance objectives in 10 CFR part 61, subpart C. As such,

these requirements embody particular health and safety considerations appropriate for an H&S designation and therefore must be adopted by Agreement States.

Agreement States that have exercised their assumed authority to regulate the land disposal of byproduct, source, or special nuclear waste materials received from other persons and plan to authorize a LLW disposal facility within their State to receive significant quantities of long-lived radionuclides would be required to develop compatible requirements to 10 CFR part 61 in accordance with the assigned Compatibility Category designations. Agreement States that do not have authority or do not plan to license a LLW disposal facility within their State are not required to adopt the amendments to 10 CFR part 61, except for 10 CFR 61.55 through 61.57 (this exception would no longer apply to 10 CFR 61.58 in this proposed rule) and the definition of waste acceptance criteria in 10 CFR 61.2. Regulations that contain technical content categorized as necessary for adequacy, *i.e.*, those designated as category H&S, reflect the rigor with which the NRC believes these topics should be addressed. The compatibility (A, B, C, D, and NRC) and adequacy (H&S) categories are designated in the following tables:

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Adequacy and Compatibility Table for 10 CFR Part 20

Section	Change	Subject	Compatibility	
			Existing	New
20.1003	Amend	Definition-Waste.	B	B
App.G I.D	Amend	Manifest.	B	B
App.G I.E	Amend	Manifest.	B	B
App.G II	Amend	Certification.	B	B
App.G III.A	Amend	Control and Tracking.	B	B
App.G III.C	Amend	Control and Tracking.	B	B

Adequacy and Compatibility Table for 10 CFR Part 61

Section	Change	Subject	Compatibility	
			Existing	New
61.1(a)	Amend	Purpose and scope.	D	D
61.1(b)	New	Exception criteria	-	B
61.1(c)	Amend	Purpose and scope.	D	D
61.1(d)	Amend	Purpose and scope.	D	D
61.2	Amend	Definition-Active maintenance.	H&S	H&S
61.2	Amend	Definition-Buffer zone.	D	D
61.2	Amend	Definition-Chelating agent.	D	D
61.2	Amend	Definition-Commencement of Construction, paragraph 1	D	D
61.2	Amend	Definition-Commencement of Construction, paragraph 2	-	NRC
61.2	New	Definition-Compliance period.	-	C
61.2	New	Definition-Construction	-	D
61.2	New	Definition-Defense-in-depth.	-	H&S
61.2	Amend	Definition-Disposal.	C	C
61.2	Amend	Definition-Disposal unit.	D	D
61.2	Amend	Definition-Engineered barrier.	D	D
61.2	Amend	Definition-Inadvertent intruder.	C	C
61.2	New	Definition-Inadvertent intruder assessment.	-	H&S
61.2	Amend	Definition-Intruder barrier.	C	C
61.2	Amend	Definition-Indian Tribe	D	D

61.2	Amend	Definition-Land disposal facility.	B	B
61.2	New	Definition-Long-lived radionuclide.	-	B
61.2	New	Definition-Model support.	-	C
61.2	Amend	Definition-Monitoring.	C	C
61.2	Amend	Definition-Near-surface disposal facility.	D	D
61.2	New	Definition-Operational safety assessment.	-	H&S
61.2	New	Definition-Performance assessment.	-	H&S
61.2	New	Definition-Performance period.	-	C
61.2	New	Definition-Performance period analyses.	-	C
61.2	New	Definition-Safety case.	-	H&S
61.2	New	Definition-Significant quantities.	-	B
61.2	Amend	Definition-Site closure and stabilization.	D	D
61.2	New	Definition-Site stability assessment.	-	D
61.2	New	Definition-Specialized Land Disposal Facility	-	NRC
61.2	Amend	Definition-Stability.	D	D
61.2	Amend	Definition-State.	D	D
61.2	New	Definition-Technical analyses.	-	C
61.2	Amend	Definition-Tribal governing body.	D	D
61.2	Amend	Definition-Waste.	B	B
61.2	New	Definition-Waste acceptance criteria.	-	B
61.3	Amend	License Required.	C	C
61.4	Amend	Communications.	D	D
61.7	Removed	Concepts.	H&S	-
61.8	Amend	Information collection requirements: Office of Management and Budget approval.	D	D
61.9	Amend	Employee protection.	D	D
61.9a	Amend	Completeness and accuracy of information.	D	D
61.10(a) (Current 61.10)	Amend/ Revised Compatibility Category	Content of application.	D	H&S
61.10(b) (Current 61.10)	Amend	Content of application.	D	D
61.10(c)	New	Content of application.	-	H&S
61.12	Amend/ Revised Compatibility Category	Specific technical information.	D	H&S
61.13	Amend	Technical analyses.	H&S	H&S
61.16(a)	Amend	Other information.	NRC	NRC
61.16(b)(1)	Amend	Other information.	NRC	NRC
61.16(b)(2)	Amend	Other information.	NRC	NRC
61.16(b)(3)	New	Other information.	-	NRC

61.20	Amend	Filing and distribution of application.	D	D
61.22	Amend	Updating of application.	D	D
61.23(b)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(c)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(d)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(c)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(f)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(g)	Amend	Standards for issuance of a license.	H&S	H&S
61.23(j)	Amend/ Revised Compatibility Category	Standards for issuance of a license.	NRC	NRC
61.23(k)	Amend	Standards for issuance of a license.	D	D
61.23(m)	New	Standards for issuance of a license.	-	H&S
61.23(n)	New	Standards for issuance of a license.	-	NRC
61.24(b)	Amend	Conditions of licenses.	D	D
61.24(c)	Amend	Conditions of licenses.	D	D
61.24(d)	Amend	Conditions of licenses.	D	D
61.24(f)	Amend/ Revised Compatibility Category	Conditions of licenses.	D	D
61.24(i)	Amend	Conditions of licenses.	D	NRC
61.24(j)	Amend	Conditions of licenses.	D	D
61.24(k)	Amend	Conditions of licenses.	D	D
61.24(l)	New	Conditions of licenses.	-	H&S
61.25	Amend/ Revised Compatibility Category	Changes.	D	H&S
61.26	Amend	Amendment of license.	D	D
61.27	Amend	Application for renewal or closure	D	D
61.28(a)	Amend/ Revised Compatibility Category	Contents of application for closure.	D	H&S
61.28(c)	Amend	Contents of application for closure.	D	D
61.29	Amend	Postclosure observation and maintenance.	D	D
61.30	Amend	Transfer of license.	H&S	H&S
61.32	Amend	Facility information and verification.	NRC	NRC
61.41(a)	New	Protection of the general population from releases of radioactivity.	-	A
61.41(b)	New	Protection of the general population from releases of radioactivity.	-	C
61.41(c)	Amend (current 61.41)	Protection of the general population from releases of radioactivity.	A	H&S

61.42(a)	New	Protection of individuals from inadvertent intrusion.	-	A
61.42(b)	New	Protection of individuals from inadvertent intrusion.	-	C
61.42(c)	Amend (current 61.42)	Protection of individuals from inadvertent intrusion.	H&S	C
61.43	Amend	Protection of individuals during operations.	H&S	C
61.44	Amend	Stability of the disposal site after closure.	H&S	H&S
61.50(a)	New	Disposal site suitability requirements for land disposal.	-	H&S
61.50(b)	New	Disposal site suitability requirements for land disposal.	-	H&S
61.50(c)	Amend (current 61.50)	Disposal site suitability requirements for land disposal.	H&S	H&S
61.51	Amend	Disposal site design for land disposal.	H&S	H&S
61.52(a)	Amend	Land disposal facility operation and disposal site closure.	H&S	H&S
61.52(b)	New	Land disposal facility operation and disposal site closure.	-	NRC
61.53	Amend	Environmental monitoring.	H&S	H&S
61.55(a)	Amend	Waste classification.	B	B
61.55(b)	New	Waste classification.	-	B
61.55(c)	Redesignate (Current 61.58)	Waste classification.	-	D
61.56(a)	Amend	Waste characteristics.	H&S	H&S
61.56(b)	Amend	Waste characteristics.	H&S	H&S
61.56(c)	New	Waste characteristics.	-	NRC
61.57	Amend	Labeling.	H&S	H&S
61.58	Retitled, Amend	Waste acceptance. (Previously titled Alternative requirements for waste classification and characteristics)	D	C/D*
61.59	Amend	Institutional requirements.	H&S	H&S
61.61	Amend	Applicant qualifications and assurances.	D	D
61.62	Amend	Funding for disposal site closure and stabilization.	H&S	H&S
61.63	Amend	Financial assurances for institutional controls.	H&S	H&S
61.71	Amend	State and Tribal government consultation.	D	D
61.73	Amend	Commission approval of proposals.	D	D
61.80	Amend	Maintenance of records, reports, and transfers.	C	C

61.81	Amend	Tests at land disposal facilities.	D	D
61.82	Amend	Commission inspections of land disposal facilities.	D	D

Adequacy and Compatibility Table for 10 CFR Part 150

Section	Change	Subject	Compatibility	
			Existing	New
150.11	Amend	Critical mass.	B	B
150.14	Amend	Commission regulatory authority for physical protection.	NRC	NRC
150.15	Amend	Persons not exempt.	NRC	NRC

* - For States that regulate LLW disposal facilities section 61.58 is Category C, and for all others it is Category D.

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The NRC invites comment on the compatibility category designations in the proposed rule and suggests that commenters refer to Management Directive 5.9, “Adequacy and Compatibility of Program Elements for Agreement State Programs,” and its Handbook for more information. The NRC notes that, like the rule text, the compatibility category designations can change between the proposed rule and final rule, based on comments received and NRC decisions regarding the final rule. The NRC encourages anyone interested in commenting on the compatibility category designations in any manner to do so during the comment period.

XVII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104-113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC is proposing to amend its regulations that govern LLW disposal facilities to require new licensees or existing licensees wanting to accept GTCC waste or a significant quantity of long-lived radionuclides to develop new and revised site-specific technical analyses and to permit the development of site-specific WAC based on the results of these analyses. These amendments would ensure that LLW streams that are significantly different from those considered in the regulatory basis for the current regulations can be disposed of safely and meet the performance objectives for land disposal of LLW. These amendments would also

increase the use of site-specific information to ensure public health and safety is protected. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XVIII. Availability of Guidance

The NRC is issuing revised draft guidance in NUREG-2175, Revision 1, “Guidance for Conducting Technical Analyses for 10 CFR part 61,” for implementation of the proposed requirements in this rulemaking. The draft guidance is available in ADAMS as shown in the “Availability of Documents” section of this document. When finalized, “Guidance for Conducting Technical Analyses for 10 CFR part 61” will provide stakeholders with guidance for implementing the final requirements contemplated by this proposed rule. You may submit comments on the draft regulatory guidance by the methods outlined in the **ADDRESSES** section of this document. You may obtain information and comment submissions related to the previous draft guidance document that was issued concurrent with the LLW disposal proposed rule in March 2015 by searching on <https://www.regulations.gov> under Docket ID NRC-2015-0003. All subsequent changes to this guidance for this rulemaking can be found under Docket ID NRC-2011-0012.

In the draft NUREG-2175, Revision 1, the NRC provides guidance on conducting technical analyses (*i.e.*, performance assessment, inadvertent intruder assessment, operational safety assessment, site stability assessment, and performance period analyses) to demonstrate compliance with the performance objectives in 10 CFR part

61. This guidance should facilitate licensees’ implementation of the amendments in this proposed rule as well as assist regulatory authorities in reviewing the technical analyses. This guidance would apply to all waste streams disposed of at a land disposal facility licensed under 10 CFR part 61, including waste streams with significant quantities of long-lived radionuclides (*e.g.*, significant quantities of depleted uranium), blended waste, and GTCC waste.

In addition, draft NUREG-2175, Revision 1, provides detailed guidance in new areas, such as waste acceptance, defense-in-depth, determination of significant quantities, and GTCC waste disposal considerations both in the context of near-surface disposal and in a specialized land disposal facility. This guidance discusses the use of a graded level of effort needed to risk-inform the analyses for the compliance period (1,000 or 10,000 years after disposal site closure) and cover the performance period analyses that should be performed for analysis of long-lived waste beyond 10,000 years. Additional topics covered in this document include (1) identification and screening of the features, events, and processes to develop scenarios for technical analyses; (2) use of the waste classification tables or the results of the technical analyses to develop generic or site-specific WAC; and (3) use of performance confirmation to evaluate and verify the accuracy of information used to demonstrate compliance prior to site closure.

XIX. Public Meeting

The NRC plans to conduct a public meeting on the proposed rule for the purpose of describing the proposed rule

to the public and answering questions from the public on the proposed rule. The NRC will publish a notice of the location, time, and agenda of the meeting in the **Federal Register**, on *Regulations.gov*, and on the NRC's public meeting website within at least

10 calendar days before the meeting. Stakeholders should monitor the NRC's public meeting website for information about the public meeting at: <https://www.nrc.gov/public-involve/public-meetings/index.cfm>.

