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Contents

Federal Register

Vol. 91, No. 161

Friday, August 21, 2026

Agency for Healthcare Research and Quality

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54328–54330

Agriculture Department

See Food and Nutrition Administration

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 54330–54332

Coast Guard

RULES

Safety Zone:

Piers Park, Boston Inner Harbor, East Boston, MA, 54225–54226

Security Zone:

Ohio River, Cincinnati, OH, 54224–54225

Philippine Sea, Pacific Ocean, Apra Harbor, GU, 54227–54228

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Institute of Standards and Technology

See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission

PROPOSED RULES

Commodity Pool Operators and Commodity Trading

Advisors:

Reduction of Duplicative Regulation Through Intermediary Registration Exemptions; Expansion of the Exemption for Small Commodity Pools, 54264–54280

Listing of Compute Derivatives Contracts, 54259–54264

Defense Department

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:

Federal Advisory Committee—Reserve Forces Policy Board, 54314–54315

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Consolidated Annual Report for the Carl D. Perkins Career and Technical Education Act, 54317

Higher Education Act Title II Report Cards on State Teacher Credentialing and Preparation, 54318

Presidential Cybersecurity Education Award, 54317–54318

Hearings, Meetings, Proceedings, etc.:

National Advisory Committee on Institutional Quality and Integrity, 54315–54317

Employee Benefits Security Administration

NOTICES

Exemption:

Certain Prohibited Transactions Involving Liberty Puerto Rico 401(k) Savings Plan (the Plan or the Applicant) Located in San Juan, PR, 54378–54380

Certain Prohibited Transactions Involving Mid-America Carpenters Regional Council Apprentice and Training Fund (the Fund or Applicant) Located in St. Louis, MO, 54380–54383

Hawaii Pacific Health and its Subsidiary, Straub Clinic and Hospital, Honolulu, HI, 54383–54387

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

RULES

Pesticide Tolerances:

Carboxin, 54228–54234

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Information Request for the Underground Injection Control Program, 54326–54327

Environmental Impact Statements; Availability, etc., 54326

Equal Employment Opportunity Commission

NOTICES

Meetings; Sunshine Act, 54327

Executive Office for Immigration Review

RULES

Inflation Adjustment for One Big Beautiful Bill Act Fees; Fiscal Year 2027, 54211–54214

Federal Aviation Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

National Flight Data Center Web Portal, 54433

Airport Improvement Program Handbook, 54433–54434

Federal Communications Commission

NOTICES

Radio Broadcasting Services:

AM or FM Proposals to Change the Community of License, 54327–54328

Federal Contract Compliance Programs Office

RULES

Modifications to the Regulations Implementing Section 503 of the Rehabilitation Act, as Amended, 54482–54507

Modifications to the Regulations Implementing the Vietnam Era Veterans' Readjustment Assistance Act, as Amended, 54234–54244

Rescission of Executive Order 11246 Implementing Regulations, 54444–54480

Federal Emergency Management Agency**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Threat and Hazard Identification and Risk Assessment/ Stakeholder Preparedness Review Unified Reporting Tool, 54355–54356
Flood Hazard Determinations, 54339–54362

Federal Energy Regulatory Commission**NOTICES**

Application:
Alabama Power Co., 54320
Brookfield White Pine LLC, Temporary Variance, 54324–54325
Georgia Power Co., Temporary Variance, 54320–54321
Portland General Electric Co., Confederated Tribes of the Warm Springs Reservation of Oregon; Adult Fish Trap Replacement, 54319
Seefeld Corp., Surrender of Exemption, 54325–54326
Combined Filings, 54322–54324
Environmental Assessments; Availability, etc.:
Glencoe Mill, LLC, 54321–54322

Federal Reserve System**NOTICES**

Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 54328

Fish and Wildlife Service**NOTICES**

General Conservation Plan:
Alabama Beach Mouse; Categorical Exclusion; Baldwin County, AL, 54366–54367

Food and Drug Administration**NOTICES**

Charter Amendments, Establishments, Renewals and Terminations:
Oncologic Drugs Advisory Committee, 54332–54335

Food and Nutrition Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Understanding Participant Experiences in SNAP E and T, 54296–54297

Foreign-Trade Zones Board**NOTICES**

Proposed Production Activity:
Corvus Energy USA Ltd., Foreign-Trade Zone 129, Bellingham, WA, 54297

Health and Human Services Department

See Agency for Healthcare Research and Quality
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Faculty Loan Repayment Program, 54335–54337

Homeland Security Department

See Coast Guard

See Federal Emergency Management Agency
See U.S. Citizenship and Immigration Services
See U.S. Customs and Border Protection

PROPOSED RULES

Withdrawal of International Airport Designation of Chalk Seaplane Base, 54249–54252

Housing and Urban Development Department**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Electronic Line of Credit Control System System Access Authorization Form Collection, 54365–54366
Requirements for Designating Housing Projects, 54362–54363
Mortgage and Loan Insurance Programs under the National Housing Act:
Debenture Interest Rates, 54363–54365

Indian Affairs Bureau**NOTICES**

Alcoholic Beverage Control Ordinance:
Ysleta del Sur Pueblo Sale, 54368
Caddo Nation Liquor Control Code, 54369–54376
Documented Petition for Federal Acknowledgment as an American Indian Tribe, 54367–54368

Interior Department

See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service
See Ocean Energy Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service**RULES**

Income Taxes; CFR Correction, 54216–54218

PROPOSED RULES

Guidance:
Eligible Investments for Trump Accounts, 54280–54295

NOTICES

Privacy Act; Matching Program, 54439–54440

International Trade Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Procedures for Submissions by Certain Steel and Aluminum Producers Committing to New U.S. Steel or Aluminum Production to Obtain Tariff Adjustments under Proclamation 10984, 54308–54309
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Oleoresin Paprika from India, 54300–54302
Silicon Metal from Australia and Norway, 54305–54308
Sales at Less Than Fair Value; Determinations, Investigations, etc.:
Fresh Winter Strawberries from Mexico, 54297–54300
Oleoresin Paprika from India, 54302–54304

Justice Department

See Executive Office for Immigration Review

Labor Department

See Employee Benefits Security Administration
See Federal Contract Compliance Programs Office
See Occupational Safety and Health Administration

National Highway Traffic Safety Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Distraction: Personal Electronic Device, 54434–54439

National Institute of Standards and Technology**RULES**

Traffic and Conduct on the Grounds of Certain National Institute of Standards and Technology Sites, 54214–54216

National Institutes of Health**NOTICES**

Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 54337–54338
Licenses; Exemptions, Applications, Amendments, etc.:
Government Owned Invention; Matched Patient-Derived 3D Isocitrate Dehydrogenase-Mutant Glioma Cell Lines for Modeling Malignant Transformation, 54338

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Caribbean, Gulf of America, and South Atlantic:
2026 Commercial Closure for the Scamp and Yellowmouth Grouper Complex in the South Atlantic, 54245–54246
Fisheries of the Northeastern United States:
Mackerel, Squid, and Butterfish; 2026 Illex Squid Quota Harvested, 54247
Summer Flounder Fishery; Quota Transfer from North Carolina to Massachusetts, 54247–54248
Fisheries of the South Atlantic:
2026 Commercial Closure of Red Snapper in the South Atlantic, 54246–54247
Commercial Closure for Blueline Tilefish in the South Atlantic, 54245

NOTICES

Hearings, Meetings, Proceedings, etc.:
Western Pacific Fishery Management Council, 54312–54314
Permits; Applications, Issuances, etc.:
General Provisions for Domestic Fisheries, 54309–54311
Marine Mammals and Endangered Species, 54311
Marine Mammals; File No. 26329, 54311–54312
Marine Mammals; File No. 29892, 54312

National Park Service**NOTICES**

Inventory Completion:
California State University, Chico, CA, 54376
Proposed Plan of Operations:
Joshua Tree National Park, CA, 54376

Nuclear Regulatory Commission**RULES**

Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions; CFR Correction, 54214

NOTICES

Application:
Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2, Shearon Harris Nuclear Power Plant, Unit 1, H.B. Robinson Steam Electric Plant, Unit 2, H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation, 54410–54413

Guidance:

Evaluations of Risk Assessments for Risk-Informed Decision-Making for Regulatory Applications, 54409–54410
Hearings, Meetings, Proceedings, etc.:
Advisory Committee on the Medical Uses of Isotopes, 54408–54409
Meetings; Sunshine Act, 54413
NUREG:
Training Review Criteria and Procedures, 54407–54408
Regulatory Guide:
Assessing Public Health Risk Associated with Chemical Hazards of Licensed Material, 54406–54407

Occupational Safety and Health Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cadmium in General Industry Standard, 54401–54402
Grant of Permanent Variance:
KBR Wyle Services, LLC, 54395–54401
NASA Neutral Buoyancy Laboratory Operations Contract, 54387–54392
Nationally Recognized Testing Laboratories:
Intertek Testing Services NA, Inc.; Grant of Expansion of Recognition, 54394–54395
Nemko North America, Inc.; Application for Expansion of Recognition, 54404–54405
SGS North America, Inc.; Application for Expansion of Recognition, 54402–54403
TUV SUD America, Inc.; Application for Expansion of Recognition and Proposed Modification to the Program's List of Appropriate Test Standards, 54392–54394
UL LLC; Grant of Expansion of Recognition and Modification to the Program's List of Appropriate Test Standards, 54405–54406

Ocean Energy Management Bureau**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application to be Recognized as Qualified to Bid on, Hold, or Operate a Lease or Grant on the Outer Continental Shelf, 54377–54378

Postal Regulatory Commission**NOTICES**

New Postal Products, 54413–54414

Securities and Exchange Commission**PROPOSED RULES**

Regulation Crypto Assets, 54510–54655

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Form ADV, 54421–54422
Self-Regulatory Organizations; Proposed Rule Changes:
LCH SA, 54427–54430
MEMX LLC, 54414–54415, 54422–54424
Nasdaq GEMX, LLC, 54419–54421
Nasdaq ISE, LLC, 54415–54419, 54425–54427
Nasdaq MRX, LLC, 54430–54432

Small Business Administration**NOTICES**

Disaster Declaration:
Illinois, 54432–54433

Surface Mining Reclamation and Enforcement Office**RULES**

Montana Regulatory Program, 54218–54223

Transportation Department

See Federal Aviation Administration

See National Highway Traffic Safety Administration

Treasury Department

See Internal Revenue Service

See United States Mint

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Registration of Money Services Businesses Regulation and FinCEN Form 107, 54440–54441

U.S. Citizenship and Immigration Services**PROPOSED RULES**

Genealogy Program:

Clarification of the Impact of Federal Records Requirements, 54252–54259

U.S. Customs and Border Protection**PROPOSED RULES**

Withdrawal of International Airport Designation of Chalk Seaplane Base, 54249–54252

United States Mint**NOTICES**

Establish Price for 2026 Freedom 250 Race Medal, 54441

Separate Parts In This Issue**Part II**

Labor Department, Federal Contract Compliance Programs Office, 54444–54480

Part III

Labor Department, Federal Contract Compliance Programs Office, 54482–54507

Part IV

Securities and Exchange Commission, 54510–54655

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

8 CFR

1103.....54211

Proposed Rules:

100.....54249

103.....54252

10 CFR

51.....54214

15 CFR

265.....54214

17 CFR**Proposed Rules:**

1.....54259

4.....54264

38.....54259

200.....54510

201.....54510

228.....54510

230.....54510

232.....54510

239.....54510

19 CFR**Proposed Rules:**

122.....54249

26 CFR

1.....54216

Proposed Rules:

1.....54280

30 CFR

926.....54218

33 CFR

165 (3 documents) 54224,
54225, 54227

40 CFR

180.....54228

41 CFR

60-1.....54444

60-2.....54444

60-3.....54444

60-4.....54444

60-20.....54444

60-30 (2
documents) 54444, 54482

60-40.....54444

60-50.....54444

60-300.....54234

60-741.....54482

60-999.....54444

47 CFR

14.....54243

64.....54243

50 CFR

622 (3 documents) 54245,
54246

648 (2 documents) 54247

Rules and Regulations

Federal Register

Vol. 91, No. 161

Friday, August 21, 2026

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

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DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Part 1103

[Docket No. EOIR–26–AB42; Dir. Order No. 09–2026]

RIN 1125–AB42

Inflation Adjustment for EOIR OBBBA Fees; Fiscal Year 2027

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice (“Department”) is making inflationary adjustments to immigration-related fees for filings with the Executive Office for Immigration Review (“EOIR”) as required by the One Big Beautiful Bill Act for Fiscal Year (“FY”) 2027.

DATES: This rule is effective October 1, 2026.

FOR FURTHER INFORMATION CONTACT: Jamee E. Comans, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg

Pike, Suite 2500, Falls Church, Virginia 22041, telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

I. Background

On July 4, 2025, a congressional budget reconciliation bill (H.R. 1), commonly referred to as the One Big Beautiful Bill Act (“OBBBA”), became law. Public Law 119–21, 139 Stat. 72. As relevant here, OBBBA introduced new required immigration-related fees for EOIR applications, motions, and appeals beginning in FY 2025 (“OBBBA fees”) and mandated that the Attorney General annually update these OBBBA fees for inflation. *See* 8 U.S.C. 1802, 1808, 1812. This rule updates the relevant EOIR regulatory fee schedules to adjust the OBBBA fees for inflation for FY 2027 in accordance with OBBBA’s mandate.

In doing so, the Department notes that this rule does not change any fee amounts collected under section 286(m) of the Immigration and Nationality Act (“INA” or “Act”), 8 U.S.C. 1356(m), nor does this rule make any changes to fee exceptions or waivers. Additionally, EOIR’s regulatory fee schedule does not contain fee amounts for application forms published by the Department of Homeland Security (“DHS”), though those fees that are collected by EOIR will be updated on EOIR’s website and the EOIR Payment Portal. *See* 8 CFR 1103.7(d)(4)(ii) (“The fees for applications published by the Department of Homeland Security and

used in immigration proceedings are governed by 8 CFR 103.7 and 8 CFR part 106.”).

II. Basis for Adjustment

OBBBA requires that all EOIR-collected OBBBA fees be adjusted annually for inflation and directs that a specific adjustment formula be applied to each fee. *See* 8 U.S.C. 1802, 1808, 1812. For all OBBBA fees, the inflation-adjusted amount is calculated by adding: (1) the amount of the OBBBA fee required for the most recently concluded fiscal year to (2) the product resulting from multiplying the OBBBA fee required for the most recently concluded fiscal year by the percentage (if any) by which the Consumer Price Index for All Urban Consumers (“CPI–U”) for the month of July (in this case July 2026), preceding the date on which such adjustment takes effect, exceeds the CPI–U for the same month of the preceding calendar year (in this case July 2025), either rounded down to the nearest multiple of \$10, *see* 8 U.S.C. 1802(c), 1812(a)(2)(B), or, for the Annual Asylum Fee (“AAF”), rounded down to the nearest dollar. *See* 8 U.S.C. 1808(b)(2). The CPI–U percent change for calculating FY 2027 OBBBA fees is 3.4 percent.¹

The table below shows the total FY 2027 EOIR fee amounts by calculating the FY 2027 OBBBA fees using the formula described above, and then adding these updated OBBBA fee amounts to the preexisting EOIR fees under section 286(m) of the Act.

Immigration fee type	FY 2026 OBBBA fee	Inflation adjustment (rounded)	FY 2027 OBBBA fee	EOIR 286(m) fee	Updated FY 2027 EOIR total fees except any biometrics fees
Form EOIR–26, Notice of Appeal from a Decision of an Immigration Judge	\$920	\$30	\$950	\$110	\$1,060
Form EOIR–29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer	920	30	950	110	1,060
Form EOIR–45, Notice of Appeal from a Decision of an Adjudicating Official in a Practitioner Disciplinary Case ..	1,355	40	1,395	675	2,070
Motions to reopen or reconsider a decision of an Immigration Judge	920	30	950	145	1,095
Motions to reopen or reconsider a decision of the Board of Immigration Appeals	920	30	950	110	1,060

¹ *See* U.S. Bureau of Labor Statistics, *Economic News Release, Consumer Price Index—July 2026*

(Aug. 12, 2026), <https://www.bls.gov/news.release/cpi.nr0.htm> [https://perma.cc/97AW-798N].

Immigration fee type	FY 2026 OBBBA fee	Inflation adjustment (rounded)	FY 2027 OBBBA fee	EOIR 286(m) fee	Updated FY 2027 EOIR total fees except any biometrics fees
Motion to reopen a decision of an Immigration Judge or the Board of Immigration Appeals that is based exclusively on an application for relief that does not require a fee	920	30	950	0	950
Motion to reconsider a decision of an Immigration Judge or the Board of Immigration Appeals that is based exclusively on a prior application for relief that did not require a fee	920	30	950	0	950
Form EOIR-40, Application for Suspension of Deportation	610	20	630	100	730
Form EOIR-42A, Application for Cancellation of Removal for Certain Permanent Residents	610	20	630	100	730
Form EOIR-42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents	1,540	50	1,590	100	1,690

III. Effective Date and Implementation

The FY 2027 filing fee amounts will be required for any relevant filings with the Immigration Courts or the Board of Immigration Appeals filed on or after October 1, 2026 (the first day of FY 2027). EOIR will continue to reject any filings that are not accompanied by a proper filing fee or request for an applicable fee waiver.

EOIR will update these amounts annually as required, including on its website and the EOIR Payment Portal. *See, e.g., EOIR, Types of Appeals, Motions, and Required Fees* (Feb. 18, 2026), <https://www.justice.gov/eoir/types-appeals-motions-and-required-fees> [<https://perma.cc/Q6CM-HKWN>]; EOIR, *EOIR Forms* (May 4, 2026), <https://www.justice.gov/eoir/eoir-forms> [<https://perma.cc/CD9M-7FLK>]; EOIR, *EOIR Payment Portal* (June 22, 2026), <https://epay.eoir.justice.gov/index> [<https://perma.cc/LF3L-VACV>].

IV. Statutory and Regulatory Requirements

A. Administrative Procedure Act

Under the Administrative Procedure Act (“APA”), agencies generally must provide “notice of proposed rule making” in the **Federal Register** and, after such notice, “give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments.” 5 U.S.C. 553(b)–(c). The APA further provides that the required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except in certain circumstances. *Id.* 553(d).

However, pursuant to the APA, a rule is excepted from notice-and-comment procedures when an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary

to the public interest. 5 U.S.C. 553(b)(B). A rule is also excepted from the delayed-effective-date requirement when good cause is found by the agency to forgo this requirement and is published with the rule. *Id.* 553(d)(3); *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1485 (9th Cir. 1992) (differentiating the APA’s two “good cause” exceptions: 5 U.S.C. 553(b)(B), which applies to the notice and comment process, and 5 U.S.C. 553(d)(3), which applies to the delayed effective date).

As discussed above, OBBBA requires the Attorney General to annually update EOIR-collected OBBBA fees for inflation using a statutorily prescribed formula. *See* 8 U.S.C. 1802, 1808, 1812. Therefore, the notice-and-comment and delayed-effective-date requirements are unnecessary because the Department is bound to comply with OBBBA’s inflation adjustment requirements and, thus, the changes made by this rule are purely ministerial. *See, e.g., Metzenbaum v. FERC*, 675 F.2d 1282, 1291 (D.C. Cir. 1982) (explaining notice and comment was unnecessary under the APA good cause exception for “nondiscretionary acts” as it would be a “futile gesture”).

B. Regulatory Flexibility Act

This rule does not trigger the requirements of the Regulatory Flexibility Act because, as explained above, the Department is not required “to publish a general notice of proposed rulemaking” prior to issuing this rule. *See* 5 U.S.C. 604(a).