XX. Availability of Documents

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

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DOCUMENT	ADAMS ACCESSION NO. / WEB LINK / FEDERAL REGISTER CITATION
Proposed Rule Package Documents	
Draft Regulatory Analysis	ML26174A244
Draft NUREG-2175, Revision 1, "Guidance for Conducting Technical Analyses for 10 CFR Part 61," June 2026	ML23255A282
Proposed rule draft information collection supporting statement for 10 CFR part 61	ML26089A163
Proposed rule draft information collection burden table for 10 CFR part 61	ML26089A164
Summary of GTCC regulatory basis comments	ML26175A046
Historical Low-Level Waste Rulemaking Documents	
<i>Federal Register</i> Notice for the Licensing of Byproduct Material, Atomic Energy Commission, February 14, 1962	27 FR 1350
<i>Federal Register</i> Notice for the Licensing Requirements for Land Disposal of Radioactive Waste Proposed Rule, July 24, 1981	46 FR 38081
<i>Federal Register</i> Notice for the Licensing Requirements for Land Disposal of Radioactive Waste Final Rule, December 27, 1982	47 FR 57446
NUREG-0945, "Final Environmental Impact Statement on 10 CFR Part 61 Licensing Requirements for Land Disposal of Radioactive Waste," Volume 1: Summary and Main Report, November 1982	ML052590184
NUREG-0945, "Final Environmental Impact Statement on 10 CFR Part 61 Licensing Requirements for Land Disposal of Radioactive Waste," Volume 2: Appendices A-B, November 1982	ML052920727
NUREG-0945, "Final Environmental Impact Statement on 10 CFR Part 61 Licensing Requirements for Land Disposal of Radioactive Waste," Volume 3: Appendices C-F, November 1982	ML052590187
<i>Federal Register</i> Notice for the Disposal of Radioactive Wastes Final Rule, May 25, 1989	54 FR 22578
PRM-61-2, "New England Coalition on Nuclear Pollution, Inc.; Denial of Petition for Rulemaking," March 29, 1994	ML093490607
SECY-98-226, "Issuance of a Section 274f, Atomic Energy Act Order to Exempt Envirocare of Utah, Inc. from the Licensing Requirements for Special Nuclear Material in Diffuse Waste That Will Be Regulated by the State of Utah," September 29, 1998	ML992870055

SRM-SECY-98-226, "Issuance of a Section 274f, Atomic Energy Act Order to Exempt Envirocare of Utah, Inc. from the Licensing Requirements for Special Nuclear Material in Diffuse Waste That Will Be Regulated by the State of Utah," October 22, 1998	ML003752670
<i>Federal Register</i> Notice for Envirocare of Utah, Inc.: Order Modifying Exemption From Requirements Relative to Possession of Special Nuclear Material, February 13, 2003	68 FR 7399
<i>Federal Register</i> Notice for In the Matter of EnergySolutions, LLC (formerly Envirocare of Utah, LLC) Order Modifying Exemption from 10 CFR part 70, June 13, 2006	71 FR 34168
SRM-COMWDM-11-0002/COMGEA-11-0002, Revision to 10 CFR part 61, January 19, 2012	ML120190360
SECY-13-0075, "Proposed Rule: Low-Level Radioactive Waste Disposal (10 CFR Part 61) (RIN-3150-AI92)," July 18, 2013	ML13128A160 (package)
SRM-SECY-13-0075, "Staff Requirements—SECY-13-0075—Proposed Rule: Low-Level Radioactive Waste Disposal (10 CFR Part 61) (RIN-3150-AI92)," February 12, 2014	ML14043A371
<i>Federal Register</i> Notice for Supersede Exemption for Waste Control Specialists, LLC: Andrews County, Texas, December 11, 2014	79 FR 73647
<i>Federal Register</i> Notice for the Low-Level Radioactive Waste Disposal Proposed Rule, March 26, 2015	80 FR 16081
NUREG-2175, "Guidance for Conducting Technical Analyses for 10 CFR Part 61," March 2015	ML15056A516
<i>Federal Register</i> Notice for the Low-Level Radioactive Waste Disposal Proposed Rule and draft NUREG reopening of comment period, August 27, 2015	80 FR 51964
SECY-16-0106, "Final Rule: Low-Level Radioactive Waste Disposal (10 CFR Part 61) (RIN 3150-AI92)," September 15, 2016	ML16188A290 (package)
SRM-SECY-16-0106, "Staff Requirements—SECY-16-0106—Final Rule: Low-Level Radioactive Waste Disposal (10 CFR Part 61) (RIN 3150-AI92)," September 8, 2017	ML17251B147
NRC Letter – "Response to Request For Possession Time Extension in The U.S. Nuclear Regulatory Commission Exemption Order Condition 8.B.4 At Waste Control Specialists LLC (CAC No. L00904)," September 23, 2016	ML16097A265
NRC Letter – "Closing NRC Review of WCS Request Dated December 4, 2014," September 26, 2017	ML17234A415
NRC Letter – "Response to The August 30, 2018, Waste Control Specialists LLC Request to Extend the Possession Time in the NRC Special Nuclear Material Exemption Order Condition 8.B.4 to Waste Control Specialists LLC.," December 19, 2018	ML18269A318
NRC Letter – "NRC Response Letter for Extending Possession Time of LANL Waste until 12-23-2022," December 7, 2020	ML20252A182

NRC Letter – “NRC Response Letter for WCS Request to Extend Possession Time of LANL Waste until December 31, 2024,” June 8, 2022	ML22094A131
SRM-M140918, “Staff Requirements - Briefing on Management of Low-Level Waste, High-Level Waste, and Spent Nuclear Fuel, 9:00 A.M., Thursday, September 18, 2014, Commissioners’ Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance),” September 24, 2014	ML14267A365
Letter from TCEQ regarding the authority and jurisdiction regarding GTCC type waste streams, January 30, 2015	ML15034A181
SECY-15-0094, “Historical and Current Issues Related to Disposal of Greater-Than-Class C Low-Level Radioactive Waste,” July 17, 2015	ML15162A849 (package)
SRM-SECY-15-0094, “Staff Requirements - Historical and Current Issues Related to Disposal of Greater-Than-Class C Low-Level Radioactive Waste,” December 22, 2015	ML15356A623
NUREG/CR-7239, “Review of Exemptions and General Licenses for Fissile Material in 10 CFR [part] 71,” January 2018	ML18052A520
SRM-M181011, “Staff Requirements Memorandum— Briefing on Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines, 9:00 A.M., Thursday, October 11, 2018, Commissioners’ Conference Room, One White Flint North, Rockville, Maryland (Open to Public Attendance),” October 23, 2018	ML18296A479
Letter from Governor Greg Abbott, State of Texas, to the NRC, April 26, 2019	ML19121A544
Letter from the NRC to Governor Greg Abbott, State of Texas, June 5, 2019	ML19129A300
Draft Regulatory Basis, “Disposal of Greater-than-Class C (GTCC) and Transuranic Waste,” Draft Report for Comment, June 27, 2019	ML19059A403
Technical Analysis of the Hazards of Disposal of Greater-Than-Class C (GTCC) and Transuranic Waste,” Washington, DC, July 2019.	ML19162A259
Supplement to NRC’s Technical Analysis of the Hazards of Disposal of Greater-than-Class-C (GTCC) and Transuranic Waste: Consideration of a Specialized Land Disposal Facility and Additional Waste Streams, March 2026	ML26174A245
<i>Federal Register</i> Notice for Greater-Than-Class-C and Transuranic Waste Draft Regulatory Basis request for comment, July 22, 2019	84 FR 35037
<i>Federal Register</i> Notice for Greater-Than-Class-C and Transuranic Waste Draft Regulatory Basis extension of comment period, September 13, 2019	84 FR 48309
SECY-20-0098, “Path Forward and Recommendations for Certain Low-Level Radioactive Waste Disposal Rulemakings,” October 21, 2020	ML20143A164 (package)

SRM-SECY-20-0098, "Staff Requirements—SECY-20-0098—Path Forward and Recommendations for Certain Low-Level Radioactive Waste Disposal Rulemakings," April 5, 2022	ML22095A227
NUREG-1573, "A Performance Assessment Methodology for Low-Level Radioactive Waste Disposal Facilities: Recommendations of NRC's Performance Assessment Working Group," October 2000	ML003770778
NRC Procedure SA-700, "Processing an Agreement," June 15, 2022	ML22138A414
January 23, 2024 Public Meeting Summary, Integrated Low-Level Radioactive Waste Disposal Rulemaking, January 23, 2024	ML24045A173
May 17, 2023 Public Meeting Summary, Integrated Low-Level Radioactive Waste Disposal Rulemaking, June 12, 2023	ML23145A268
SRM-SECY-21-0067, SECY-21-0110, SECY-23-0062, SECY-24-0045, "Withdrawal of Rulemaking Plan and Proposed Rules," September 11, 2025	ML25254A183
Presidential Executive Orders	
Executive Order 12866, "Regulatory Planning and Review," October 4, 1993	58 FR 51735
Executive Order 14154, "Unleashing American Energy," January 29, 2025	90 FR 8353
Executive Order 14192, "Unleashing Prosperity Through Deregulation," February 6, 2025	90 FR 9065
Executive Order 14215, "Ensuring Accountability for All Agencies," February 24, 2025	90 FR 10447
Executive Order 14267, "Reducing Anti-Competitive Regulatory Barriers," April 15, 2025	90 FR 15629
Executive Order 14270, "Zero-Based Regulatory Budgeting to Unleash American Energy," April 15, 2025	90 FR 15643
Executive Order 14294, "Fighting Overcriminalization in Federal Regulations," May 14, 2025	90 FR 20363
Executive Order 14300, "Ordering the Reform of the Nuclear Regulatory Commission," May 29, 2025	90 FR 22587
Laws and Statutes	
Endangered Species Act of 1973, as amended. Pub. L. No.93-205, 87 Stat. 884 (1973).	https://www.govinfo.gov/content/pkg/COMPS-3002/pdf/COMPS-3002.pdf
National Environmental Policy Act of 1969, as amended. Pub. L. 91-190, 83 Stat. 852 (1969).	https://www.govinfo.gov/content/pkg/COMPS-10352/pdf/COMPS-10352.pdf
National Historic Preservation Act of 1966, as amended. Pub. L. 89-665, 80 Stat. 915 (1966).	https://www.govinfo.gov/content/pkg/STATUTE-80/pdf/STATUTE-80-Pg915.pdf
Other References	

DOE/EIS-0375 ,“Final Environmental Impact Statement for the Disposal of Greater-Than-Class C (GTCC) Low-Level Radioactive Waste and GTCC-Like Waste,” January 2016	https://www.energy.gov/nepa/downloads/eis-0375-final-environmental-impact-statement
Presidential Memorandum, “Plain Language in Government Writing,” June 10, 1998	63 FR 31885
DOE/NE-0077, “Recommendations for Management of Greater-Than-Class-C Low-Level Radioactive Waste,” Report to Congress in Response to Public Law 99-240, February 1987	https://www.energy.gov/sites/prod/files/2018/09/f55/GTCC-1987-Report-to-Congress-DOE-NE-0077.pdf

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The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2011–0012. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder NRC–2011–0012; (2) click the “Subscribe” button; and (3) enter an email address and click on the “Subscribe” button.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Fusion, Hazardous waste, Licensed material, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalties, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 61

Criminal penalties, Hazardous waste, Indians, Intergovernmental relations, Low-level waste, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping requirements, Waste treatment and disposal, Whistleblowing.

10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Penalties, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear energy, Nuclear materials, Penalties, Reporting and recordkeeping

requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to amend 10 CFR parts 20, 61, 73 and 150 as follows:

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

■ 1. The authority citation for part 20 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 63, 65, 81, 103, 104, 161, 170H, 182, 186, 223, 234, 274, 1701 (42 U.S.C. 2014, 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2210h, 2232, 2236, 2273, 2282, 2021, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note; American Medical Isotopes Production Act of 2011 sec. 3(f).

■ 2. In § 20.1003, revise the definition “Waste” to read as follows:

§ 20.1003 Definitions.

* * * * *

Waste means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct material* set forth in this section. Low-level waste also includes radioactive material resulting from the production of medical isotopes that has been permanently removed from a reactor or subcritical assembly for which there is no further use and the disposal of which can meet the requirements of this part.

* * * * *

■ 3. Revise Appendix G to part 20 to read as follows:

Appendix G to Part 20—Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests

I. Manifest

* * * * *

Information Requirements

* * * * *

C. Disposal Container and Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding the waste and each disposal container of waste in the shipment:

* * * * *

12. For wastes consigned to a disposal facility, the classification of the waste pursuant to § 61.55 of this chapter. Unless the disposal facility has established waste acceptance criteria under § 61.58 of this chapter, waste not meeting the structural stability requirements of § 61.56(b) of this chapter must be identified.

D. Uncontainerized Waste Information

The shipper of the radioactive waste shall provide the following information on the uniform manifest regarding a waste shipment delivered without a disposal container:

* * * * *

4. For waste consigned to a disposal facility, the classification of the waste pursuant to § 61.55 of this chapter. Unless the disposal facility has established waste acceptance criteria under § 61.58 of this chapter, waste not meeting the structural stability requirements of § 61.56(b) of this chapter must be identified;

* * * * *

E. Multi-Generator Disposal Container Information

This section applies to disposal containers enclosing mixtures of waste originating from different generators. (Note: The origin of the LLW resulting from a processor’s activities may be attributable to one or more “generators” (including “waste generators”) as defined in this part). It also applies to mixtures of wastes shipped in an

uncontainerized form, for which portions of the mixture within the shipment originate from different generators.

* * * * *

2. For heterogeneous mixtures of waste, such as the combined products from a large compactor, identify each generator contributing waste to the disposal container, and, for discrete waste types (*i.e.*, activated materials, contaminated equipment, mechanical filters, sealed source/devices, and wastes in solidification/stabilization media), the identities and activities of individual radionuclides contained on these waste types within the disposal container. For each generator, provide the following:

* * * * *

(d) The sorbing or solidification media, if any, and the identity of the solidification media vendor and brand name if the media is claimed to meet stability requirements in 10 CFR 61.56(b) or the disposal facility's waste acceptance criteria established under 10 CFR 61.58; and

* * * * *

II. Certification

An authorized representative of the waste generator, processor, or collector must certify by signing and dating the shipment manifest that the transported materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and the Commission, and equivalent Agreement State regulations. For materials that are consigned to a land disposal facility or waste collector, the authorized representative must certify that the materials are classified per the applicable requirements of part 61 of this chapter, meet the land disposal facility's waste acceptance criteria, and are in proper condition for disposal as described in accordance with the applicable requirements in this part and in part 61 of this chapter, or equivalent Agreement State regulations. If the land disposal facility to which the material is consigned has established waste acceptance criteria under § 61.58, the authorized representative must certify that the material meets the waste acceptance criteria in accordance with the land disposal facility's authorized waste certification program. A collector in signing the certification is certifying that nothing has been done to the collected waste which would invalidate the waste generator's certification.