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

Executive Order 12866, *Regulatory Planning and Review*, 58 FR 51735

(Sept. 30, 1993), and Executive Order 13563, *Improving Regulation and Regulatory Review*, 76 FR 3821 (Jan. 18, 2011), each direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, distributive impacts, and equity). Executive Order 13563 further emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The Department has determined that this rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and, therefore, it has not been reviewed by the Office of Management and Budget. Nevertheless, the Department certifies that this regulation has been drafted in accordance with the principles laid out in Executive Orders 12866 and 13563.

This rule merely updates pertinent EOIR fee amounts to be consistent with the fee changes required by statute. Accordingly, any changes made by this rule do not impose a cost upon the public beyond the terms of the statute. Likewise, these regulatory changes provide clarity, which benefits the public and helps avoid confusion over the current fee amounts. Thus, the changes made by this rule do not impact the public in a way that would place it in tension with the principles set forth in Executive Orders 12866 or 13563.

D. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

This rule is not a regulatory action under Executive Order 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (Jan. 31, 2025), because it is being issued with

respect to an immigration-related function of the United States.

E. Executive Order 14294 (Overcriminalization of Federal Regulations)

Executive Order 14294, *Overcriminalization of Federal Regulations*, 90 FR 20363 (May 9, 2025), requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This rule does not create a criminal regulatory offense and is thus exempt from Executive Order 14294 requirements.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (inflation adjusted) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (codified at 2 U.S.C. 1501–1571).

G. Executive Order 13132 (Federalism)

This rule 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 section 6 of Executive Order 13132, *Federalism*, 64 FR 43255 (Aug. 4, 1999), the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

H. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, *Civil Justice Reform*, 61 FR 4729 (Feb. 5, 1996).

I. Paperwork Reduction Act

This rule does not propose new or revised “collection[s] of information” as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (codified at 44 U.S.C. 3501–3521), and its implementing regulations, 5 CFR part 1320. However, the Department notes that EOIR is separately making de minimis changes to EOIR forms to update the fee amounts on the forms in

light of the inflation adjustments required by OBBBA.

J. Congressional Review Act

This rule is not a major rule as defined by section 804 of the Congressional Review Act. 5 U.S.C. 804.

List of Subjects in 8 CFR Part 1103

Administrative practice and procedure, Authority delegations (Government agencies), Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, and by the authority vested in the Acting Director, Executive Office for Immigration Review, by Attorney General Order Number 6260–2025, the Department amends part 1103 of title 8 of the U.S. Code of Federal Regulations as follows:

PART 1103—APPEALS, RECORDS, AND FEES

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

Authority: 8 U.S.C. 1101, 1103, 1304, 1356, 1801, 1802, 1808, 1812; 31 U.S.C. 9701; 28 U.S.C. 509, 510.

■ 2. Amend § 1103.7 by revising table 1 to paragraph (b)(1), table 2 to paragraph (b)(2), and table 3 to paragraph (b)(4)(i), to read as follows:

* * * * *

(b) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (b)(1)

Immigration fee type	Current EOIR (section 286(m) of the Immigration and Nationality Act) fee	Current One Big Beautiful Bill Act (OBBBA) fee	Current EOIR total fees except any biometrics fees
Form EOIR–26, Notice of Appeal from a Decision of an Immigration Judge	\$110	\$950	\$1,060
Form EOIR–29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer	110	950	1,060
Form EOIR–45, Notice of Appeal from a Decision of an Adjudicating Official in a Practitioner Disciplinary Case	675	1,395	2,070

(2) * * *

TABLE 2 TO PARAGRAPH (b)(2)

Immigration fee type	Current EOIR (286(m)) fee	Current OBBBA fee	Current EOIR total fees except any biometrics fees
Motion to reopen or reconsider a decision of an <i>Immigration Judge</i>	\$145	\$950	\$1,095
Motion to reopen or reconsider a decision of the <i>Board of Immigration Appeals</i>	110	950	1,060
Motion to reopen a decision of an <i>Immigration Judge</i> or the <i>Board of Immigration Appeals</i> that is based exclusively on an application for relief that does not require a fee	0	950	950

TABLE 2 TO PARAGRAPH (b)(2)—Continued

Immigration fee type	Current EOIR (286(m)) fee	Current OBBBA fee	Current EOIR total fees except any biometrics fees
Motion to reconsider a decision of an <i>Immigration Judge or the Board of Immigration Appeals</i> that is based exclusively on a prior application for relief that did not require a fee ..	0	950	950

* * * * *

(4) * * *

(i) * * *

TABLE 3 TO PARAGRAPH (b)(4)(i)

Immigration fee type	Current EOIR (286(m)) fee	Current OBBBA fee	Current EOIR total fees except any biometrics fees
Form EOIR–40, Application for Suspension of Deportation	\$100	\$630	\$730
Form EOIR–42A, Application for Cancellation of Removal for Certain Permanent Residents	100	630	730
Form EOIR–42B, Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents	100	1,590	1,690

Sirce E. Owen,
*Acting Director, Executive Office for
Immigration Review, Department of Justice.*
[FR Doc. 2026–17146 Filed 8–20–26; 8:45 am]
BILLING CODE 4410–30–P

NUCLEAR REGULATORY
COMMISSION

10 CFR Part 51

Environmental Protection Regulations
for Domestic Licensing and Related
Regulatory Functions

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 10 of the Code of Federal Regulations, Parts 51 to 199, revised as of January 1, 2026, in section 51.53, in the introductory paragraph of (c)(3) remove the words “an initial renewed license and holding an operating license, construction permit, or combined license as of June 30, 1995” and add in their place the words “a license renewal covered by Table B–1 for a nuclear power plant for which an operating license, construction permit, or combined license was issued as of June 30, 1995”.

[FR Doc. 2026–17145 Filed 8–20–26; 8:45 am]
BILLING CODE 0099–10–D

DEPARTMENT OF COMMERCE

National Institute of Standards and
Technology

15 CFR Part 265

[Docket No. 260804–0183]

RIN 0693–AB75

Traffic and Conduct on the Grounds of
Certain National Institute of Standards
and Technology Sites

AGENCY: National Institute of Standards and Technology (NIST), Department of Commerce (Department).

ACTION: Final rule.

SUMMARY: By this rule, NIST amends its regulations governing traffic and conduct at its sites in Gaithersburg, Maryland, and Boulder and Fort Collins, Colorado. This rule amends those regulations by removing excessive and redundant restrictions on personal conduct, updating or removing sections with outdated references or requirements, and broadening an exception regarding the use of service dogs. This action is necessary to ensure that NIST’s regulations conform to the scope of the underlying statutory authorities and to reduce regulatory complexity, redundancy, and burden. This action is intended to promote statutory conformity, administrative efficiency, and accessibility for people with disabilities, without imposing any new obligations or costs on the public.

DATES: The rule is effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT:
Daniel Sweeney, Deputy General
Counsel for Economic, Statistical, and
Regulatory Affairs, Office of the General
Counsel, at (202) 482–1395.

SUPPLEMENTARY INFORMATION:

I. Background

This action amends NIST’s regulations at 15 CFR part 265, which govern traffic and conduct on the grounds of NIST’s sites in Gaithersburg, Maryland, and Boulder and Fort Collins, Colorado. The regulations at part 265 were initially promulgated on November 26, 1974 (39 FR 41170), and they were subsequently amended on November 24, 1976 (41 FR 51787), September 18, 1990 (55 FR 38316), and, most recently, December 27, 1991 (56 FR 66969).

The cited statutory authorities for these regulations are 15 U.S.C. 278e(b) and 15 U.S.C. 277. The former authorizes the Secretary of Commerce to undertake “the care, maintenance, protection, repair, and alteration of [NIST] buildings and other plant facilities, equipment, and property,” 15 U.S.C. 278e(b); and the latter states that the Secretary “shall . . . make regulations . . . as he may deem necessary for carrying this chapter into effect,” 15 U.S.C. 277. As relevant, the more specific of these two provisions, 15 U.S.C. 278e(b), centers around the physical preservation of NIST’s buildings and other property.

The regulations at part 265 contain citations to 40 U.S.C. 318 and 318c, both of which were reclassified and restated as 40 U.S.C. 1315 in 2002 (Pub. L. 107–217). See 15 CFR 265.1(b), 265.51. Part 265 also contains a reference to the regulations at 15 CFR part 0, which were removed on January 15, 2026 (91 FR 1674), given, among other considerations, the extensive Executive Branch-wide regulations regarding employee responsibilities and conduct at 5 CFR parts 735, 2634, 2635, and 2641. See 15 CFR 265.2.

II. Discussion

This action amends the regulations at part 265 in the following ways.

First, this action removes several regulatory restrictions on on-site personal conduct that are statutorily and practically unwarranted. As noted above, the more specific of the two cited statutory authorities underlying part 265 is 15 U.S.C. 278e(b), and that provision is centered around the *physical preservation* of NIST's buildings and other property. Most of the regulatory provisions set forth in part 265 have a reasonable and sufficient connection to that statutory objective. See, e.g., 15 CFR 265.1(b) (contemplating the appointment of uniformed guards for NIST sites); 15 CFR 265.11–265.22 (setting forth various traffic and vehicular regulations); 15 CFR 265.35(a) (prohibiting the obstruction of entrances, lobbies, elevators, stairways, and other spaces); 15 CFR 265.35(b) (prohibiting littering); 15 CFR 265.39 (prohibiting the possession of weapons and explosives). However, several of the regulatory restrictions on on-site personal conduct—specifically, §§ 265.4, 265.35(a), 265.36, 265.37, 265.38, 265.40, and 265.41—have, at most, a *highly-attenuated* connection to the physical preservation of NIST property. See 15 CFR 265.4 (prohibiting the making or giving of false statements or reports); 15 CFR 265.35(a) (prohibiting willfully disrupting official business and engaging in disorderly conduct); 15 CFR 265.36 (prohibiting the consumption and use of intoxicating beverages); 15 CFR 265.37 (prohibiting the possession, sale, consumption, or use of narcotics and other drugs); 15 CFR 265.38 (prohibiting entering or remaining on site while noticeably impaired); 15 CFR 265.40 (prohibiting discrimination on the basis of race, creed, color, sex, or national origin); 15 CFR 265.41 (prohibiting gambling). Such restrictions thus pose substantial statutory conformity concerns.

These specified restrictions on on-site personal conduct also are overwhelmingly unnecessary, given the

applicability of state law, see 15 CFR 265.5; the regulatory requirement to comply with directions from NIST's on-site uniformed guards, see 15 CFR 265.2; the statutory prohibition on false statements, see 18 U.S.C. 1001; the extensive Executive Branch-wide regulations regarding employee responsibilities and conduct, see 5 CFR parts 735, 2634, 2635, and 2641; and other Federal laws and regulations.

Thus, the removal of these specified restrictions on on-site personal conduct will help ensure statutory conformity, streamline part 265, reduce regulatory redundancy, and reduce the possibility of confusion.

Second, this action updates or removes certain outdated regulatory language. Specifically, this action (i) updates § 265.1(b) by replacing the reference to 40 U.S.C. 318 with a reference to 40 U.S.C. 1315, which is now the applicable statutory provision; (ii) removes § 265.51, which similarly contains an outdated reference to 40 U.S.C. 318c and, more generally, constitutes a now-disfavored regulatory criminal penalty provision under Executive Order 14294; (iii) updates and amends § 265.2 by removing the references to the regulations at 15 CFR Part, which are no longer in effect, and by adding a brief acknowledgement of 15 U.S.C. 278e(b) to better orient the reader as to the underlying statutory objective; and (iv) removes § 265.17, the section governing parking permits, as NIST no longer requires parking permits on site. These amendments are necessary to maintain the accuracy and currency of part 265, to minimize the possibility of confusion, and, in the case of § 265.51, to remove an unnecessary criminal penalty provision consistent with the broader regulatory policies.

Third, this action amends § 265.43, the section governing the presence of animals on site, to broaden the exception for seeing eye dogs of blind persons to instead cover all appropriate service dogs for persons with disabilities. This amendment will effectively remove arbitrary limitations on the on-site use of service dogs (*i.e.*, the limitation to seeing eye dogs and the limitation to blind persons). This amendment will promote accessibility and reduce regulatory burden for certain persons with disabilities, while maintaining the general regulatory prohibition on the presence of pets and other animals.

Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department finds good cause to waive

the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department has determined that prior notice and opportunity for public participation is unnecessary, because this rule merely (i) removes regulatory restrictions on personal conduct at NIST sites that exceed the bounds of the underlying statutory authorities and are duplicative of ample other legal and regulatory restrictions on personal conduct; (ii) updates or removes certain regulatory sections to properly reflect the current state of other legal, regulatory, and administrative authorities and requirements; and (iii) broadens an arbitrarily-limited exception for seeing eye dogs for blind persons to instead cover all appropriate service dogs for persons with disabilities. None of the language being removed or otherwise amended by this rule is required by any statute, and all of the removals and amendments made by this rule are consistent with the Department's commitment and obligation to ensure statutory conformity and to minimize unnecessary regulatory burden. Public participation is also impracticable because it could not cure the statutorily-excessive nature of the regulatory restrictions on personal conduct untethered to the physical preservation of NIST property; nor could it cure the plainly outdated requirements and references to other authorities. As for broadening the exception to allow for all appropriate service dogs, the public interest is best served by implementing this change as quickly as possible, without conducting notice and comment, as the current language poses an arbitrary barrier to persons with disabilities and is potentially in conflict with the Department's legal obligations regarding accommodation.

For the same reason, the Department has determined that delaying the effectiveness of this rule would be contrary to the public interest. The described removals and amendments will streamline part 265, reduce regulatory excess and inaccuracies, and promote accessibility for persons who require service dogs—all of which will immediately benefit the public at little to no cost. In addition, these regulatory revisions do not require any affected entity to take advance action to come into compliance. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d)(3).

Furthermore, to the extent that this rule removes restrictions on on-site conduct (§§ 265.4, 265.17, 265.35(a),

265.36, 265.37, 265.38, 265.40, and 265.41) and expands the exception for seeing eye dogs to encompass all appropriate service dogs (§ 265.43), it constitutes a substantive that “relieves . . . restriction[s]” and thus can take effect upon publication pursuant to 553(d)(1).

B. Executive Orders 12866, 14192, and 13132

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

C. Regulatory Flexibility Act

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

D. Paperwork Reduction Act

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

List of Subjects in 15 CFR Part 265

Government property, Traffic and conduct regulations, Buildings and grounds, Safety, Penalties.

Alicia Chambers,

NIST Executive Secretariat.

Accordingly, for the reasons set forth above, part 265 of title 15 of the Code of Federal Regulations is amended as follows:

**PART 265—REGULATIONS
GOVERNING TRAFFIC AND CONDUCT
ON THE GROUNDS OF THE NATIONAL
INSTITUTE OF STANDARDS &
TECHNOLOGY, GAITHERSBURG,
MARYLAND, AND BOULDER AND
FORT COLLINS, COLORADO**

■ 1. The authority citation for part 265 continues to read as follows:

Authority: Sec. 9, 31 Stat. 1450, as amended (15 U.S.C. 277). Applies sec. 1, 72 Stat 1711, as amended, (15 U.S.C. 278e(b)).

Subpart A—General

■ 2. Amend § 265.1 by revising paragraph (b) to read as follows:

§ 265.1 Definitions.

* * * * *

(b) *Uniformed guard* means a designated employee appointed by the Director purposes of carrying out the authority of a U.S. Special Policeman, consistent with 40 U.S.C. 1315.

* * * * *

■ 3. Revise § 265.2 to read as follows:

§ 265.2 Applicability.

The regulations in this part establish rules with respect to motor vehicles and conduct on the site. These regulations are intended to promote the maintenance and protection of site buildings, facilities, equipment, and property, as authorized by 15 U.S.C. 278e(b); and to supplement the government-wide rules and regulations regarding employee responsibilities and conduct at 5 U.S.C. 375 and 5 U.S.C. 2635, the officially issued orders and regulations of the Department of Commerce and the National Institute of Standards & Technology, and all other applicable Federal and State laws and regulations.

§ 265.4 [Reserved]

■ 4. Remove and reserve § 265.4.

§ 265.17 [Reserved]

■ 5. Remove and reserve § 265.17.

■ 6. Amend § 265.35 by revising paragraph (a) to read as follows:

§ 265.35 Nuisances.

(a) No person shall unreasonably obstruct the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, parking lots, sidewalks, or road.

* * * * *

§§ 265.36 through 265.38 [Reserved]

■ 7. Remove and reserve §§ 265.36 through 265.38.

§§ 265.40 through 265.41 [Reserved]

■ 8. Remove and reserve §§ 265.40 through 265.41.

■ 9. Revise § 265.43 to read as follows:

§ 265.43 Pets and other animals.

Except in connection with the conduct of official business on the site or with the approval of the Associate Director for Administration (Executive Officer, IBS/Boulder, for sites in Colorado), no person shall bring upon the site any cat, dog, or other animal, provided, however, that persons with disabilities may have the use of appropriate service dogs.

Subpart D [Removed and Reserved]

■ 10. Remove and reserve subpart D, consisting of § 265.51.

[FR Doc. 2026–17082 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–13–P

INTERNAL REVENUE SERVICE

26 CFR Part 1

Income Taxes

CFR Correction

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 26 of the Code of Federal Regulations, Sections 1.908 to 1.1000, revised as of April 1, 2026, reinstate § 1.987–1T to read as follows:

§ 1.987–1T Scope, definitions, and special rules (temporary).

(a) through (b)(1)(ii) [Reserved] For further guidance, see § 1.987–1(a) through (b)(1)(ii).

(iii) *Certain provisions applicable to all taxpayers.* Notwithstanding § 1.987–1(b)(1)(ii), paragraphs (b)(6) and (g)(3)(i)(E) of this section and § 1.987–6T(b)(4) apply to any taxpayer that is an owner of a dollar QBU (as defined in paragraph (b)(6) of this section), and paragraphs (g)(2)(i)(B) and (g)(3)(i)(H) of this section and §§ 1.987–8T(d) and 1.987–12T apply to any taxpayer that is an owner of an eligible QBU (determined without regard to § 1.987–1(b)(3)(ii)) that is subject to section 987.

(b)(2) through (b)(5) [Reserved] For further guidance, see § 1.987–1(b)(2) through (b)(5).

(6) *Dollar QBUs—(i) In general.* Except as provided in paragraphs (b)(1)(iii) and (b)(6)(iii) of this section, section 987 and the regulations thereunder do not apply with respect to an eligible QBU (determined without regard to § 1.987–1(b)(3)(ii)) that has the U.S. dollar as its functional currency and that would be subject to section 987 if it had a functional currency other than the dollar (dollar QBU). This paragraph (b)(6) applies to all taxpayers, including entities described in § 1.987–1(b)(1)(i).

(ii) *Application of section 988 to a dollar QBU—(A) In general.* Except as provided in paragraphs (b)(6)(ii)(B) and (b)(6)(iii) of this section, a controlled foreign corporation (as defined in section 957(a)) (CFC) that is the owner of a dollar QBU applies section 988 with respect to any item that is properly

reflected on the books and records of the dollar QBU and that would give rise to a section 988 transaction if such item were acquired, accrued, or entered into directly by the owner of the dollar QBU. Except as provided in paragraph (b)(6)(ii)(B) of this section, for purposes of determining the amount of section 988 gain or loss of the CFC, any item that is properly reflected on the books and records of the dollar QBU and that would give rise to a section 988 transaction if such item were acquired, accrued, or entered into directly by the owner of the dollar QBU is treated as properly reflected on the books and records of the owner of the dollar QBU, such that the amount of section 988 gain or loss with respect to such item is determined by reference to the owner's functional currency.