III. Control and Tracking

A. Any licensee who transfers radioactive waste to a land disposal facility or a licensed waste collector shall comply with the requirements in paragraphs A.1 through 9 of this section. Any licensee who transfers waste to a licensed waste processor for waste treatment or repackaging shall comply with the requirements of paragraphs A.4 through 9 of this section. A licensee shall:

1. Prepare all wastes so that the waste is classified according to § 61.55 and meets the waste characteristics requirements in § 61.56 of this chapter, or if the land disposal facility to which the material is consigned has

established waste acceptance criteria under § 61.58, prepare the waste so that it meets the land disposal facility's waste acceptance criteria;

2. Label each disposal container (or transport package if potential radiation hazards preclude labeling of the individual disposal container) of waste in accordance with § 61.57 of this chapter;

3. Conduct a quality assurance program, which must include management evaluation of audits, to ensure compliance with both §§ 61.55 and 61.56 of this chapter or, if the land disposal facility to which the material is consigned has established waste acceptance criteria under § 61.58, to ensure the waste meets the land disposal facility's waste acceptance criteria;

* * * * *

C. Any licensed waste processor who treats or repackages waste shall:

* * * * *

3. Prepare all wastes so that the waste is classified according to § 61.55 of this chapter and meets the waste characteristics requirements in § 61.56 of this chapter, or if the land disposal facility to which the material is consigned has established waste acceptance criteria under § 61.58, prepare the waste so that it meets the land disposal facility's waste acceptance criteria;

4. Label each package of waste, in accordance with § 61.57 of this chapter;

5. Conduct a quality assurance program (which must include management evaluation of audits) to ensure compliance with both §§ 61.55 and 61.56 of this chapter or, if the land disposal facility to which the material is consigned has established waste acceptance criteria under § 61.58, to ensure the waste meets the land disposal facility's waste acceptance criteria;

* * * * *

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

4. The authority citation for part 61 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 57, 62, 63, 65, 81, 161, 181, 182, 183, 223, 234 (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2231, 2232, 2233, 2273, 2282); Energy Reorganization Act of 1974, secs. 201, 206, 211 (42 U.S.C. 5841, 5846, 5851); Low-Level Radioactive Waste Policy Amendments Act of 1985, sec. 2 (42 U.S.C. 2021b); 44 U.S.C. 3504 note; American Medical Isotopes Production Act of 2011 sec. 3(f).

■ 5. Revise § 61.1 to read as follows:

§ 61.1 Purpose and scope.

(a) The regulations in this part establish, for land disposal of radioactive waste, the procedures, criteria, and terms and conditions upon which the Commission issues licenses for the disposal of radioactive wastes containing byproduct, source and special nuclear material received from other persons. Disposal of waste by an

individual licensee is set forth in part 20 of this chapter.

(b) The regulations in this part apply with the following accommodation for certain licensees:

(1) Licensees need not comply with the requirements in §§ 61.10(c), 61.13(a) through 61.13(e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b), and 61.58, if the following criteria are met:

(i) The land disposal facility license was originally issued before [30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**]; and

(ii) The licensee does not accept Greater-Than-Class C waste or a significant quantity of long-lived radionuclides. For purposes of this paragraph, an amount greater than or equal to 10 metric tons of depleted uranium is considered a significant quantity of long-lived radionuclides.

(2) Licensees who meet the criteria of § 61.1(b)(1)(i) and (ii) and who choose not to comply with the requirements in §§ 61.10(c), 61.13(a) through (e), 61.24(l), 61.41(a) and (b), 61.42(a) and (b), 61.50(a) and (b), and 61.58 must instead comply with §§ 61.13(f), 61.41(c), 61.42(c), and 61.50(c).

(c) Except as provided in part 150 of this chapter, which addresses assumption of certain regulatory authority by Agreement States, and § 61.6, "Exemptions," the regulations in this part apply to all persons in the United States. The regulations in this part do not apply to—

(1) Disposal of high-level waste as provided for in part 60 or 63 of this chapter;

(2) Disposal of uranium or thorium tailings or wastes (byproduct material as defined in § 40.4 as provided for in part 40 of this chapter in quantities greater than 10,000 kilograms and containing more than 5 millicuries of radium-226; or

(3) Disposal of licensed material as provided for in part 20 of this chapter.

(d) This part also gives notice to all persons who knowingly provide to any licensee, applicant, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of § 61.9b.

■ 6. Revise and republish § 61.2 to read as follows:

§ 61.2 Definitions.

As used in this part:

Active maintenance means any significant remedial activity needed to

maintain a reasonable assurance that the performance objectives in §§ 61.41 and 61.42 of this part are met. Such active maintenance includes ongoing activities such as the pumping and treatment of water from a disposal unit or one-time measures such as replacement of a disposal unit cover. Active maintenance does not include custodial activities such as repair of fencing, repair or replacement of monitoring equipment, revegetation, minor additions to soil cover, minor repair of disposal unit covers, and general disposal site upkeep such as mowing grass.

Buffer zone is a portion of the disposal site that is controlled by the licensee and that lies between the disposal units and the boundary of the site. For near-surface disposal, the buffer zone also extends under the disposal units. For a specialized land disposal facility, the presence of a buffer zone under the disposal units depends on the facility design.

Chelating agent means amine polycarboxylic acids (e.g., ethylenediaminetetraacetic, diethylenetriaminepentaacetic), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carboic acid, and gluconic acid).

Commencement of construction means taking any action defined as “construction” or any other activity at the site of a facility subject to the regulations in this part that has a reasonable nexus to:

- (1) Radiological health and safety; or
- (2) Common defense and security.

Commission means the Nuclear Regulatory Commission or its duly authorized representatives.

Compliance period means the time from the completion of site closure to 1,000 years after site closure for disposal sites that do not contain significant quantities of long-lived radionuclides. For disposal sites that contain significant quantities of long-lived radionuclides, the compliance period ends 10,000 years after closure of the disposal site.

Construction means the installation of foundations, or in-place assembly, erection, fabrication, or testing for any structure, system, or component of a facility or activity subject to the regulations in this part that are related to radiological safety or security. The term “construction” does not include:

- (1) Changes for temporary use of the land for public recreational purposes;
- (2) Site exploration, including necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site, the environmental

impacts of construction or operation, or the protection of environmental values;

(3) Preparation of the site for construction of the facility, including clearing of the site, grading, installation of drainage, erosion and other environmental mitigation measures, and construction of temporary roads and borrow areas;

(4) Erection of fences and other access control measures that are not related to the safe use of, or security of, radiological materials subject to this part;

(5) Excavation;

(6) Erection of support buildings (e.g., construction equipment storage sheds, warehouse and shop facilities, utilities, concrete mixing plants, docking and unloading facilities, and office buildings) for use in connection with the construction of the facility;

(7) Building of service facilities (e.g., paved roads, parking lots, railroad spurs, exterior utility and lighting systems, potable water systems, sanitary sewerage treatment facilities, and transmission lines);

(8) Procurement or fabrication of components or portions of the proposed facility occurring at other than the final, in-place location at the facility; or

(9) Taking any other action that has no reasonable nexus to:

- (i) Radiological health and safety, or
- (ii) Common defense and security.

Custodial Agency means an agency of the government designated to act on behalf of the government owner of the disposal site.

Defense-in-depth means the use of multiple independent and, where possible, redundant layers of defense against release of radioactive material such that no single layer, no matter how robust, is exclusively relied upon.

Director means the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission.

Disposal means the removal of radioactive wastes from the biosphere inhabited by a person and containing the person's food chains by emplacement in a land disposal facility.

Disposal site means that portion of a land disposal facility which is used for disposal of waste. It consists of disposal units and a buffer zone.

Disposal unit means a discrete portion of the disposal site into which waste is placed for disposal (e.g., a trench, borehole, specialized vault).

Engineered barrier means a man-made structure or device that is intended to improve the disposal site's ability to meet the performance objectives in subpart C of this part.

Explosive material means any chemical compound, mixture, or device,

which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

Government agency means any executive department, commission, independent establishment, or corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States; or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the government.

Hazardous waste means those wastes designated as hazardous by Environmental Protection Agency regulations in 40 CFR part 261.

Hydrogeologic unit means any soil or rock unit or zone which by virtue of its porosity or permeability, or lack thereof, has a distinct influence on the storage or movement of groundwater.

Inadvertent intruder means a person who occupies the disposal site after closure and might engage in agricultural or residential activities and other reasonably foreseeable pursuits that could unknowingly expose the person to radiation emitted or released from the waste in the disposal units.

Inadvertent intruder assessment is an analysis performed to demonstrate compliance with § 61.42(a) and (b) that includes assessment of appropriate exposure pathways and consideration of barriers and site features that limit or prohibit inadvertent intrusion.

Indian Tribe means an Indian Tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Intruder barrier means an engineered structure or natural feature over the waste that inhibits contact with waste and helps to ensure that radiation exposures to an inadvertent intruder will meet the performance objectives set forth in this part.

Land disposal facility means the land, building, structures, disposal sites, and equipment which are intended to be used for, or to support, the disposal of radioactive wastes. For purposes of this chapter, a “geologic repository” as defined in part 60 or 63 is not considered a land disposal facility.

License means a license issued under the regulations in part 61 of this chapter. *Licensee* means the holder of such a license.

Long-lived radionuclide means a radionuclide where:

- (1) More than 10 percent of the initial activity of the radionuclide remains after 1,000 years;
- (2) The peak activity from progeny occurs after 1,000 years; or

(3) More than 10 percent of the peak activity of the radionuclide (including progeny) that occurs within 1,000 years remains after 1,000 years.

Model support is data and information that technically support the development of the numerical models or assessments and provide confidence in their results. Model support that involves multiple sources and types of information is generally more robust and can include laboratory or field tests, comparison to analogous systems, natural analogs, formal independent peer review, and comparison to monitoring data. *Monitoring* means the collection of field observations and measurement data to evaluate the performance and characteristics of the disposal site.

Near-surface disposal facility means a land disposal facility in which radioactive waste is disposed generally within the upper 30 meters of the earth's surface. Near-surface disposal facilities are designed or managed to inhibit contact with the waste and limit dose exposure from the waste while the waste remains a radiological hazard.

Operational safety assessment is an assessment used to demonstrate that exposures will be controlled to meet the requirements of 10 CFR part 20, thereby meeting the performance objective for the protection of individuals during operations set forth in § 61.43 of this part. An operational safety assessment is more detailed and comprehensive as the level of hazard posed by the waste increases.

Performance assessment is an analysis used to demonstrate compliance with § 61.41(a) and (b) that identifies the features, events, and processes that could affect the performance of the disposal site; and estimates the potential dose as a result of releases caused by all significant features, events, and processes including an evaluation of the uncertainties.

Performance period is the timeframe after the compliance period during which waste that contains significant quantities of long-lived radionuclides remains a radiological hazard.

Performance period analyses are analyses used to demonstrate compliance with §§ 61.41(b) and 61.42(b) by providing information, consistent with available data and current scientific understanding, that demonstrates that releases of long-lived radioactive waste from a disposal site are effectively managed during the performance period.

Person means (1) any individual, corporation, partnership, firm, association, trust, estate, public or

private institution, group, government agency other than the Commission or the Department of Energy (except that the Department of Energy is considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to law), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

Pyrophoric liquid means any liquid that ignites spontaneously in dry or moist air at or below 130 °F (54.5 °C). A pyrophoric solid is any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

Safety case is a high-level evaluation of the information and analyses that support the licensee's demonstration that the land disposal facility will be constructed and operated safely. The safety case, which is a component of the application, provides a summary of the safety basis that the disposal site will be capable of isolating waste and limiting releases to the environment; describes the strength and reliability of the technical analyses; and includes consideration of defense-in-depth protections and safety relevant aspects of the site, the facility design, and the managerial, engineering, regulatory, and institutional controls.

Significant quantities of long-lived radionuclides means an amount (volume or mass) and concentration accepted for disposal after [30 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **FEDERAL REGISTER**] that could, if released, result in the performance objectives of subpart C of this part not being met. *Site closure and stabilization* means those actions that are taken upon completion of operations that prepare the disposal site for custodial care and that ensure, to the extent practical, that the disposal site will remain stable and will not need ongoing active maintenance.

Site stability assessment is an assessment used to demonstrate compliance with § 61.44 by providing reasonable assurance that long-term

stability of the disposal site can be ensured and that maintenance following site closure will not be needed. Long-term stability of the disposal site includes the ability of the site to maintain structural stability from within the disposal units and to maintain stability of the site. A site stability assessment is tailored to the types of waste disposed and the facility design.

Specialized land disposal facility means a land disposal facility that is designed to prevent an inadvertent intruder from disrupting or contacting emplaced waste while it remains a radiological hazard. A specialized land disposal facility is not a near-surface disposal facility.

Stability means the capability of the disposal site (e.g., wasteform, disposal containers, and disposal units) to maintain its shape and properties to an extent that will not prohibit the demonstration that the disposal site will meet the performance objectives in §§ 61.41 and 61.42 of this part and will, to the extent practical, eliminate the need for active maintenance after site closure and for maintenance in any form after license termination.

State means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

Surveillance means observation of the disposal site for purposes of visual detection of need for maintenance, custodial care, evidence of intrusion, and compliance with other license and regulatory requirements.

Technical analyses means the analyses described in § 61.13 and includes the performance assessment, the intruder assessment, the operational safety assessment, and the site stability assessment, in addition to, under certain circumstances, the performance period analyses, needed to demonstrate compliance with the performance objectives of subpart C of this part.

Tribal Governing Body means a "Tribal organization" as that term is defined by the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

Waste means those low-level radioactive wastes containing source, special nuclear, or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in paragraphs (2), (3), and (4) of the definition of *Byproduct material* set forth in § 20.1003 of this chapter. Low-level waste also includes radioactive material resulting from the production of

medical isotopes that has been permanently removed from a reactor or subcritical assembly for which there is no further use and the disposal of which can meet the requirements of this part.