(B) *Section 988 gain or loss characterized as effectively connected income.* Solely for the purpose of determining the amount of section 988 gain or loss of a CFC described in paragraph (b)(6)(ii)(A) of this section that is effectively connected with the conduct of a trade or business within the United States (ECI), any section 988 gain or loss that would be determined under section 988 as a result of the acquisition or accrual of any item and treated as ECI under § 1.988-4(c) if the item were treated as properly reflected on the books and records of the dollar QBU is determined by treating such item as properly reflected on the books and records of the dollar QBU. Consequently, solely for that purpose, such section 988 gain or loss is determined by reference to the U.S. dollar.

(iii) *Election for a CFC to apply section 987 to a dollar QBU—(A) In general.* A CFC that is the owner of a dollar QBU may elect to apply section 987 and the regulations thereunder with respect to the dollar QBU in lieu of applying section 988 pursuant to paragraph (b)(6)(ii) of this section. If the dollar QBU or CFC is described in § 1.987-1(b)(1)(ii), however, the CFC must apply section 987 to the dollar QBU using the method it applied to the dollar QBU immediately prior to the effective date of this paragraph (b)(6) as provided in paragraph (h) of this section, provided such method was a reasonable interpretation of section 987, or, if no such method exists, a reasonable method.

(B) *Section 988 gain or loss characterized as effectively connected income.* Solely for the purpose of determining the amount of section 988 gain or loss of a dollar QBU that is the subject of an election described in paragraph (b)(6)(iii)(A) of this section

that is ECI, § 1.987-3T(b)(4)(i) and (ii) do not apply, and any section 988 gain or loss that would be determined under section 988 as a result of the acquisition or accrual of any item and treated as ECI under § 1.988-4(c) if the item were treated as properly reflected on the books and records of the dollar QBU is determined by treating such item as properly reflected on the books and records of the dollar QBU. Consequently, solely for that purpose, such section 988 gain or loss is determined by reference to the U.S. dollar. See § 1.987-6T(b)(4) for rules regarding the source of section 987 gain or loss with respect to a dollar QBU for which the CFC owner has made the election described in this paragraph.

(b)(7) through (c)(1)(ii)(A) [Reserved] For further guidance, see § 1.987-1(b)(7) through (c)(1)(ii)(A).

(B) *Election inapplicable with respect to certain amounts.* Except as provided in this paragraph (c)(1)(ii)(B), the election provided in § 1.987-1(c)(1)(ii)(A) does not apply for purposes of determining section 987 taxable income or loss (as defined in § 1.987-3(a)) with respect to a historic item (as defined in § 1.987-1(e)) if acquiring, accruing, or entering into such item gives rise to a section 988 transaction or specified owner functional currency transaction. However, the election provided in § 1.987-1(c)(1)(ii)(A) does apply for purposes of determining section 987 taxable income or loss with respect to a payable or receivable described in § 1.988-1(d)(3) under the circumstances described in § 1.988-1(d)(3).

(c)(2) through (c)(3)(i)(D) [Reserved] For further guidance, see § 1.987-1(c)(2) through (c)(3)(i)(D).

(E) *Section 988 transactions and specified owner functional currency transactions.* If acquiring, accruing, or entering into a historic item gives rise to a section 988 transaction of a section 987 QBU or a specified owner functional currency transaction described in § 1.987-3T(b)(4)(ii), the historic rate is the spot rate (as defined in paragraph (c)(1) of this section) on the date such item is acquired, accrued, or entered into. For this purpose, use of a spot rate convention under § 1.987-1(c)(1)(ii) is permitted only with respect to a payable or receivable described in § 1.988-1(d)(3) and only to the extent provided therein.

(c)(3)(ii) through (d)(2) [Reserved] For further guidance, see § 1.987-1(c)(3)(ii) through (d)(2).

(3) Gives rise to a qualified short-term section 988 transaction (as defined in § 1.987-3T(b)(4)(iii)(B)) of the section 987 QBU, whether denominated in the

functional currency of the owner or other nonfunctional currency with respect to the section 987 QBU, for which section 988 gain or loss is determined under § 1.987-3T(b)(4)(iii)(A) in, and by reference to, the functional currency of the section 987 QBU.

(e) [Reserved] For further guidance, see § 1.987-1(e).

(f) *Examples.* The following examples illustrate the application of § 1.987-1(d) and (e).

Example 1. U.S. Corp is a domestic corporation with the U.S. dollar as its functional currency and is the owner of Business A, a section 987 QBU that has the pound as its functional currency. Assume all transactions of Business A are entered into in the ordinary course of its business. U.S. Corp has not made an election under § 1.987-3T(b)(4)(iii)(C) to adopt a foreign currency mark-to-market method of accounting for qualified short-term section 988 transactions. Items reflected on Business A's balance sheet include £10,000, \$1,000, a building with a basis of £100,000, a light general purpose truck with a basis of £30,000, a computer with a basis of £1,000, a 60-day receivable for ¥15,000, an account payable of £5,000, and a foreign currency contract within the meaning of section 1256(g)(2) that requires Business A to exchange £100 for \$125 in 90 days. Under paragraph (d) of this section, the £10,000, the £5,000 account payable and the £/\$ section 1256 foreign currency contract are marked items. The other items are historic items under this paragraph (e) of this section.

Example 2. The facts are the same as *Example 1* except that U.S. Corp has elected under § 1.987-3T(b)(4)(iii)(C) to adopt the foreign currency mark-to-market method of accounting for qualified short-term section 988 transactions of Business A. Under paragraphs (d) and (e) of this section, the £10,000, the \$1,000, the ¥15,000 receivable, the £5,000 account payable, and the £/\$ section 1256 foreign currency contract are marked items.

(g)(1) through (g)(2)(i)(A) [Reserved] For further guidance, see § 1.987-1(g)(1) through (g)(2)(i)(A).

(B) *Annual deemed termination election—(1) In general.* Except as provided in paragraph (g)(2)(i)(B)(2) of this section, an election under § 1.987-8T(d) (annual deemed termination election) applies to all section 987 QBUs owned by the taxpayer, as well as to all section 987 QBUs owned by any person that has a relationship to the taxpayer described in section 267(b) or section 707(b) (substituting “and the profits interest” for “or the profits interest” in

section 707(b)(1)(A) and substituting “and profits interests” for “or profits interests” in section 707(b)(1)(B)) on the last day of the first taxable year for which the election applies (a related person). If a taxpayer makes the election under § 1.987–8T(d), the first taxable year of a related person for which the election applies is the first taxable year that ends with or within a taxable year of the taxpayer for which the taxpayer’s election applies. An election under § 1.987–8T(d) may not be revoked.

(i) *Fresh start taxpayers.* A taxpayer to which § 1.987–10 applies that is required under § 1.987–10(a) to apply the fresh start transition method described in § 1.987–10(b) (fresh start taxpayer) may make the election under § 1.987–8T(d) only if the first taxable year for which the election would apply to the taxpayer is either the first taxable year beginning on or after the transition date (as defined in § 1.987–11(c)) in which the election is relevant or a subsequent taxable year in which the taxpayer’s controlled group aggregate section 987 loss, if any, does not exceed \$5 million. For purposes of this paragraph (g)(2)(i)(B), a taxpayer’s controlled group aggregate section 987 loss means the aggregate net amount of section 987 loss that would be recognized pursuant to the election by the taxpayer and all other persons to whom the taxpayer’s election would apply in the first taxable year of each person for which the election would apply.

(ii) *Other taxpayers.* Other taxpayers, including taxpayers described in § 1.987–1(b)(1)(ii) and taxpayers described in § 1.987–10(c), must follow the election rules provided in paragraph (g)(2)(i)(B)(1)(i) of this section if any related party is a fresh start taxpayer. If no related party is a fresh start taxpayer, the election under § 1.987–8T(d) may be made only if the first taxable year for which the election would apply to the taxpayer is either the first taxable year beginning on or after December 7, 2016, in which the election is relevant or a subsequent taxable year in which the taxpayer’s controlled group aggregate section 987 loss, if any, does not exceed \$5 million.

(2) *QBU-by-QBU elections in certain circumstances.* Notwithstanding paragraph (g)(2)(i)(B)(1) of this section, a taxpayer may make a separate election under § 1.987–8T(d) with respect to any section 987 QBU owned by the taxpayer if the first taxable year for which the election would apply to the taxpayer with respect to the section 987 QBU is a taxable year in which there is a section 987 gain recognized with respect to the section 987 QBU pursuant to the

election, or is a taxable year in which there is a section 987 loss of \$1 million or less that would be recognized with respect to the section 987 QBU pursuant to the election.

(C) *Election to translate all items at the yearly average exchange rate.* An election under § 1.987–3T(d) (election to translate all items at the yearly average exchange rate) may be made with respect to a section 987 QBU only if the first taxable year for which the election would apply is the first taxable year for which an election under § 1.987–8T(d) (annual deemed termination election) applies with respect to the section 987 QBU.

(g)(2)(ii) through (g)(3)(i)(D) [Reserved] For further guidance, see § 1.987–1(g)(2)(ii) through (g)(3)(i)(D).

(E) *Election for a CFC to apply section 987 to a dollar QBU.* An election under § 1.987–1T(b)(6)(iii) for a CFC to apply section 987 to a dollar QBU must be titled “Section 987 Election for a CFC to Apply Section 987 to a Dollar QBU Under § 1.987–1T(b)(6)(iii)” and must provide the name and address of each QBU for which the election is being made.

(F) *Election to apply the foreign currency mark-to-market method of accounting for qualified short-term section 988 transactions.* An election under § 1.987–3T(b)(4)(iii)(C) to apply the foreign currency mark-to-market method of accounting for qualified short-term section 988 transactions must be titled “Section 987 Election to Use Foreign Currency Mark-to-Market Method of Accounting for Qualified Short-Term Section 988 Transactions Under § 1.987–3(b)T(4)(iii)(C)” and must provide the name and address of each section 987 QBU for which the election is being made.

(G) *Election to translate all items at the yearly average exchange rate.* An election under § 1.987–3T(d) to translate all items at the yearly average exchange rate must be titled “Section 987 Election to Translate All Items at the Yearly Average Exchange Rate Under § 1.987–3T(d)” and must provide the name and address of each section 987 QBU for which the election is being made.

(H) *Annual deemed termination election.* An election under § 1.987–8T(d) for an owner to deem all of its section 987 QBUs to terminate on the last day of each taxable year must be titled “Section 987 Annual Deemed Termination Election Under § 1.987–8T(d)” and must provide the name and address of each section 987 QBU to which the election applies, including a section 987 QBU owned by a related person (within the meaning of paragraph (g)(2)(i)(B)(1) of this section).

(g)(4) through (6) [Reserved] For further guidance, see § 1.987–1(g)(4) through (6).

(h) *Effective/applicability date.* Paragraphs (g)(2)(i)(B) and (g)(3)(i)(H) of this section apply to the first taxable year beginning on or after December 7, 2016. Paragraphs (b)(1)(iii), (b)(6), (c)(1)(ii)(B), (c)(3)(i)(E), (d)(3), (f), (g)(2)(i)(C), and (g)(3)(i)(E) through (G) of this section apply to taxable years beginning one year after the first day of the first taxable year following December 7, 2016. Notwithstanding the preceding sentence, if a taxpayer makes an election under § 1.987–11(b), then paragraphs (b)(1)(iii), (b)(6), (c)(1)(ii)(B), (c)(3)(i)(E), (d)(3), (f), (g)(2)(i)(C), and (g)(3)(i)(E) through (G) of this section apply to taxable years to which §§ 1.987–1 through 1.987–10 apply as a result of such election.

(i) *Expiration date.* The applicability of this section expires on December 6, 2019.

[T.D. 9795, 81 FR 88868, Dec. 8, 2016]

[FR Doc. 2026–17154 Filed 8–20–26; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 926

[SATS No. MT–041–FOR; Docket ID: OSM–2023–0002; S1D1S SS08011000 SX064A000 212S180110; S2D2S SS08011000 SX064A000 21XS501520]

Montana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; not approving, with one exception.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is not approving, with one exception, an amendment to the Montana regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Montana legislature, specifically Montana House Bill 328, proposes to add a definition of affected drainage basin to the Montana Code Annotated (MCA). Additionally, House Bill 328 proposes changes to the Montana Code Annotated, pertaining to bond release application requirements.

DATES: The effective date is September 21, 2026.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman, Division Chief, Office of Surface Mining Reclamation and Enforcement, 100 East B Street,

Casper, Wyoming 82602, Telephone: (307) 204-4397, Email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Montana Program
- II. Submission of the Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Statutory and Executive Order Reviews

I. Background on the Montana Program

Subject to OSM's oversight, section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Montana program on April 1, 1980. You can find background information on the Montana program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Montana program in the April 1, 1980, **Federal Register** (45 FR 21560). You can also find later actions concerning the Montana program and program amendments at 30 CFR 926.15, 926.16, and 926.30.

II. Submission of the Amendment

By letter dated February 16, 2023 (FDMS Document ID No. OSM-2023-0002-0002), Montana sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*) that proposed revisions to Montana law, including revisions to MCA §§ 82-4-203(3) and 82-4-232. Specifically, Montana proposes to add language at MCA § 82-4-203(3), defining the term "affected drainage basin." Montana also proposes to incorporate the term "affected drainage basin" into the bond release requirements found at MCA § 82-4-232. Minor wording changes and recodifications were also proposed in the MCA provisions above.

We announced receipt of the proposed amendment in the May 19, 2023, **Federal Register** (88 FR 32161) (FDMS Document ID No. OSM-2023-0002-0004). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. No public hearing was held because no request for a public hearing was received. We received two public comments regarding the formal

program amendment, and the public comment period ended on June 20, 2023.

During our review of the amendment, we identified many concerns with the formal program amendment as submitted. Our concerns included (1) Montana's proposed definition of "affected drainage basin" in MCA § 82-4-203(3), (2) Montana's proposal to strike the words "if it is satisfied" from MCA § 82-4-232(6)(k), (3) Montana's proposed changes to MCA at §§ 82-4-232(6)(k)(ii) and 82-4-232(6)(k)(iii), (4) Montana's addition of subpart "C" language in MCA § 82-4-232(6)(k)(iv), which could allow for final bond release to occur in the phased bond release process normally reserved for reclamation activities associated with phase II bond release, and (5) Montana's proposed changes in the MCA § 82-4-232(6)(k)(v), which would remove the period specified for operator responsibility.

We notified Montana of our concerns in a letter dated August 31, 2023, and allowed Montana the opportunity to submit a revised amendment or draft proposed changes in response to our concerns. Montana responded in a letter dated September 28, 2023, stating that because the proposed changes to the MCA were legislative in nature, they would be unable to submit revisions to the amendment. For this reason, we are proceeding with the final rule **Federal Register** notice of not approving the amendment, with one exception.

III. OSMRE's Findings

SMCRA sections 503 and 505, and the Federal regulations at 30 CFR 730.5, establish the criteria for approval of State SMCRA programs. A State program must set forth requirements that satisfy the Federal minimum standards and must include provisions that are no less stringent than SMCRA and no less effective than the Federal regulations. If these minimum Federal standards are met, a State may indicate that its State program shall not be more stringent than the Federal program.

The following is a summary of the proposed statutory and rule changes submitted by Montana, as well as OSMRE's findings concerning Montana's amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. For the reasons discussed below, we are not approving the amendment, with one exception, as described below.

A. Revisions to the MCA That Do Not Have Corresponding Federal Provisions

1. MCA § 82-4-203(3)—Definitions

In Senate Bill 328, Montana proposes to define the term "affected drainage basin", which would mean "an area of land where surface water and ground water quality and quantity are affected by mining activities and where they drain to a common point". No direct federal counterpart definition for affected drainage basin exists. The Federal definition of hydrologic balance (30 CFR 701.5) does include the term "drainage basin" and means the relationship between the quality and quantity of water inflow to, water outflow from, and water storage in a hydrologic unit such as a drainage basin, aquifer, soil zone, lake, or reservoir. The Federal definition further defines hydrologic balance as encompassing the dynamic relationships among precipitation, runoff, evaporation, and changes in groundwater and surface water storage and that a drainage basin is therefore one example of a hydrologic unit in terms of the hydrologic balance. The Administrative Rules of Montana (ARM), at 17.24.1116(6)(d)(i), which pertain to phase IV bond release, require all disturbed lands within any designated drainage basin to have been reclaimed in accordance with phase I, phase II, and phase III requirements. The terms "designated drainage basin", "affected drainage basin", and "drainage basin" are not defined in the ARM. With this amendment submittal, Montana is proposing to define "affected drainage basin" in the MCA. The term "designated drainage basin" is used (but not defined) in the ARM. If approved, the definition of "affected drainage basin" would introduce inconsistencies in terminology between the State statute and the rule. Additionally, the proposed definition of "affected drainage basin" is unclear. Better defining "affected drainage basin" and consistent terminology and definitions between the State statute and the rule would help the effectiveness of the Montana program. A State program must set forth requirements that satisfy the Federal minimum standards and must include provisions that are no less stringent than SMCRA and no less effective than the Federal regulations. Differing terminology between State statute and rule and an unclear definition would render the proposed definition of "affected drainage basin" less effective than the Federal regulations. Therefore, we are not approving this provision.

Because we are not approving Montana's proposed definition of "affected drainage basin" at MCA § 82–4–203(3), the following proposed definition recodifications in the MCA are no longer necessary and would also not be approved:

MCA § 82–4–203(4)(a)—Alluvial Valley Floor [30 CFR 701.5]
 MCA § 82–4–203(5)—Approximate Original Contour [30 CFR 701.5]
 MCA § 82–4–203(6)—Aquifer [30 CFR 701.5]
 MCA § 82–4–203(7)—Area of Land Affected [30 CFR 701.5]
 MCA § 82–4–203(8)—Bench [30 CFR 701.5]
 MCA § 82–4–203(9)—Board [No corresponding Federal definition]
 MCA § 82–4–203(10)—Coal Conservation Plan [No corresponding Federal definition]
 MCA § 82–4–203(11)—Coal Preparation [30 CFR 701.5]
 MCA § 82–4–203(12)—Coal Preparation Plant [30 CFR 701.5]
 MCA § 82–4–203(13)—Contour Strip Mining [30 CFR 701.5]
 MCA § 82–4–203(14)—Cropland [30 CFR 701.5]
 MCA § 82–4–203(15)—Degree [No corresponding Federal definition]
 MCA § 82–4–203(16)—Department [No corresponding Federal definition]
 MCA § 82–4–203(17)—Developed Water Resources [30 CFR 701.5]
 MCA § 82–4–203(18)—Ephemeral Drainageway [30 CFR 701.5]
 MCA § 82–4–203(19)—Failure to Conserve Coal [No corresponding Federal definition]
 MCA § 82–4–203(20)—Fill Bench [No corresponding Federal definition]
 MCA § 82–4–203(21)—Fish and Wildlife Habitat [No corresponding Federal definition]
 MCA § 82–4–203(22)—Forestry [No corresponding Federal definition]
 MCA § 82–4–203(23)—Grazing Land [No corresponding Federal definition]
 MCA § 82–4–203(24)—Higher or Better Uses [30 CFR 701.5]
 MCA § 82–4–203(25)—Hydrologic Balance [30 CFR 701.5]
 MCA § 82–4–203(26)—Imminent Danger to the Health and Safety of the Public [30 CFR 701.5]
 MCA § 82–4–203(27)—Industrial or Commercial [No corresponding Federal definition]
 MCA § 82–4–203(28)—In situ Coal Gasification [30 CFR 701.5]
 MCA § 82–4–203(29)—Intermittent Stream [30 CFR 701.5]
 MCA § 82–4–203(30)—Land Use [30 CFR 701.5]
 MCA § 82–4–203(31)—Marketable Coal [No corresponding Federal definition]