Waste acceptance criteria means the requirements developed through technical analyses or other methods to ensure, in part, that waste disposed in a facility will meet the established performance objectives set forth in this part.

§ 61.3 [Amended]

- 7. In § 61.3,
 - a. In paragraph (b), remove the phrase “shall file” and add in its place the phrase “must file”; and
 - b. In paragraph (b), replace the word “commencing” with “commencement of”.
- 8. Revise and republish § 61.4 to read as follows:

§ 61.4 Communications.

Except where otherwise specified, all communications and reports concerning the regulations in this part and applications filed under them should be sent by mail addressed: ATTN: Document Control Desk; Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by hand delivery to the NRC’s Offices at 11555 Rockville Pike, Rockville, Maryland; or, where practical, by electronic submission, for example, via Electronic Information Exchange, or digital media. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC’s website at <https://www.nrc.gov/site-help/e-submittals.html>; by email to MSHD.Resource@nrc.gov; or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

- 9. Remove and reserve § 61.7.

§ 61.7 [Removed and Reserved]

- 10. In § 61.8, revise paragraph (b) to read as follows:

§ 61.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in

this part appear in §§ 61.3, 61.6, 61.9, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.22, 61.24, 61.26, 61.27, 61.28, 61.30, 61.31, 61.32, 61.41, 61.42, 61.53, 61.57, 61.58, 61.61, 61.62, 61.63, 61.72, and 61.80.

* * * * *

■ 11. In § 61.9:

- a. In paragraphs (a)(1)(i), (a)(1)(iii), (a)(3) and (f), remove the phrase “his or her employer” and add in its place the phrase “the employer”;
- b. In paragraph (d), remove the phrase “him or her” and add in its place the phrase “the employee”;
- c. Revise paragraph (e) introductory text and (e)(1); and
- d. In paragraph (e)(2), remove the phrase “<http://www.nrc.gov/reading-rm/doc-collections/forms/>” and add in its place the phrase “<https://www.nrc.gov/reading-rm/doc-collections/forms/>”.

The revisions read as follows:

§ 61.9 Employee protection.

* * * * *

(e) To ensure compliance with employee notification requirements, licensees and applicants shall adhere to the following provisions regarding the posting and availability of NRC Form 3, “Notice to Employees,” referenced in 10 CFR 19.11(c):

(1) Each licensee and each applicant for a license must prominently post the revision of NRC Form 3. This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises must be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license, and for 30 days following license termination.

* * * * *

§ 61.9a [Amended]

- 12. § 61.9a, remove the word “shall” wherever it appears and in its place the word “must”.
- 13. Revise § 61.10 to read as follows:

§ 61.10 Content of application.

(a) An application to receive from others, possess and dispose of wastes containing or contaminated with source, byproduct or special nuclear material by land disposal must consist of general information, specific technical information, technical analyses, institutional information, and financial information as set forth in §§ 61.11 through 61.16.

(b) An environmental report prepared in accordance with subpart A of part 51 of this chapter must accompany the application.

(c) The application must include the safety case, which demonstrates that the land disposal facility will be constructed and operated safely, provides a summary of the safety basis that the disposal site will meet the performance objectives in subpart C of this part, and describes the defense-in-depth protections that enhance the resiliency of the facility in complying with the performance objectives specified at §§ 61.41 and 61.43.

- 14. Revise and republish § 61.12 to read as follows:

§ 61.12 Specific technical information.

The application must include the following specific technical information to demonstrate that the performance objectives of subpart C of this part and the applicable technical requirements of subpart D of this part will be met:

(a) A description of the natural and demographic disposal site characteristics as determined by disposal site selection and characterization activities. The description must include geologic, geotechnical, geochemical, geomorphological, hydrologic, meteorologic, climatologic, and biotic features, events, and processes of the disposal site and vicinity.

(b) A description of the design features of the land disposal facility, including the disposal units. The description must include, as appropriate, those design features related to surface cover runoff and infiltration; evapotranspiration from the soil and vegetation overlying the cover material; infiltration reaching the waste; integrity of covers for disposal units; structural stability of backfill, wastes, and covers; disposal site drainage; disposal site closure and stabilization; long-term disposal site maintenance; inadvertent intrusion; intruder barriers; occupational exposures; disposal site monitoring; and adequacy of the size of the buffer zone for monitoring and potential mitigative measures. For a specialized land disposal facility, the description should also include a discussion of structural stability.

(c) A description of the principal design criteria and their relationship to the performance objectives of subpart C to this part.

(d) A description of the design basis natural events or phenomena and their relationships to the principal design criteria. These phenomena could include, among others, earthquakes, fires, and exceptional rain events.

(e) A description of codes and standards that the applicant has applied to the design and that will apply to

construction of the land disposal facility.

(f) A description of the proposed construction and operation of the land disposal facility. At a minimum, the application must describe the methods of construction of disposal units; the methods of waste emplacement; the procedures for and areas of waste segregation; the onsite traffic systems and drainage systems; the survey control program; the methods and areas of waste storage; and the methods to control surface water and groundwater access to the wastes. The application must also describe the methods to be employed in the handling and disposal of wastes containing chelating agents or other non-radiological substances that might affect meeting the performance objectives in subpart C of this part.

(g) A description of the disposal site closure plan, including those design features which are intended to facilitate disposal site closure and to eliminate the need for ongoing active maintenance.

(h) An identification of the known natural resources in the vicinity of the disposal site, the exploitation of which could result in inadvertent intrusion into the wastes after removal of active institutional control.

(i) A description of the kind, amount, classification, characteristics, and specifications of the waste proposed to be received, possessed, and disposed at the land disposal facility, including the proposed wasteform, disposal containers, the facility's proposed waste acceptance criteria, and a description of the procedures for waste acceptance.

(j) A description of the quality assurance program developed by the applicant for: (1) the identification and selection of the disposal site, including any natural features relied upon to enhance the performance of the disposal site; (2) the development of technical analyses; (3) the design and construction of the land disposal facility; (4) the operation of the land disposal facility, including the receipt, handling, and emplacement of waste; and (5) the site closure of the land disposal facility.

(k) A description of the radiation safety program to ensure compliance with the performance objective in § 61.41 of this part, including the control of radioactive effluents, and the occupational and public radiation protection requirements of part 20 of this chapter. The radiation safety program must address both routine operations and accidents and include procedures for dosimetry and preventing and controlling the

radioactive contamination of personnel, buildings, vehicles, and equipment.

(l) A description of the environmental monitoring program that provides data for an evaluation of the disposal site performance including potential health and environmental impacts and the plan for taking corrective measures commensurate with detected radionuclide migration.

(m) A description of the administrative procedures that the applicant will apply to control activities at the land disposal facility.

(n) A description of the facility electronic recordkeeping system as required in § 61.80.

■ 15. Revise § 61.13 to read as follows:

§ 61.13 Technical analyses.

This section describes the technical analyses that must be submitted as part of any application under part 61. Licensees who meet the criteria in § 61.1(b)(1) need only comply with paragraph (f) of this section. The specific technical information must include the following analyses needed to demonstrate that the performance objectives of subpart C of this part will be met:

(a) *Performance assessment.* A performance assessment that demonstrates that the exposure to humans from radioactivity released from the disposal site will meet the protection of the general population performance objective set forth in § 61.41(a) for the duration of the compliance period. The performance assessment must:

(1) Identify the natural characteristics of the disposal site (e.g., geomorphology, meteorology, hydrology, hydrogeology, geochemistry, and biology); the characteristics of any engineered barriers; and the interactions between the disposal site and any engineered barrier's characteristics that might affect performance of the disposal site. Identify radionuclide transport characteristics of the waste (i.e., the ease with which radionuclides can escape containment). A performance assessment must further identify and examine the effects of the eventual degradation, deterioration, or alteration of any engineered barriers (including the wasteform and container) together with the disposal site characteristics to evaluate the ability of the disposal site to limit waste releases and to provide an estimate of the annual dose to a member of the public for comparison with the appropriate subpart C performance objective.

(2) Consider features, events, and processes that might affect demonstrating compliance with § 61.41.

The features, events, and processes considered must represent a range of phenomena, including those that may have beneficial effects, adverse effects, or both beneficial and adverse effects on performance, and must consider the specific technical information required in §§ 61.12(a) through (i). A technical basis for either the inclusion or exclusion of specific features, events, or processes must be provided.

(3) Consider the probability of disruptive features, events, or processes when estimating the consequences for comparison with the dose limits set forth in § 61.41(a).

(4) Provide model support for the models used in the performance assessment.

(5) Evaluate contaminant transport pathways and processes in environmental media (e.g., air, soil, groundwater, surface water) including but not limited to advection, diffusion, plant uptake, and exhumation by burrowing animals.

(6) Account for uncertainties and variability in the projected performance of the disposal site and surrounding environment.

(7) Assume the receptor is either a resident farmer or resident gardener based on reasonable foreseeable pursuits that are consistent with the activities occurring at and around the receptor location or provide justification for an alternative receptor scenario.

(8) Identify and differentiate between the roles performed by the natural characteristics and the design features of the disposal site in limiting radiological releases to the general population.

(b) *Inadvertent intruder assessment.* An inadvertent intruder assessment demonstrates protection of an inadvertent intruder for the duration of the compliance period. An inadvertent intruder assessment demonstrates that any inadvertent intruder will not receive a dose that exceeds the limits in the performance objective set forth in § 61.42 (a) for the duration of the compliance period. The inadvertent intruder assessment must also:

(1) Assume that an inadvertent intruder occupies the disposal site and engages in agricultural and residential activities and other reasonably foreseeable pursuits that are consistent with the activities occurring in and around the site at the time of development of the inadvertent intruder assessment.

(2) Account for uncertainties and variability in the projected performance of the disposal site and surrounding environment.

(3) For near-surface disposal, identify barriers to inadvertent intrusion that

inhibit contact with the waste or limit dose exposure from the waste and provide a basis for their degree of effectiveness and the time period over which barriers are effective.

(4) For disposal of waste in a specialized land disposal facility, the inadvertent intruder assessment must also demonstrate that the engineered barriers and natural features ensure that an inadvertent intruder will not disrupt or contact emplaced waste during any part of the compliance period in which the waste remains a radiological hazard.

(c) *Operational safety assessment.* An operational safety assessment of the protection of individuals during operations. The assessment must include analyses of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The assessment must demonstrate that exposures will be controlled to meet the requirements of part 20 of this chapter, thereby meeting the performance objective set forth in § 61.43. These analyses can be qualitative and credit administrative controls and procedures. Operational safety assessments involving Greater-Than-Class C waste must also include quantitative analyses of expected exposures due to unlikely accidents (including fire, handling events, and other credible accidents), and the identification of safety features to prevent and mitigate accidents.

(d) *Site stability assessment.* An assessment of the stability of the disposal site and the need for ongoing active maintenance after site closure. The assessment must demonstrate that long-term stability of the disposal site can be ensured and that there will not be a need for ongoing active maintenance following site closure, thereby meeting the performance objective set forth in § 61.44.

(1) For near surface waste disposal, the assessment must be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and adjacent soils, and surface drainage of the disposal site.

(2) For waste disposal in a specialized land disposal facility, the assessment must consider any applicable processes listed in subparagraph (d)(1) and any additional processes relevant to the specialized design, such as seismic activity, that occur with such frequency and extent that they could significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part or preclude defensible modeling results due to large uncertainties.

(e) *Performance period analyses.* Analyses of how the disposal site limits the potential long-term radiological impacts during the performance period. The performance period analyses must be consistent with available data and current scientific understanding. The analyses must identify and describe disposal site design features and natural characteristics relied on to demonstrate compliance with the applicable performance objectives set forth in §§ 61.41(b) and 61.42(b). In addition, the analyses must evaluate those processes likely to occur during the performance period, including degradation, deterioration, and alteration processes that affect performance.

(f) *Technical analyses pursuant to criteria in § 61.1(b).* For licensees who meet the criteria for the accommodation outlined in § 61.1(b)(1), the specific technical information must include the following analyses needed to demonstrate that the performance objectives of subpart C of this part will be met:

(1) Pathways analyzed in demonstrating protection of the general population from releases of radioactivity must include air, soil, groundwater, surface water, plant uptake, and exhumation by burrowing animals. The analyses must clearly identify and differentiate between the roles performed by the natural disposal site characteristics and design features in isolating and segregating the wastes. The analyses must clearly demonstrate that there is reasonable assurance that the exposure to humans from the release of radioactivity will not exceed the limits set forth in § 61.41(c).

(2) Analyses of the protection of individuals from inadvertent intrusion must include demonstration that there is reasonable assurance the waste classification and segregation requirements will be met and that adequate barriers to inadvertent intrusion will be provided.

(3) Analyses of the protection of individuals during operations must include assessments of expected exposures due to routine operations and likely accidents during handling, storage, and disposal of waste. The analyses must provide reasonable assurance that exposures will be controlled to meet the requirements of part 20 of this chapter.

(4) Analyses of the long-term stability of the disposal site and the need for ongoing active maintenance after closure must be based upon analyses of active natural processes such as erosion, mass wasting, slope failure, settlement of wastes and backfill, infiltration through covers over disposal areas and

adjacent soils, and surface drainage of the disposal site. The analyses must provide reasonable assurance that there will not be a need for ongoing active maintenance of the disposal site following closure.

■ 16. Revise and republish § 61.16 to read as follows:

§ 61.16 Other information.

Depending upon the nature of the wastes to be disposed of, and the design and proposed operation of the land disposal facility, additional information may be requested by the Commission including the following:

(a) *Physical security measures, if appropriate.* Any application to receive and possess special nuclear material in quantities subject to the requirements of part 73 of this chapter must demonstrate how the physical security requirements of part 73 will be met. In determining whether receipt and possession will be subject to the physical protection requirements of part 73, the applicant is not required to consider the quantity of special nuclear material that has been disposed of.