MCA § 82–4–203(32)—Material Damage [30 CFR 701.5]
 MCA § 82–4–203(33)—Method of Operation [No corresponding Federal definition]
 MCA § 82–4–203(34)—Mineable Coal [No corresponding Federal definition]
 MCA § 82–4–203(35)—Mineral [No corresponding Federal definition]
 MCA § 82–4–203(36)—Operation [No corresponding Federal definition]
 MCA § 82–4–203(37)—Operator [30 CFR 701.5]
 MCA § 82–4–203(38)—Overburden [30 CFR 701.5]
 MCA § 82–4–203(39)—Pastureland [No corresponding Federal definition]
 MCA § 82–4–203(40)—Perennial Stream [30 CFR 701.5]
 MCA § 82–4–203(41)—Person [No corresponding Federal definition]
 MCA § 82–4–203(42)—Prime Farmland [30 CFR 701.5]
 MCA § 82–4–203(43)—Prospecting [No corresponding Federal definition]
 MCA § 82–4–203(44)—Reclamation [30 CFR 701.5]
 MCA § 82–4–203(45)—Recovery Fluid [No corresponding Federal definition]
 MCA § 82–4–203(46)—Recreation [No corresponding Federal definition]
 MCA § 82–4–203(47)—Reference Area [30 CFR 701.5]
 MCA § 82–4–203(48)—Remining [30 CFR 701.5]
 MCA § 82–4–203(49)—Residential [No corresponding Federal definition]
 MCA § 82–4–203(50)—Restore or Restoration [No corresponding Federal definition]
 MCA § 82–4–203(51)—Strip Mining [No corresponding Federal definition]
 MCA § 82–4–203(52)—Subsidence [No corresponding Federal definition]
 MCA § 82–4–203(53)—Surface Owner [No corresponding Federal definition]
 MCA § 82–4–203(54)—Topsoil [30 CFR 701.5]
 MCA § 82–4–203(55)—Underground Mining [30 CFR 701.5]
 MCA § 82–4–203(56)—Unwarranted Failure to Comply [No corresponding Federal definition]
 MCA § 82–4–203(57)—Waiver [No corresponding Federal definition]
 MCA § 82–4–203(58)—Wildlife Habitat Enhancement Feature [No corresponding Federal definition]
 MCA § 82–4–203(59)—Written Consent [No corresponding Federal definition]

B. Revisions to the MCA That Do Not Have the Same Meaning as Corresponding Federal Provisions

1. MCA § 82–4–232(6)(k)—Area Mining Required—Bond—Alternative Plan

In Senate Bill 328, Montana is proposing revisions to bond release

requirements and incorporates the proposed new definition of "affected drainage basin" (MCA § 82–4–203(3) into its revisions of MCA § 82–4–232(6)(k). Current Montana rules, at ARM 17.24.1116(6)(d)(i), which pertain to phase IV bond release, require all disturbed lands within any "designated drainage basin" to have been reclaimed in accordance with phase I, II, and III requirements. If approved, a conflict would exist between the MCA and the ARM, in that the ARM confines phase IV bond release to be within a "designated drainage basin"; with the MCA proposing to allow for any phase bond release, including phase IV, to occur within or across an "affected drainage basin". Further, different terminology is used between proposed statute and rule with Montana proposing to define and use "affected drainage basin" in the MCA, and the ARM currently employs but does not define "designated drainage basin". The Federal rules and requirements for phased bond release in 30 CFR 800.40 are consistent with the Federal requirements for phased bond release in SMCRA section 519(c). Consistent terminology is needed between proposed statute and existing rule for this revision to be as stringent as SMCRA and as effective as the Federal regulations. Therefore, we are not approving this provision.

In the same statute (MCA § 82–4–232(6)(k)), Montana is proposing to remove the words "if it is satisfied" from the sentence: "At the request of the permittee, and for a designated area within the permit boundary within or across affected drainage basins, the department shall release the bond in whole or in part if it is satisfied the reclamation covered by the bond or portion of the bond has been accomplished as required by this part according to the following schedule:" This change could be interpreted as though the regulatory authority loses the discretion to make the determination that the reclamation covered by the bond or portion of the bond has been accomplished as required. If the permittee submits a bond release application package, Montana could potentially lose the ability to deny the bond release package or portions thereof even if Montana determines that the reclamation covered by the bond or portion of the bond has not been accomplished. Read plainly, if the permittee requests bond release, then by removing the phrase "if it is satisfied", Montana would be required to release the bond in whole or in part if the reclamation has been accomplished

(according to the requirements later in the proposed statute). Striking this language would render this provision less stringent than counterpart Federal statute at SMCRA section 519(c). Therefore, we are not approving this proposed revision.

2. MCA § 82–4–232(6)(k)(ii)—Area Mining Required—Bond—Alternative Plan

Montana's proposed changes to MCA § 82–4–232(6)(k)(ii) are as stringent as its counterpart in SMCRA section 519(c)(2) (30 U.S.C. 1269(c)(2)) and as effective as counterpart Federal rules at 30 CFR 800.40(c)(2) when coupled with subsequent proposed changes to MCA § 82–4–232(6)(k)(iii). However, because we are not approving MCA § 82–4–232(6)(k)(iii), which, as proposed, would have included language that would have been struck from the proposed revisions to MCA § 82–4–232(6)(k)(ii), we are not approving these changes.

3. MCA § 82–4–232(6)(k)(iii)—Area Mining Required—Bond—Alternative Plan

Montana's proposed changes to MCA § 82–4–232(6)(k)(iii) are as stringent as its counterpart in SMCRA section 519(c)(2) (30 U.S.C. 1269(c)(2)) and as effective as counterpart Federal rules at 30 CFR 800.40(c)(2). However, Montana proposes to also reference MCA § 82–4–232(6)(k)(iv) in this provision. Because we are not approving Montana's proposed changes to MCA § 82–4–232(6)(k)(iv), this cross-reference would not exist and would render this provision unworkable and less effective than counterpart Federal rules and statute. Therefore, we are not approving this proposed revision.

4. MCA § 82–4–232(6)(k)(iv)—Area Mining Required—Bond—Alternative Plan

Montana proposes to retain similar language found in SMCRA section 519(c)(2) (30 U.S.C. 1269(c)(2)), which pertains to suspended solids to streamflow or runoff outside the permit area and soil productivity for prime farmlands (subparts A and B), in its proposed statute. But Montana proposes to add a subpart C to this provision, stating: "The department shall retain a portion of the bond sufficient for a third party to fully satisfy remaining permit conditions if (C) the permittee has not successfully completed all reclamation activities, including water replacement, in the designated area". As this section is the implied Phase II bond release section, Montana's addition of the subpart C language renders this

provision less stringent than the Federal counterpart at section 519(c)(2) of the Act because the remaining bond held could be released if the permittee meets subparts A, B, and C (*i.e.*, successful completion of all reclamation activities, including water replacement, in the designated area) of this provision. Therefore, we are not approving this proposed revision.

5. MCA § 82–4–232(6)(k)(v)—Area Mining Required—Bond—Alternative Plan

Montana's proposed changes to MCA § 82–4–232(6)(k)(v) are less stringent than counterpart Federal statute found in section 519(c)(3) (implied Phase III bond release requirements) of SMCRA (30 U.S.C. 1269(c)(3)). SMCRA again applies the period specified for operator responsibility (section 515(b)(20)(A) of the Act (30 U.S.C. 1265(b)(20)(A))). Federal counterpart rules at 30 CFR 800.40(c)(3) also apply this standard, and no bond can be released under this corresponding provision unless the period of operator responsibility has passed. Montana proposes to remove the period specified for operator responsibility in this section, rendering this provision less stringent than Federal counterpart statute in section 519(c)(3) of SMCRA and less effective than Federal counterpart rules at 30 CFR 800.40(c)(3). Therefore, we are not approving this proposed revision.

C. Revisions to the MCA That Have the Same Meaning as Corresponding Federal Provisions

Montana proposes additions and revisions to the following rule, which contains language that is the same or similar to the corresponding sections of the Federal regulations and/or SMCRA. Therefore, we are approving the rule change to MCA § 82–4–232(6)(k)(i) related to Area Mining Required—Bond—Alternative Plan, which is a State counterpart to section 519(c)(2) (30 U.S.C. 1269(c)(2)) and 30 CFR 800.40(c)(2).

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment and received two. The first commenter raised general concerns with the development of fossil fuels on public lands and climate change. The second commenter was concerned generally about fossil fuel development and waterway pollution in Montana. These comments presented only generalized concerns that were beyond the scope of this proposed program

amendment, which was focused on specific changes to the Montana State program. To the extent the proposed definition of "affected drainage basin" relates to the commenters concern about water pollution, we have denied this provision as not in accordance with SMCRA and inconsistent with the Federal regulations.

Federal Agency Comments

On February 21, 2023, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Montana program (Administrative Record No. MT–41–06). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Montana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment. However, on February 21, 2023, under 30 CFR 732.17(h)(11)(i), we requested comments from the EPA on the amendment (Administrative Record No. MT–41–06). We did not receive any comments.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 5, 2021, we requested comments on the Montana amendment from the SHPO and the ACHP (Administrative Record Numbers MT–41–04 and MT–41–05, respectively). We did not receive any comments.

V. OSMRE's Decision

Based on the above findings, we are not approving, with one exception, Montana's submittal sent to us on February 16, 2023 (Administrative Record No. MT–041–01). To implement this decision, we are amending the Federal regulations, at 30 CFR part 926 that codify decisions concerning the Montana program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication. Section 503(a) of

SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. SMCRA requires consistency of State and Federal standards.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Orders 12866—Regulatory Planning and Review and 13563—Improving Regulation and Regulatory Review

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993, the OSMRE's decision on State program amendments are exempted from OMB review under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by Section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of Section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because Section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive Order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive Order did not extend to the language of the State program amendment that Montana drafted.