(b) *Safety information concerning criticality, if appropriate.*

(1) Any application to receive and possess special nuclear material in quantities that would be subject to the requirements of § 70.24, "Criticality accident requirements," of this chapter must demonstrate how the requirements of that section will be met, unless the applicant requests an exemption pursuant to § 70.24(d) of this chapter. In determining whether receipt and possession would be subject to the requirements of § 70.24 of this chapter, the applicant is not required to consider the quantity of special nuclear material that has been disposed or radioactive waste containing fissile material that meets the exemption requirements specified in § 71.15(c) of this chapter.

(2) Any application to receive and possess special nuclear material must describe proposed procedures for avoiding accidental criticality, which address both storage of special nuclear material prior to disposal and waste emplacement for disposal. The procedure is not required to address radioactive waste containing fissile material that meets the exemption requirements specified in § 71.15(c) of this chapter.

(3) Any application to dispose of Greater-Than-Class C radioactive waste containing special nuclear material in quantities that exceed the limits set forth in § 70.24, "Criticality accident requirements," of this chapter must identify the disposal unit and facility design features that limit

reconcentration of fissile material following disposal to ensure that the performance objectives of subpart C of this part will be met during the compliance period.

§ 61.20 [Amended]

■ 17. In § 61.20, paragraph (b), remove the word “shall” and add in its place the word “must”.

§ 61.22 [Amended]

■ 18. In § 61.22, paragraph (b), remove the word “shall” and add in its place the word “must”.

■ 19. Revise and republish § 61.23 to read as follows:

§ 61.23 Standards for issuance of a license.

A license for the receipt, possession, and disposal of waste containing or contaminated with source, special nuclear, or byproduct material will be issued by the Commission upon finding that the issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public, and:

(a) The applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

(b) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations (including equipment, facilities, and procedures), disposal site closure, and postclosure institutional controls are adequate to protect the public health and safety because they provide reasonable assurance that the general population will be protected from releases of radioactivity as specified in the performance objective in § 61.41.

(c) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations (including equipment, facilities, and procedures), disposal site closure, and postclosure institutional controls are adequate to protect the public health and safety because they provide reasonable assurance that inadvertent intruders are protected in accordance with the performance objective in § 61.42.

(d) The applicant's proposed waste acceptance criteria and land disposal facility operations (including equipment, facilities, and procedures) are adequate to protect the public health and safety because they provide reasonable assurance that the standards for radiation protection set out in part 20 of this chapter will be met.

(e) The applicant's proposed disposal site, disposal site design, waste acceptance criteria, land disposal facility operations, disposal site closure, and postclosure institutional controls are adequate to protect the public health and safety because they provide reasonable assurance that long-term stability of the disposed waste and the disposal site will be achieved and will eliminate to the extent practical the need for ongoing active maintenance of the disposal site following closure.

(f) The application provides reasonable assurance that the applicable technical requirements of subpart D of this part will be met.

(g) The applicant's proposal for institutional control provides reasonable assurance that institutional control will be provided for the length of time found necessary to ensure the findings in paragraphs (b) through (e) of this section and that the institutional control meets the requirements of § 61.59.

(h) The information on financial assurances meets the requirements of subpart E of this part.

(i) The applicant's physical security information provides reasonable assurance that the requirements of part 73 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license.

(j) The applicant's criticality safety procedures are adequate to protect the public health and safety and provide reasonable assurance that the requirements of § 70.24 of this chapter will be met, insofar as they are applicable to special nuclear material to be possessed before disposal under the license. For Greater-Than-Class C radioactive waste containing special nuclear material in quantities that exceed the limits set forth in § 70.24, the applicant's facility design must identify, as necessary, the disposal unit and facility design considerations that limit reconcentration of fissile material to prevent a potential criticality event following disposal.

(k) Any additional information submitted as requested by the Commission pursuant to § 61.16 is adequate.

(l) The requirements of subpart A of part 51 of this chapter have been met.

(m) The applicant's safety case is adequate to support the licensing decision.

(n) The Director of Nuclear Material Safety and Safeguards or his/her designee, before commencement of construction of a land disposal facility, on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter, has

concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to this conclusion is undertaken by the applicant at its own risk. Commencement of construction as defined in section 61.2 may include non-construction activities if the activity has a reasonable nexus to radiological safety and security.

■ 20. In § 61.24:

■ a. In paragraphs (b), (d), (f), and (k), remove the word “shall” wherever it appears and add in its place the word “must”;

■ b. In paragraph (c), remove the phrase “post closure” and add in its place the phrase “postclosure”;

■ c. Revise paragraph (i);

■ d. In paragraph (j), remove the phrase “of this part”; and

■ e. Add new paragraph (l).

The revision and additions read as follows:

§ 61.24 Conditions of licenses.

* * * * *

(i) Any licensee who receives and possesses special nuclear material under this part in quantities that would be subject to the requirements of § 70.24 of this chapter must comply with the requirements of that section. The licensee must consider the quantity of special nuclear material as specified under § 61.16(b) for preventing criticality during storage of special nuclear material prior to disposal and waste emplacement for disposal. For Greater-Than-Class C radioactive waste containing special nuclear material in quantities that exceed the limits set forth in § 70.24 the licensee has, as necessary, implemented design considerations that limit reconcentration of fissile material as a means to prevent a potential criticality event following disposal.

* * * * *

(l) The licensee must not operate the land disposal facility in a manner that would be inconsistent with the technical analyses.

(1) The licensee must evaluate whether updates to the technical analyses are warranted:

(i) if significant changes have occurred at the site; or

(ii) before receiving new waste streams not analyzed in the most recent approved technical analyses.

(2) The evaluations specified in paragraph (l)(1) of this section must be

retained as records in accordance with § 61.80.

■ 21. Revise and republish § 61.25 to read as follows:

§ 61.25 Changes.

(a) Except as provided for in specific license conditions, the licensee must not make changes in the land disposal facility or procedures described in the license application. The license will include conditions restricting subsequent changes to the facility and the procedures authorized that are important to public health and safety. These license restrictions will fall into three categories of descending importance to public health and safety as follows:

(1) those features and procedures that may not be changed without: (i) 60 days prior notice to the Commission, (ii) 30 days notice of opportunity for a prior hearing, and (iii) prior Commission approval; (2) those features and procedures that may not be changed without: (i) 60 days prior notice to the Commission, and (ii) prior Commission approval; and (3) those features and procedures that may not be changed without 60 days prior notice to the Commission. Features and procedures falling in paragraph (a)(3) of this section may not be changed without prior Commission approval if the Commission so orders, after having received the required notice.

(b) Amendments authorizing waste acceptance criteria changes, site closure, license transfer, or license termination will be included in the license restriction described in paragraph (a)(1) of this section.

(c) Changes to the technical analyses that do not involve waste acceptance criteria changes will be included in the license restriction described in paragraph (a)(2) of this section.

(d) The Commission must provide a copy of the notices of opportunity for hearing provided in paragraph (a)(1) of this section to State and local officials or tribal governing bodies specified in § 2.104(c) of this chapter.

§ 61.26 [Amended]

■ 22. In paragraph (a) remove the word “shall” and add in its place the word “must”.

§ 61.27 [Amended]

■ 23. In paragraph (a) remove the word “shall” and add in its place the word “does”.

■ 24. In § 61.28:

■ a. Revise paragraph (a); and

■ b. In paragraph (c) remove the word “shall” and add in its place the word “will”.

The revision reads as follows:

§ 61.28 Contents of application for closure.

(a) Prior to closure of the disposal site, or as otherwise directed by the Commission, the licensee must submit an application to amend the license for site closure. This site closure application must include a final revision of the safety case, if applicable, and a final disposal site closure plan, which updates and revises, as appropriate, the disposal site closure plan that was submitted with the license application in accordance with § 61.12(g). The final disposal site closure plan must include each of the following:

(1) Any additional geologic, hydrologic, or other disposal site data pertinent to the long-term containment of emplaced radioactive wastes obtained during the operational period.

(2) The results of tests, experiments, or any other analyses relating to backfill of excavated areas, closure and sealing, waste migration and interaction with emplacement media, or any other tests, experiments, or analysis pertinent to the long-term containment of emplaced waste within the disposal site.

(3) Any revisions to the technical analyses necessary to support site closure; such revisions must consider the waste disposed during operations and reflect significant changes to the human activities occurring in and around the site.

(4) Any plan or proposed revision of a previously submitted plan for:

- (i) Decontamination and/or dismantlement of surface facilities;
- (ii) Backfilling of excavated areas; or
- (iii) Stabilization of the disposal site for postclosure care.

(5) The total volume and mass of waste that was disposed as well as the total radioactivity in curies of each radionuclide that was disposed.

■ 25. In § 61.29:

■ a. Revise the section heading; and

■ b. Revise and republish § 61.29 to read as follows:

§ 61.29 Postclosure observation and maintenance.

Following completion of closure authorized in § 61.28(c), the licensee must observe, monitor, and carry out necessary maintenance and repairs at the disposal site until the license is transferred by the Commission in accordance with § 61.30. Responsibility for the disposal site must be maintained by the licensee for 5 years. A shorter or longer time period for postclosure observation and maintenance may be established and approved as part of the

site closure plan, based on site-specific conditions.

■ 26. In § 61.30:

■ a. Revise paragraph (a) introductory text; and

■ b. In paragraph (a)(4) remove the phrase “post closure” and add in its place the phrase “postclosure”.

The revision reads as follows:

§ 61.30 Transfer of license.

(a) Following closure and the period of postclosure observation and maintenance, the licensee may apply for an amendment to transfer the license to the disposal site owner. The license amendment request will be approved and the license transferred if the Commission finds:

* * * * *

■ 27. § 61.32:

■ a. In paragraphs (a) and (b), remove the word “shall” and add in its place the word “must”; and

■ b. Revise paragraph (c).

The revisions reads as follows:

§ 61.32 Facility information and verification.

* * * * *

(c) Applicants and licensees specified in paragraph (a) of this section must permit verification thereof by the International Atomic Energy Agency (IAEA) and take other action as necessary to implement the US/IAEA Safeguards Agreement, as described in part 75 of this chapter.

■ 28. Revise and republish § 61.41 to read as follows:

§ 61.41 Protection of the general population from releases of radioactivity.

(a) Concentrations of radioactive material that may be released from the disposal site to groundwater, surface water, air, soil, plants, or animals, after the period of operations, must not result in an annual total effective dose or total effective dose equivalent, as applicable, exceeding the radiological dose criteria for unrestricted use in 10 CFR 20.1402 to any member of the public within the compliance period. Compliance with this paragraph must be demonstrated in the performance assessment as required by § 61.13(a). Licensees must manage releases of radioactivity to the general environment consistent with 10 CFR 20.1101(b).

(b) Releases of radioactivity from the disposal site must be effectively managed during the performance period. Compliance with this paragraph must be demonstrated through performance period analyses as required by § 61.13(e).

(c) For licensees who meet the criteria for the accommodation outlined in

§ 61.1(b)(1) of this part and choose to comply with the requirements in § 61.1(b)(2) of this part, concentrations of radioactive material which may be released to the general environment in groundwater, surface water, air, soil, plants, or animals must not result in an annual dose exceeding an equivalent of 25 millirems to the whole body, 75 millirems to the thyroid, and 25 millirems to any other organ of any member of the public, or 25 mrem TEDE, or TED, as applicable.

■ 29. Revise and republish § 61.42 to read as follows:

§ 61.42 Protection of individuals from inadvertent intrusion.

(a) Design, operation, and closure of the land disposal facility must ensure protection of an inadvertent intruder into the disposal site who occupies the site or contacts the waste at any time after active institutional controls over the disposal site are removed.

(1) For near-surface disposal, the annual dose must not exceed 5 milliSieverts (500 millirems) to any inadvertent intruder within the compliance period. Compliance with this paragraph must be demonstrated through the inadvertent intruder assessment as required by § 61.13(b).

(2) For waste disposal in a specialized land disposal facility, the inadvertent intruder assessment must demonstrate that an inadvertent intruder will not disrupt or contact emplaced waste during any part of the compliance period in which the waste remains a radiological hazard. The inadvertent intruder assessment must also demonstrate that the annual dose to any inadvertent intruder within the compliance period from any onsite releases (*e.g.*, radon emanation, groundwater contamination) will not exceed 5 milliSieverts (500 millirems). Compliance with this paragraph must be demonstrated through the inadvertent intruder assessment as required by § 61.13(b).

(b) Exposures to an inadvertent intruder must be effectively managed during the performance period. Compliance with this paragraph must be demonstrated through the performance period analyses as required by § 61.13(e).

(c) For licensees who meet the criteria for the accommodation outlined in § 61.1(b)(1) of this part and choose to comply with the requirements in § 61.1(b)(2) of this part, design, operation, and closure of the land disposal facility must ensure protection of any individual inadvertently intruding into the disposal site and occupying the site or contacting the

waste at any time after active institutional controls over the disposal site are removed.

■ 30. Revise and republish § 61.43 to read as follows:

§ 61.43 Protection of individuals during operations.

Operations at the land disposal facility must be conducted in compliance with the standards for radiation protection set out in part 20 of this chapter, including § 20.1101(b), except that the annual dose to a member of the public from releases of radioactivity from the land disposal facility must not exceed an annual total effective dose or total effective dose equivalent, as applicable, of 0.25 milliSievert (25 millirems). Compliance with this section must be demonstrated through the operational safety assessment as required by § 61.13(c) or 61.13(f)(3), as applicable.

■ 31. Revise and republish § 61.44 to read as follows:

§ 61.44 Stability of the disposal site after closure.

The land disposal facility must be sited, designed, used, operated, and closed to achieve long-term stability of the disposal site. During the institutional control period, the licensee must eliminate to the extent practical the need for ongoing active maintenance of the disposal site following site closure so that only surveillance, monitoring, or minor custodial care are required. Compliance with this section must be demonstrated through the site stability assessment as required by § 61.13(d) or 61.13(f)(4), as applicable.

■ 32. Revise and republish § 61.50 to read as follows:

§ 61.50 Disposal site suitability requirements for land disposal.

The primary emphasis of disposal site suitability requirements is to avoid sites with disruptive processes and events and to foster favorable conditions that will provide reasonable assurance that the performance objectives of subpart C of this part will be met, rather than short-term benefits to site operation.

(a) *Disposal site suitability for near-surface disposal.* The purpose of this section is to specify the minimum characteristics a disposal site must possess to be acceptable for the disposal of waste in the near surface. The disposal site must meet the following minimum requirements:

(1) The disposal site must be capable of being characterized, modeled, analyzed, and monitored to the extent that the long-term performance objectives of subpart C of this part can be met.

(2) For at least 500 years following closure of the land disposal facility, the disposal site cannot have any of the following characteristics:

(i) Poor drainage, flooding or frequent ponding, located in a 100-year flood plain, as defined in Executive Order 11988, "Floodplain Management", or located in a wetland, as defined in Executive Order 11990, "Protection of Wetlands."

(ii) Uncontrolled runoff from upstream drainage areas, which could erode or inundate disposal units.

(iii) A water table too close to the land surface. The unsaturated zone must be thick enough so that waste is not disposed within a saturated zone nor a zone of water table fluctuation, perennial or otherwise.

(iv) Groundwater from below discharging to the land surface within the disposal site at any time.

(3) If any of the characteristics in paragraphs (2)(i) through (iv) of this section are present after the first 500 years following closure of the land disposal facility, the performance objectives of subpart C of this part must still be met.

(4) The projected population growth and future developments in the vicinity of the land disposal facility are not likely to affect the ability of the land disposal facility to meet the performance objectives of subpart C of this part or to preclude defensible modeling due to large uncertainties.

(5) The land disposal facility must not be located in, or in the immediate vicinity of, an area:

(i) having known natural resources which, if exploited, would result in the failure of the disposal site to meet the performance objectives of subpart C of this part;

(ii) where tectonic processes such as faulting, folding, seismic activity, or vulcanism may occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or to preclude defensible modeling results due to large uncertainties;

(iii) where surface geologic processes such as mass wasting, erosion, slumping, landslides, or weathering occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or to preclude defensible modeling results due to large uncertainties; and

(iv) where nearby facilities or activities could significantly affect the ability of the disposal site to meet the performance objectives of subpart C of

this part or significantly mask the environmental monitoring program.

(b) *Disposal site suitability requirements for specialized land disposal facilities.* Specialized land disposal facility sites must meet the suitability requirements of paragraphs (a)(1), (a)(4), and (a)(5); and applicable requirements of paragraphs (a)(2) and (a)(3) of this section.

(c) *Disposal site suitability requirements pursuant to criteria in § 61.1(b).* For licensees who meet the criteria for the accommodation outlined in § 61.1(b)(1), the disposal site suitability requirements for near-surface disposal are as follows. The purpose of this section is to specify the minimum characteristics a disposal site must have to be acceptable for use as a near-surface disposal facility. The primary emphasis in disposal site suitability is given to isolation of wastes, a matter having long-term impacts, and to disposal site features that ensure that the long-term performance objectives of subpart C of this part are met, as opposed to short-term convenience or benefits. Licensees who meet the criteria for the accommodation outlined in § 61.1(b)(1) of this part and choose to comply with the requirements in § 61.1(b)(2) of this part, must meet the following site suitability requirements:

(1) The disposal site shall be capable of being characterized, modeled, analyzed and monitored.

(2) Within the region or state where the facility is to be located, a disposal site should be selected so that projected population growth and future developments are not likely to affect the ability of the disposal facility to meet the performance objectives of subpart C of this part.

(3) Areas must be avoided having known natural resources which, if exploited, would result in failure to meet the performance objectives of subpart C of this part.

(4) The disposal site must be generally well drained and free of areas of flooding or frequent ponding. Waste disposal shall not take place in a 100-year flood plain, coastal high-hazard area or wetland, as defined in Executive Order 11988, "Floodplain Management Guidelines."

(5) Upstream drainage areas must be minimized to decrease the amount of runoff which could erode or inundate waste disposal units.

(6) The disposal site must provide sufficient depth to the water table that groundwater intrusion, perennial or otherwise, into the waste will not occur. The Commission will consider an exception to this requirement to allow disposal below the water table if it can

be conclusively shown that disposal site characteristics will result in molecular diffusion being the predominant means of radionuclide movement and the rate of movement will result in the performance objectives of subpart C of this part being met. In no case will waste disposal be permitted in the zone of fluctuation of the water table.

(7) The hydrogeologic unit used for disposal shall not discharge groundwater to the surface within the disposal site.

(8) Areas must be avoided where tectonic processes such as faulting, folding, seismic activity, or vulcanism may occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

(9) Areas must be avoided where surface geologic processes such as mass wasting, erosion, slumping, landsliding, or weathering occur with such frequency and extent to significantly affect the ability of the disposal site to meet the performance objectives of subpart C of this part, or may preclude defensible modeling and prediction of long-term impacts.

(10) The disposal site must not be located where nearby facilities or activities could adversely impact the ability of the site to meet the performance objectives of subpart C of this part or significantly mask the environmental monitoring program.

■ 33. Revise and republish § 61.51 to read as follows:

§ 61.51 Disposal site design for land disposal.

(a) *Disposal site design for near-surface disposal.*

(1) Site design features must be directed toward long-term isolation of the waste and must avoid the need to continue active maintenance after site closure.

(2) The disposal site design and operation must be compatible with the disposal site closure and stabilization plan and lead to disposal site closure that provides reasonable assurance that the performance objectives of subpart C of this part will be met.

(3) The disposal site must be designed to complement and improve, where appropriate, the ability of the disposal site's natural characteristics to assure that the performance objectives of subpart C of this part will be met.

(4) Covers must be designed, to the extent practical, to minimize water infiltration, to direct percolating or surface water away from the disposed

waste, and to resist degradation by surface geologic processes and biotic activity.

(5) Surface features must direct surface water drainage away from disposal units at velocities and gradients which will not result in erosion that will require ongoing active maintenance in the future.

(6) The disposal site must be designed, to the extent practical, to minimize the contact of water with waste during storage, the contact of standing water with waste during disposal, and the contact of percolating or standing water with wastes after disposal.

(b) *Disposal site design for specialized land disposal facilities.*

(1) Site design and operation must meet the requirements of paragraphs (a)(1) through (3), and (6), as well as any applicable requirements of paragraphs (a)(4) and (5) of this section.

(2) The disposal site design must include engineered and natural barriers that will, in combination, prevent an inadvertent intruder from disrupting or contacting emplaced waste during any part of the compliance period in which the waste remains a radiological hazard. Natural barriers could include significant depth to disposal or natural features that would pose significant challenges to drilling.

■ 34. Revise and republish § 61.52 to read as follows:

§ 61.52 Land disposal facility operation and disposal site closure.

(a) *Near-surface disposal facility operation and disposal site closure.*

(1) Wastes designated as Class A pursuant to § 61.55, must be segregated from other wastes by placing the Class A waste in disposal units that are sufficiently separated from disposal units containing other waste classes such that any interaction between Class A wastes and other wastes will not result in the failure to meet the performance objectives in subpart C of this part. This segregation is not necessary for Class A wastes if they meet the stability requirements in § 61.56(b).

(2) Wastes designated as Class C pursuant to § 61.55, must be disposed of so that the top of the waste is a minimum of 5 meters below the top surface of the cover or must be disposed of with intruder barriers that are designed to protect against an inadvertent intrusion for a least 500 years.

(3) Wastes designated as Greater-Than-Class C pursuant to § 61.55 and with concentrations of alpha-emitting transuranic radionuclides with half-

lives greater than 5 years that are equal to or less than 10,000 nanocuries per gram may be disposed in the near-surface provided that the top of the waste is a minimum of 5 meters below the land surface and must be disposed with intruder barriers that are designed to protect against an inadvertent intrusion for at least 500 years.

(4) Wastes designated as Greater-Than-Class C pursuant to § 61.55 and with concentrations of alpha-emitting transuranic radionuclides with half-lives greater than 5 years that exceed 10,000 nanocuries per gram are not generally acceptable for near-surface disposal but may be disposed in a specialized land disposal facility pursuant to § 61.52(b).

(5) All wastes meeting the criteria of paragraphs (a)(1) through (3) of this section must be disposed of in accordance with the requirements of paragraphs (a)(6) through (18) of this section.

(6) Wastes must be emplaced in a manner that maintains the package integrity during emplacement, minimizes the void spaces between packages, and permits the void spaces to be filled.

(7) Void spaces between waste packages must be filled with earth or other material to reduce future subsidence within the fill.

(8) Waste must be placed and covered in a manner that limits the radiation dose rate at the surface of the cover to levels that at a minimum will permit the licensee to comply with all provisions of §§ 20.1301 and 20.1302 of this chapter at the time the license is transferred pursuant to § 61.30 of this part.

(9) The boundaries and locations of each disposal unit (e.g., trenches) must be accurately located and mapped by means of a land survey. Near-surface disposal units must be marked in such a way that the boundaries of each unit can be easily defined. Three permanent survey marker control points, referenced to United States Geological Survey (USGS) or National Geodetic Survey (NGS) survey control stations, must be established on the site to facilitate surveys. The USGS or NGS control stations must provide horizontal and vertical controls as checked against USGS or NGS record files.

(10) A buffer zone of land must be maintained between any buried waste and the disposal site boundary and beneath the disposed waste. The buffer zone must be of adequate dimensions to allow a licensee to carry out environmental monitoring activities specified in § 61.53(d) and take mitigative measures if needed.

(11) Closure and stabilization measures as set forth in the approved site closure plan must be carried out as each disposal unit (e.g., each trench) is filled and covered.

(12) Active waste disposal operations must not have an adverse effect on completed closure and stabilization measures.

(13) Only wastes containing or contaminated with radioactive materials may be disposed of at the disposal site.

(14) Waste accepted for disposal must meet that facility's waste acceptance criteria.

(15) Waste must be disposed consistent with the description provided in § 61.12(f) of this part and the licensee must not operate the land disposal facility in a manner that would be inconsistent with the technical analyses.

(16) Significant quantities of uranium must be disposed so that the top of the waste is a minimum of 5 meters below the land surface.

(17) Greater-Than-Class C waste must be disposed so as to not produce thermal effects that would significantly degrade the performance of the disposal site.

(18) Greater-Than-Class C waste must be disposed in a manner that limits the potential for a criticality event during placement and operations.

(b) *Facility operation and disposal site closure for specialized land disposal facilities.*

(1) Facility operation and disposal site closure must meet the requirements of paragraphs (a)(1), (a)(6)–(9), and (a)(11)–(18) of this section.

(2) A buffer zone of land must be maintained between any buried waste and the disposal site boundary. The buffer zone must be of adequate dimensions to allow a licensee to carry out environmental monitoring activities specified in § 61.53(d) and take mitigative measures if needed. The licensee must maintain a buffer zone beneath the disposed waste or demonstrate that such a buffer zone is not required to carry out environmental monitoring activities specified in § 61.53(d).

(3) Wastes with radionuclide concentrations that exceed the values in Table 3 of § 61.55 must be disposed in accordance with § 61.55(b)(2)(iii).

■ 35. In § 61.53:

■ a. Revise paragraphs (a), (b), and (d); and

■ b. In paragraph (c) remove the word “shall” and add in its place the word “must”.

The revisions read as follows:

§ 61.53 Environmental monitoring.

(a) At the time a license application is submitted, the applicant must provide environmental data on the disposal site characteristics, including information and data concerning the ecology, meteorology, climate, hydrology, geology, geomorphology, geochemistry, and seismology of the disposal site. For those characteristics that are subject to seasonal variation, data must cover at least a 12-month period.

(b) At the time a license application is submitted, the applicant must have plans for taking corrective measures during the lifespan of the facility if migration of radionuclides would indicate that the performance objectives of subpart C may not be met.

* * * * *

(d) After the disposal site is closed, the licensee, in accordance with § 61.29 of this part, is responsible for post-operational surveillance of the disposal site and must maintain a monitoring system based on the operating history and the closure and stabilization of the disposal site. The monitoring system must be capable of providing early warning of releases of radionuclides from the disposal site before they leave the site boundary.

■ 36. Revise and republish § 61.55 to read as follows:

§ 61.55 Waste classification.

Different classes of waste (A, B, C, and Greater-Than-Class C (GTCC)) have been developed with corresponding requirements for each class of waste. Class A waste is the least hazardous and GTCC waste is the most hazardous. Classification of Class A, B, and C radioactive waste is addressed in paragraph (a) of this section. Only waste with radionuclide concentrations that exceed the Class C limit when classified according to paragraph (a) must be classified according to paragraph (b) of this section. Consistent with the requirements of 10 CFR part 20 appendix G (I) of this chapter, references to radionuclide concentrations in this section mean their concentrations in the waste when it is prepared for shipment for disposal.

(a) *Classification of Class A, B, and C radioactive waste—*

(1) *Considerations.*

(i) Class A and B limits in this section were based on the assumption that access to the site would not occur during a 100 year institutional control period after site closure. This permits the disposal of Class A and Class B waste without special provisions for intrusion protection, because these classes of waste contain types and quantities of radionuclides that will

decay during the 100-year period and will present an acceptable hazard to an intruder. Waste that will decay to levels which present an acceptable hazard to an intruder after 100 years and before 500 years is designated as Class C waste. This waste is disposed of at a greater depth than the other classes of waste so that subsequent surface activities by an intruder will not disturb the waste. Where site conditions prevent deeper disposal, intruder barriers such as concrete covers may be used. The effective life of these intruder barriers should be 500 years. A maximum concentration of radionuclides is specified for all Class C wastes so that, at the end of the 500-year period, remaining radioactivity will be at a level that does not pose an unacceptable hazard to an intruder or public health and safety.

(ii) Determination of the classification of Class A, B, and C radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved wasteform, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radionuclides could cause exposures. In

addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, wasteform, and disposal methods are effective.

(2) *Classes of waste.*

(i) Class A waste is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in § 61.56(a). If Class A waste also meets the stability requirements set forth in § 61.56(b), it is not necessary to segregate the waste for disposal. Class A waste that does not meet the stability requirements of § 61.56(b) must be segregated from other waste.

(ii) Class B waste must meet more rigorous requirements on wasteform to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in §§ 61.56(a) and (b). Class B wasteforms or containers, to the extent practical, must be designed to be stable (*i.e.*, maintain gross physical properties and identity) over 300 years.

(iii) Class C waste not only must meet more rigorous requirements on

wasteform to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in §§ 61.56(a) and (b). Class C wasteforms or containers, to the extent practical, must be designed to be stable (*i.e.*, maintain gross physical properties and identity) over 300 years.

(3) *Classification determined by long-lived radionuclides.* If radioactive waste contains only radionuclides listed in Table 1, classification is determined as follows:

(i) If the concentration does not exceed 0.1 times the value in Table 1, the waste is Class A.

(ii) If the concentration exceeds 0.1 times the value in Table 1 but does not exceed the value in Table 1, the waste is Class C.

(iii) If the concentration exceeds the value in Table 1, the waste must be classified under paragraph (b) of this section.

(iv) For wastes containing mixtures of radionuclides listed in Table 1, the total concentration is determined by the sum of fractions rule described in paragraph (a)(7) of this section.

TABLE 1

Radionuclide	Concentration, curies per cubic meter
C-14	8
C-14 in activated metal	80
Ni-59 in activated metal	220
Nb-94 in activated metal	0.2
Tc-99	3
I-129	0.08
Alpha emitting transuranic radionuclides with half-life greater than 5 years	¹ 100
Pu-241	¹ 3,500
Cm-242	¹ 20,000

¹ Units are nanocuries per gram.

(4) *Classification determined by short-lived radionuclides.* If radioactive waste does not contain any of the radionuclides listed in Table 1, classification is determined based on the concentrations shown in Table 2. However, as specified in paragraph (a)(6) of this section, if radioactive waste does not contain any radionuclides listed in either Table 1 or 2, it is Class A.

(i) If the concentration does not exceed the value in Column 1, the waste is Class A.

(ii) If the concentration exceeds the value in Column 1, but does not exceed the value in Column 2, the waste is Class B.

(iii) If the concentration exceeds the value in Column 2, but does not exceed the value in Column 3, the waste is Class C.

(iv) If the concentration exceeds the value in Column 3, the waste must be classified under paragraph (b) of this section.

(v) For wastes containing mixtures of the radionuclides listed in Table 2, the total concentration is determined by the sum of fractions rule described in paragraph (a)(7) of this section.

TABLE 2

Radionuclide	Concentration, curies per cubic meter		
	Col. 1	Col. 2	Col. 3
Total of all radionuclides with less than 5-year half-life	700	(¹)	(¹)
H-3	40	(¹)	(¹)
Co-60	700	(¹)	(¹)
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7,000
Sr-90	0.04	150	7,000
Cs-137	1	44	4,600

¹ There are no limits established for these radionuclides in Class B or C wastes.

Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes are Class B unless the concentrations of other radionuclides in Table 2 determine the waste to be Class C or greater independent of these radionuclides.

(5) *Classification determined by both long- and short-lived radionuclides.* If radioactive waste contains a mixture of radionuclides, some of which are listed in Table 1, and some of which are listed in Table 2, classification is determined as follows:

(i) If the concentration of a radionuclide listed in Table 1 does not exceed 0.1 times the value listed in Table 1, the class is determined by the concentration of radionuclides listed in Table 2.

(ii) If the concentration of a radionuclide listed in Table 1 exceeds 0.1 times the value listed in Table 1 but does not exceed the value in Table 1, the waste is Class C, provided the concentration of radionuclides listed in Table 2 does not exceed the value shown in Column 3 of Table 2.

(iii) If the concentration of a radionuclide listed in Table 1 exceeds the value in Table 1 or the value provided in Column 3 of Table 2, the waste must be classified under paragraph (b) of this section.

(6) *Classification of wastes with radionuclides other than those listed in Tables 1 and 2.* If radioactive waste does not contain any radionuclides listed in either Table 1 or 2, it is Class A.

(7) *The sum of the fractions rule for mixtures of radionuclides.* For determining classification for waste that contains a mixture of radionuclides, it is necessary to determine the sum of fractions by dividing each radionuclide's concentration by the appropriate limit and adding the resulting values. The appropriate limits must all be taken from the same column

of the same table. The sum of the fractions for the column must be less than 1.0 if the waste class is to be determined by that column. Example: A waste contains Sr-90 in a concentration of 50 Ci/m³ and Cs-137 in a concentration of 22 Ci/m³. Since the concentrations both exceed the values in Column 1, Table 2, they must be compared to Column 2 values. For Sr-90 fraction 50/150 = 0.33; for Cs-137 fraction, 22/44 = 0.5; the sum of the fractions = 0.83. Since the sum is less than 1.0, the waste is Class B.

(8) *Determination of concentrations in wastes.* The concentration of a radionuclide may be determined by indirect methods such as use of scaling factors which relate the inferred concentration of one radionuclide to another that is measured, or radionuclide material accountability, if there is reasonable assurance that the indirect methods can be correlated with actual measurements. The concentration of a radionuclide may be averaged over the volume of the waste, or weight of the waste if the units are expressed as nanocuries per gram.

(b) *Classification of Greater-than-Class-C Waste.*

(1) *Considerations.*

(i) Determination of the classification of waste under this paragraph applies only if waste has first been determined to exceed Class C limits under § 61.55(a). That waste is then classified based on the concentrations of groupings of radionuclides with half-lives greater than 50 years as described in § 61.55(b)(2). Waste with radionuclide concentrations in excess of the Class C limits codified at 42 U.S.C. 2021c(b)(1)(D) on a sum-of-fractions basis must be disposed of in a site licensed by the Commission.

(ii) Greater-than-Class C waste has higher concentrations of radionuclides than Class C waste and will require additional protections and analyses. Greater-Than-Class C waste must meet

the requirements for Class C waste and the additional requirements set forth in § 61.56(c). Whereas protection of an inadvertent intruder from the disposal of Class C waste will be provided by a sufficient burial depth or an intruder barrier, protection of an inadvertent intruder from Greater-Than-Class C waste will require both a sufficient burial depth and one or more intruder barriers.

(iii) Greater-Than-Class C waste with concentrations of alpha-emitting transuranic radionuclides with half-lives greater than 5 years exceeding 10,000 nanocuries per gram is not generally acceptable for near-surface disposal. Such waste may be disposed of in a specialized land disposal facility as defined in this part. Such waste may be disposed of in a near-surface disposal facility if a proposal for such disposal in a site licensed pursuant to this part is approved by the Commission.

(2) *Classification determined by radionuclide concentrations.*

(i) Waste that is Class A pursuant to § 61.55(a)(6) because it does not contain any of the radionuclides in Table 1 or Table 2 of § 61.55(a) is Class A waste irrespective of the comparison of the radionuclide concentrations in the waste to the values in Table 3.

(ii) Waste with radionuclide concentrations that exceed the Class C limits under § 61.55(a) is Greater-Than-Class-C if the radionuclide concentrations in the waste do not exceed any of the values in Table 3.

(iii) Waste that exceeds one or more of the values in Table 3 in this section is not generally acceptable for land disposal unless proposals for disposal of such waste in a disposal site licensed pursuant to this part are approved by the Commission.

(iv) The concentration of a radionuclide may be determined by indirect methods as described in paragraph (a)(8) of this section.

TABLE 3

Radionuclide	Concentration
Sum of alpha emitting radionuclides with half-life greater than 50 years	18.5 megabecquerel per gram (500 microcuries per gram).
Sum of beta and photon emitting radionuclides with half-life greater than 50 years.	1.85×10^5 gigabecquerel per cubic meter (5,000 curies per cubic meter).
Sum of beta and photon emitting radionuclides with half-life greater than 50 years in activated metal.	1.85×10^6 gigabecquerel per cubic meter (50,000 curies per cubic meter).
Tc-99	1.85×10^4 gigabecquerel per cubic meter (500 curies per cubic meter).
I-129	370 gigabecquerel per cubic meter (10 curies per cubic meter).

(c) *Commission Authorization.* The Commission may, upon request or on its own initiative, authorize other provisions for the classification and characteristics of waste on a specific basis, if, after evaluation of the specific characteristics of the waste, disposal site, and method of disposal, it finds reasonable assurance of compliance with the performance objectives in subpart C of this part.

■ 37. In § 61.56:

■ a. Revise paragraph (a) introductory text, paragraph (a)(3), and (b)(2);

■ b. In paragraph (a)(6), remove the word “shall” and add in its place the word “must”;

■ c. In paragraph (a)(8), remove the word “practicable” and add in its place the word “practical”;

■ d. In paragraph (b) introductory text, remove the word “since” and add in its place the word “because”;

■ e. In paragraph (b)(1), remove the terms “waste form” where it may appear and add in its place the term “wasteform”; and

■ f. Add new paragraph (c).

The revisions and addition read as follows:

§ 61.56 Waste characteristics.

(a) The following requirements apply for all waste and are intended to facilitate handling at the disposal site and provide protection of health and safety of personnel at the disposal site.

* * * * *

(3) Solid waste containing liquid must contain as little free standing and noncorrosive liquid as is reasonably achievable, but the liquid must not exceed 1% of the volume.

* * * * *

(b) * * *

(2) Notwithstanding the provisions in § 61.56(a) (2) and (3), liquid wastes, or wastes containing liquid, must be converted into a form that contains as little free standing and noncorrosive liquid as is reasonably achievable, but the liquid must not exceed 1% of the volume of the waste when the waste is in a disposal container designed to ensure stability, or 0.5% of the volume

of the waste for waste processed to a stable form.

* * * * *

(c) The following additional requirements apply to land disposal of Greater-Than-Class C waste.

(1) Waste must not generate heat in amounts that impact the release of radioactive material from the disposal site or the long-term stability of the disposal site.

(2) Waste must not contain quantities and concentrations of fissionable radionuclides that could result in criticality.

(3) Waste must not emit radiation at levels that could lead to degradation of the disposal environment conditions, such as through radiolysis.

(4) Waste must be in a stable physical form that is not dispersible (e.g., grout, activated metal).

■ 38. Revise and republish § 61.57 to read as follows:

§ 61.57 Labeling.

Each package of waste must be clearly labeled to indicate the waste class in accordance with § 61.55 when shipped for disposal in a land disposal facility. Each package of waste also must be clearly labeled to identify any additional information required by the land disposal facility's criteria for waste acceptance developed in accordance with § 61.58.

■ 39. Revise and republish § 61.58 heading title and section to read as follows:

§ 61.58 Waste acceptance.

(a) *Waste acceptance criteria.* Each licensee must implement waste acceptance criteria approved by the Director, that provide reasonable assurance of compliance with the performance objectives of subpart C of this part. Waste acceptance criteria may be either generic or site specific.

(1) *Generic waste acceptance criteria.* Licensees may implement the generic waste acceptance criteria set forth in §§ 61.55 and 61.56.

(2) *Site-specific waste acceptance criteria.* Licensees may implement site-specific waste acceptance criteria that

have been approved by the Director. Site-specific waste acceptance criteria must provide safety equivalent to the requirements in § 61.56. Waste with radionuclide concentrations in excess of the Class C limits codified at 42 U.S.C. 2021c(b)(1)(D) on a sum-of-fractions basis is Greater-Than-Class C waste and site-specific limits established under this part cannot change that designation. Site-specific waste acceptance criteria must specify the following:

(i) Allowable activities and concentrations of specific radionuclides. The allowable activities and concentrations for each specific radionuclide that the licensee intends to accept for disposal, developed from the technical analyses.

(ii) Acceptable wasteform characteristics and waste container specifications. The wasteform characteristics of the waste to be accepted for disposal and the specifications for all waste containers that will be deployed during operations at the facility.

(iii) Restrictions or prohibitions on waste, materials, or containers that might affect the facility's ability to meet the performance objectives in subpart C of this part.

(b) *Waste characterization.* Each licensee must implement methods for characterizing the waste to be accepted for disposal that have been approved by the Director. The methods must identify the characterization parameters and acceptable uncertainty in the characterization data. The following information is required to characterize waste:

(1) Physical and chemical characteristics of the waste;

(2) Waste volume, including any stabilization or absorbent media;

(3) Weight of the container and contents;

(4) Radionuclide identities, activities, and concentrations;

(5) Characterization date;

(6) Generating source; and

(7) Any other information needed to characterize the waste to demonstrate that the waste acceptance criteria set forth in § 61.58(a) are met.

(c) *Waste certification program.* Each licensee must implement a program approved by the Director to certify that waste, prior to shipment to the land disposal facility, meets the waste acceptance criteria developed for the facility in accordance with paragraph (a) of this section. The certification program must:

(1) Provide procedures for designating authority to certify and receive waste for disposal at the facility;

(2) Provide procedures for certifying that the waste to be received at the facility meets the waste acceptance criteria;

(3) Specify documentation required for waste acceptance including waste characterization, shipment information (including the information described in appendix G to part 20 of this chapter), and certification;

(4) Identify records, reports, tests, and inspections that are necessary to comply with the requirements in § 61.80 of this part; and

(5) Provide approaches for managing waste that has been certified as meeting the waste acceptance criteria in a manner that maintains its certification status.

(d) *Licensing.* The approved waste acceptance criteria will be incorporated into the facility license.

(e) *Annual Review.* Each licensee must annually review the implementation of the waste acceptance criteria, waste characterization methods, and certification program. The review must be documented and maintained in accordance with § 61.80 of this part.

■ 40. In § 61.59, revise paragraph(b) to read as follows:

§ 61.59 Institutional requirements.

* * * * *

(b) *Institutional control.* The land owner or custodial agency must carry out an institutional control program to physically control access to the disposal site following transfer of control of the disposal site from the disposal site operator. The institutional control program must also include, but not be limited to, carrying out an environmental monitoring program at the disposal site, periodic surveillance, minor custodial care, and other requirements as determined by the Commission; and administration of funds to cover the costs for these activities. The period of institutional controls will be determined by the Commission. For technical analyses, licensees should not take credit for institutional controls for more than 100 years following transfer of control of the disposal site to the owner.

§ 61.61 [Amended]

■ 41. In § 61.61, remove the word “shall” and add in its place the word “must”.

■ 42. In § 61.62:

■ a. Revise paragraphs (a) and (d);

■ b. In paragraph (f), remove the word “shall” and add in its place the word “must”.

The revisions read as follows:

§ 61.62 Funding for disposal site closure and stabilization.

(a) The applicant must provide assurance that sufficient funds will be available to carry out disposal site closure and stabilization, including: (1) Decontamination or dismantlement of land disposal facility structures; and (2) closure and stabilization of the disposal site so that following transfer of the disposal site to the site owner, the need for ongoing active maintenance is eliminated to the extent practical and only minor custodial care, surveillance, and monitoring are required. These assurances must be based on Commission-approved cost estimates reflecting the Commission-approved plan for disposal site closure and stabilization. The applicant's cost estimates must take into account total capital costs that would be incurred if an independent contractor were hired to perform the closure and stabilization work.

* * * * *

(d) The amount of surety liability should change in accordance with the predicted cost of future closure and stabilization. Factors affecting closure and stabilization cost estimates include: inflation; increases in the amount of disturbed land; changes in engineering plans; closure and stabilization that has already been accomplished and any other conditions affecting costs. This will yield a surety that is at least sufficient at all times to cover the costs of closure of the disposal units that are expected to be used before the next license renewal.

* * * * *

§ 61.63 [Amended]

■ 43. In § 61.63, remove the word “shall” wherever it may appear and add in its place the word “must”.

§ 61.71 [Amended]

■ 44. In § 61.71, remove the word “shall” wherever it may appear and add in its place the word “must”.

§ 61.73 [Amended]

■ 45. In § 61.73:

■ a. Remove the word “shall” wherever it may appear and add in its place the word “must”;

■ b. Remove the word “Tribal”

wherever it may appear and add in its place the word “tribal”; and

■ c. Remove the word “Tribe” wherever it may appear and add in its place the word “tribe”.

■ 46. In § 61.80:

■ a. Remove the word “shall” wherever it appears and add in its place the word “must”;

■ b. In paragraph (e), remove the phrase “the facility” and add in its place the phrase “the land disposal facility”;

■ c. In paragraph (g), remove the phrase “Inventory reports” and add in its place the word “Reports”;

■ d. Add new paragraph (i) header text and paragraphs (i)(3), (m) and (n); and

■ e. Revise paragraphs (i)(1) and (2), (l)(1) introductory text, and (l)(1)(i).

The additions and revisions read as follows:

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(i) Licensees must comply with the following annual report requirements:

(1) Each licensee authorized to dispose of waste materials received from other persons under this part must submit annual reports to the Director by an appropriate method listed in § 61.4, with a copy to the appropriate NRC Regional Office shown in appendix D to part 20 of this chapter. Reports must be submitted by the end of the first calendar quarter of each year for the preceding year.

(2) The reports must include—

(i) specification of the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in airborne effluents during the preceding year;

(ii) the results of the environmental monitoring program;

(iii) a summary of licensee disposal unit survey and maintenance activities;

(iv) a summary of activities and quantities of radionuclides disposed of;

(v) any instances in which observed site characteristics were significantly different from those described in the application for a license; and

(vi) any other information the Commission may require.

(3) If the quantities of radioactive materials released during the reporting period, monitoring results, or maintenance performed are significantly different from those expected in the materials previously reviewed as part of the licensing action, the report must cover this specifically.

* * * * *

(l) * * *

(1) The manifest information that must be electronically stored is—

(i) That information required in appendix G to part 20 of this chapter, with the exception of shipper and carrier telephone numbers and shipper and consignee certifications; and

* * * * *

(m) Each licensee must maintain waste acceptance records including:

(1) Records for waste acceptance including the waste acceptance criteria, characterization methods, and certification program; and

(2) Audits and other reviews of program content and implementation. The licensee must retain records of audits and other reviews for 3 years after the record is made.

(n) Each licensee must maintain records of evaluations on whether updates to the technical analyses are warranted, pursuant to § 61.24 (l)(1).

§ 61.81 [Amended]

■ 47. In § 61.81:

■ a. In paragraph (a) remove the word “shall” and add in its place the word “must”; and

■ b. Reserve paragraph (b).

§ 61.82 [Amended]

■ 48. In § 61.82, remove the word “shall” wherever it appears and add in its place the word “must”.

■ 49. In § 61.84, revise paragraph (b) to read as follows:

§ 61.84 Criminal penalties.

* * * * *

(b) The regulations in part 61 that are not issued under sections 161b, 161i, or 161o for the purposes of Section 223 are as follows: §§ 61.1, 61.2, 61.4, 61.5, 61.6, 61.8, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.21, 61.22, 61.23, 61.26, 61.30, 61.31, 61.54, 61.55, 61.61, 61.63, 61.70, 61.71, 61.72, 61.73, 61.83, and 61.84.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 50. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 53, 147, 149, 161, 161A, 170D, 170E, 170H, 170I, 223, 229, 234, 170I (42 U.S.C. 2073, 2167, 2169, 2201, 2201a, 2210d, 2210e, 2210h, 2210i, 2273, 2278a, 2282, 2297f); Energy Reorganization Act of 1974, secs. 201, 202 (42 U.S.C. 5841, 5842); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Section 73.37(b)(2) also issued under Sec. 301, Public Law 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

■ 51. In § 73.67:

■ a. Add new paragraph (b) introductory text and (b)(1)(iv); and

■ b. Remove the phrase “plutonium-238.” and add in its place the phrase “plutonium-238, or”.

§ 73.67 Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance.

* * * * *

(b) *Accommodations.*

(1) * * *

(iv) Radioactive waste under 10 CFR part 61 containing special nuclear material to be disposed in a land disposal facility which is (a) in quantities of low strategic significance prior to disposal, (b) not readily separable from the other radioactive waste material, and (c) is in a concentration of special nuclear material that is no more than 0.01% of the mass of the other waste material.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 52. The authority citation for part 150 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 53, 81, 83, 84, 122, 161, 181, 223, 234, 274 (42 U.S.C. 2014, 2201, 2231, 2273, 2282, 2021); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); Nuclear Waste Policy Act of 1982, secs. 135, 141 (42 U.S.C. 10155, 10161); 44 U.S.C. 3504 note.

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act sec. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§ 150.11 [Amended]

■ 53. In § 150.11:

■ a. Remove the word “shall” wherever it appears and add in its place the word “must”; and

■ b. Remove the phrase “which he” and add in its place the phrase “which the person”.

§ 150.14 Commission regulatory authority for physical protection.

■ 54. In § 150.14, remove the word “shall” and add in its place the word “must”.

■ 55. In § 150.15:

■ a. In paragraph (a) introductory text, remove the phrase “agreement States” and add in its place the phrase “Agreement States”;

■ b. Revise the last sentence in paragraph (a)(4); and

■ c. Revise and republish paragraphs (a)(7), (8), and (b).

The revisions read as follows:

§ 150.15 Persons not exempt.

(a) * * *

(4) * * * This subparagraph does not apply to the transfer, storage or disposal of contaminated equipment or to waste incidental to reprocessing that has been evaluated and approved as material to be disposed at a near-surface land disposal facility.

* * * * *

(7) The storage of:

(i) Spent fuel in an independent spent fuel storage installation (ISFSI) licensed under part 72 of this chapter,

(ii) Spent fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS) licensed under part 72 of this chapter, or

(iii) Greater-Than-Class C waste, as defined in part 72 of this chapter, in an ISFSI or an MRS licensed under part 72 of this chapter; the Greater-Than-Class C waste must originate in, or be used by, a facility licensed under part 50 or part 52 of this chapter.

(iv) Greater-Than-Class C waste, as defined in part 72 of this chapter, that originates in, or is used by, a facility licensed under part 50 or part 52 of this chapter and is licensed under part 30 and/or part 70 of this chapter.

(8) The disposal of radioactive material exceeding Class C limits (Greater-Than-Class C waste), as defined by section 61.55 of this chapter, as in effect on January 26, 1983.

(9) The requirements for the protection of Safeguards information in § 73.21 of this chapter and the requirements in § 73.22 or § 73.23 of this chapter, as applicable.

(b) Notwithstanding any exemptions provided in this part, the Commission may require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Dated: June 29, 2026.

For the Nuclear Regulatory Commission.

Jody Martin,

Secretary of the Commission.

[FR Doc. 2026–13302 Filed 6–30–26; 8:45 am]

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FEDERAL REGISTER

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July 1, 2026

Part V

The President

Presidential Determination No. 2026-16 of June 26, 2026—Presidential Determination Concerning the Department of the Air Force's Rehabilitation and Revitalization of the Joint Base Andrews Golf Course

Presidential Documents

Title 3—

Presidential Determination No. 2026–16 of June 26, 2026

The President

Presidential Determination Concerning the Department of the Air Force's Rehabilitation and Revitalization of the Joint Base Andrews Golf Course

Memorandum for the Administrator of the Environmental Protection Agency [and] the Secretary of the Air Force

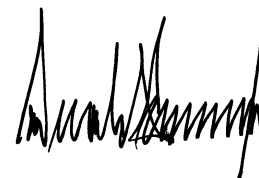
By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323), I determine that it is in the paramount interest of the United States to exempt the Department of the Air Force's rehabilitation and revitalization of the golf course at Joint Base Andrews, Maryland, from Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution.

Therefore, pursuant to subsection (a) of section 313 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)), I hereby exempt each and every effluent source associated with the Department of the Air Force's rehabilitation and revitalization of the golf course at Joint Base Andrews, Maryland, from Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution; except that no exemption is hereby granted from the requirements of 33 U.S.C. 1316 and 1317.

The exemption granted by this memorandum shall be for the 1-year period beginning June 26, 2026, and ending June 26, 2027.

Nothing herein is intended to: (a) imply that in the absence of such a Presidential exemption, the Clean Water Act or any other provision of law would require the Department of the Air Force to obtain permits pertaining to the control and abatement of water pollution for the exempted operations; or (b) limit the applicability or enforcement of any other requirement of law applicable to the Department of the Air Force's revitalization of the golf course at Joint Base Andrews, Maryland.

The Secretary of the Air Force is authorized and directed to publish this determination in the Federal Register.



THE WHITE HOUSE,
Washington, June 26, 2026

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1740102

21 CFR

Proposed Rules:

130839940

33 CFR

165 (2 documents)39895,
39897

34 CFR

60040136

66840136

68540136

Proposed Rules:

65539945

65639945

65739945

65839945

66039945

66139945

66239945

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66439945

66939945

36 CFR

Proposed Rules:

20039948

21639948

40 CFR

Proposed Rules:

14139952

50 CFR

62239898

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <https://www.archives.gov/federal-register/laws/current.html>.

The text of laws is not published in the **Federal Register** but may be ordered in “slip law” (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text is available at <https://www.govinfo.gov/app/collection/plaw>. Some laws may not yet be available.

S. 1003/P.L. 119–100
Lulu’s Law (June 26, 2026;
140 Stat. 845)
Last List June 16, 2026

Public Laws Electronic
Notification Service
(PENS)

PENS is a free email
notification service of newly

enacted public laws. To
subscribe, go to https://portalguard.gsa.gov/__layouts/pg/register.aspx.

Note: This service is strictly
for email notification of new
laws. The text of laws is not
available through this service.
PENS cannot respond to
specific inquiries sent to this
address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2026

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	Jul 16	Jul 22	Jul 31	Aug 5	Aug 17	Aug 31	Sep 29
July 2	Jul 17	Jul 23	Aug 3	Aug 6	Aug 17	Aug 31	Sep 30
July 6	Jul 21	Jul 27	Aug 5	Aug 10	Aug 20	Sep 4	Oct 5
July 7	Jul 22	Jul 28	Aug 6	Aug 11	Aug 21	Sep 8	Oct 5
July 8	Jul 23	Jul 29	Aug 7	Aug 12	Aug 24	Sep 8	Oct 6
July 9	Jul 24	Jul 30	Aug 10	Aug 13	Aug 24	Sep 8	Oct 7
July 10	Jul 27	Jul 31	Aug 10	Aug 14	Aug 24	Sep 8	Oct 8
July 13	Jul 28	Aug 3	Aug 12	Aug 17	Aug 27	Sep 11	Oct 13
July 14	Jul 29	Aug 4	Aug 13	Aug 18	Aug 28	Sep 14	Oct 13
July 15	Jul 30	Aug 5	Aug 14	Aug 19	Aug 31	Sep 14	Oct 13
July 16	Jul 31	Aug 6	Aug 17	Aug 20	Aug 31	Sep 14	Oct 14
July 17	Aug 3	Aug 7	Aug 17	Aug 21	Aug 31	Sep 15	Oct 15
July 20	Aug 4	Aug 10	Aug 19	Aug 24	Sep 3	Sep 18	Oct 19
July 21	Aug 5	Aug 11	Aug 20	Aug 25	Sep 4	Sep 21	Oct 19
July 22	Aug 6	Aug 12	Aug 21	Aug 26	Sep 8	Sep 21	Oct 20
July 23	Aug 7	Aug 13	Aug 24	Aug 27	Sep 8	Sep 21	Oct 21
July 24	Aug 10	Aug 14	Aug 24	Aug 28	Sep 8	Sep 22	Oct 22
July 27	Aug 11	Aug 17	Aug 26	Aug 31	Sep 10	Sep 25	Oct 26
July 28	Aug 12	Aug 18	Aug 27	Sep 1	Sep 11	Sep 28	Oct 26
July 29	Aug 13	Aug 19	Aug 28	Sep 2	Sep 14	Sep 28	Oct 27
July 30	Aug 14	Aug 20	Aug 31	Sep 3	Sep 14	Sep 28	Oct 28
July 31	Aug 17	Aug 21	Aug 31	Sep 4	Sep 14	Sep 29	Oct 29