Executive Order 13132—Federalism

This rule has potential Federalism implications as defined under Section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to "grant the States the maximum administrative discretion possible" with respect to Federal statutes and regulations administered by the States. Montana, through its approved regulatory program, implements and administers SMCRA and its implementing regulations at the State level. With one exception, this rule does not approve an amendment to the Montana program submitted and drafted by the State. A State program must set forth requirements that satisfy the Federal minimum standards and must include provisions that are no less stringent than SMCRA and no less effective than the Federal regulations.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on Federally recognized Tribes or on the distribution of power and responsibilities between the Federal government and Tribes. Therefore, consultation under the Department's tribal consultation policy is not required. The basis for this determination is that our decision is on the Montana State program that does not include the regulation of Indian lands or regulation of activities on Indian lands as that term is defined in 30 U.S.C. 1291(9). Indian lands are regulated independently under the applicable, approved Federal Indian lands program, with the exception of the Crow Tribe's "Ceded Strip" in Montana, which represents a unique and special situation because under the terms of the memorandum of understanding, the Department of the Interior and Montana agreed to coordinate the administration of applicable surface mining requirements in the Crow Ceded Strip. Even though, with one exception, we are not approving the amendment, our action will not have any significant effects on the regulation of surface coal mining operations within the Crow Ceded Strip. 512 Departmental Manual 4 (Department of the Interior Policy on

Consultation with Indian Tribes) also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with mineable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments. Our not approving, with one exception, the amendment is an action without tribal implications under section 4.3B of 512 Departmental Manual 4.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not a significant energy action under the definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act

Consistent with sections 501(a) and 702(d) of SMCRA (30 U.S.C. 1251(a) and 1292(d), respectively) and the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(A), State program amendments are not major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a

substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Congression Review Act

This rule is not a major rule under 5 U.S.C. 804(2). This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Marcelo Calle,

Acting Regional Director, Interior Regions 5, 7–11.

For the reasons set out in the preamble, 30 CFR part 926 is amended as set forth below:

PART 926—MONTANA

■ 1. The authority citation for Part 926 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Amend § 926.12 by adding paragraph (c) to read as follows:

§ 926.12 State program provisions and amendments not approved.

* * * * *

(c) The following portions of the program amendment by letter dated February 16, 2023, Administrative Record No. MT–041–01, which proposed changes to the Montana approved program as a result of the Montana Legislature’s 2023 passage of a Senate Bill (SB 328) are not approved:

(1) Montana’s proposed definition of “affected drainage basin” in MCA § 82–4–203(3).

(2) Montana’s proposed definition recodifications in the MCA § 82–4–203(4)(a)—Alluvial Valley Floor, MCA § 82–4–203(5)—Approximate Original Contour, MCA § 82–4–203(6)—Aquifer, MCA § 82–4–203(7)—Area of Land Affected, MCA § 82–4–203(8)—Bench, MCA § 82–4–203(9)—Board, MCA § 82–4–203(10)—Coal Conservation Plan, MCA § 82–4–203(11)—Coal Preparation, MCA § 82–4–203(12)—Coal Preparation Plant, MCA § 82–4–203(13)—Contour Strip Mining, MCA § 82–4–203(14)—Cropland, MCA § 82–4–203(15)—Degree, MCA § 82–4–203(16)—Department, MCA § 82–4–203(17)—Developed Water Resources, MCA § 82–4–203(18)—Ephemeral Drainageway, MCA § 82–4–203(19)—Failure to Conserve Coal, MCA § 82–4–203(20)—Fill Bench, MCA § 82–4–203(21)—Fish and Wildlife Habitat, MCA § 82–4–203(22)—Forestry, MCA § 82–4–203(23)—Grazing Land, MCA § 82–4–203(24)—Higher or Better Uses, MCA § 82–4–203(25)—Hydrologic Balance, MCA § 82–4–203(26)—Imminent Danger to the Health and Safety of the Public, MCA § 82–4–203(27)—Industrial or Commercial, 82–4–203(28)—In situ Coal Gasification, MCA § 82–4–203(29)—Intermittent Stream, MCA § 82–4–203(30)—Land Use, MCA § 82–4–

203(31)—Marketable Coal, MCA § 82–4–203(32)—Material Damage, MCA § 82–4–203(33)—Method of Operation, MCA § 82–4–203(34)—Mineable Coal, MCA § 82–4–203(35)—Mineral, MCA § 82–4–203(36)—Operation, MCA § 82–4–203(37)—Operator, MCA § 82–4–203(38)—Overburden, MCA § 82–4–203(39)—Pastureland, MCA § 82–4–203(40)—Perennial Stream, MCA § 82–4–203(41)—Person, MCA § 82–4–203(42)—Prime Farmland, MCA § 82–4–203(43)—Prospecting, MCA § 82–4–203(44)—Reclamation, MCA § 82–4–203(45)—Recovery Fluid, MCA § 82–4–203(46)—Recreation, MCA § 82–4–203(47)—Reference Area, MCA § 82–4–203(48)—Remining, MCA § 82–4–203(49)—Residential, MCA § 82–4–203(50)—Restore or Restoration, MCA § 82–4–203(51)—Strip Mining, MCA § 82–4–203(52)—Subsidence, MCA § 82–4–203(53)—Surface Owner, MCA § 82–4–203(54)—Topsoil, MCA § 82–4–203(55)—Underground Mining, MCA § 82–4–203(56)—Unwarranted Failure to Comply, MCA § 82–4–203(57)—Waiver, MCA § 82–4–203(58)—Wildlife Habitat Enhancement Feature, MCA § 82–4–203(59)—Written Consent.

(3) Montana’s proposal to strike the words “if it is satisfied” from MCA § 82–4–232(6)(k).

(4) Montana’s proposed changes to MCA at §§ 82–4–232(6)(k)(ii) and 82–4–232(6)(k)(iii).

(5) Montana’s addition of subpart “C” language in MCA § 82–4–232(6)(k)(iv), which could allow for final bond release to occur in the phased bond release process normally reserved for reclamation activities associated with phase II bond release.

(6) Montana’s proposed changes in the MCA § 82–4–232(6)(k)(v), which would remove the period specified for operator responsibility.

■ 3. In § 926.15, amend the table by adding an entry for “February 16, 2023” at the end of the table to read as follows:

§ 926.15 Approval of Montana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
February 16, 2023	August 21, 2026	Mont. Code Ann. 82–4–232(6)(k)(i)—Area Mining Required—Bond—Alternative Plan, Mont. Code Ann.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1072]

RIN 1625–AA87

Security Zone; Ohio River, Cincinnati, OH

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for all navigable waters of the Ohio River, extending the entire width of the river, between mile markers (MM) 461 to MM 473. This security zone is needed to provide waterside security and protection of persons under the protection of the United States Secret Service during a visit to Cincinnati, OH. During the enforcement period, entry into, transiting, or anchoring in the security zone is prohibited unless specifically authorized by the Captain of the Port, Ohio Valley (COTP) or a designated on-scene U.S. Coast Guard representative.

DATES: This rule is effective from 12:01 a.m. on August 20, 2026, through 11:59 p.m. on August 24, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–1072.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Jean Jimenez Sosa, Marine Safety Detachment Cincinnati, U.S. Coast Guard; telephone 206–815–7166, or email Jean.C.JimenezSosa@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 persons under the protection of the United States Secret Service will be visiting the city of Cincinnati, OH on August 20, 2026, through August 24, 2026. The Captain of the Port Ohio Valley (COTP) has determined that a security zone on the Ohio River is needed to protect the visiting dignitaries

and other persons during this visit. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70051 and 70124, which is needed to provide waterside security and protection of the persons under the protection of the United States Secret Service in the navigable waters within the security zone.

Because of the potential threats associated with this visit, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Additionally, the Coast Guard was notified of this event on August 10, 2026, but we must establish this security zone by August 20, 2026, to protect personnel, vessels, and the marine environment. Therefore, we do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a security zone from 12:01 a.m. on August 20, 2026, through 11:59 p.m. on August 24, 2026. The security zone will cover the entire width of the Ohio River, between mile markers (MM) 461 to MM 473. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or their designated representative. While this temporary regulation will be effective for five days, the security zone will only be enforced during certain times when visiting dignitaries and security personnel are present within the regulated area. The COTP will issue broadcast notice to mariners to inform the public of the specific enforcement times.

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T08–1072 to read as follows:

§ 165.T08–1072 Security Zone; Ohio River, Cincinnati, OH.

(a) Location. The following area is a security zone: All navigable waters of the Ohio River, extending the entire width of the river, between mile markers (MM) 461 to MM 473.

(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 Ohio Valley (COTP) in the enforcement of the security zone.

(c) Regulations. (1) Under the general security zone regulations in subpart D of this part, you may not enter the security 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 1 800–253–7465. Those in the security 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 is effective from 12:01 a.m. on August

20, 2026, through 11:59 p.m. on August 24, 2026. The security zone regulation will be enforced when visiting dignitaries and security personnel are present within the location described in paragraph (a). The COTP will issue broadcast notice to mariners to inform the public of the specific enforcement times for this temporary regulation.

Bradford E. Clark,

Commander, U.S. Coast Guard, Acting Captain of the Port, Ohio Valley.

[FR Doc. 2026–17131 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–0024]

RIN 1625–AA00

Safety Zone: Piers Park, Boston Inner Harbor, East Boston MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a portion of the navigable waters of Boston Inner Harbor, in the vicinity of Piers Park, East Boston, Massachusetts. The temporary safety zone is needed to protect the maritime public and event participants from potential hazards created by a swim event taking place in a heavily trafficked portion of the harbor scheduled for September 13, 2026. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Boston, or a designated representative.

DATES: This rule is effective from 7 a.m. through noon on September 13, 2026.

ADDRESSES: To view available documents, go to <https://www.regulations.gov> and search for USCG–2026–0024.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Timothy W. Chase, Sector Boston, Waterways Management, telephone (617) 447–1620, email Timothy.W.Chase@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port, Sector Boston
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 13, 2026, the Coast Guard received notification that a swim event would be taking place in a heavily trafficked portion of Boston Inner Harbor in the vicinity of Piers Park, East Boston, Massachusetts. The Captain of the Port (COTP) Boston has determined that potential hazards associated with this swim event, such as collisions between swimmers and watercraft, are a safety concern for anyone within the designated event area. Therefore, the COTP is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We do not have enough time to solicit and respond to comments, and publish a final rule by September 13, 2026.

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 7 a.m. through noon on September 13, 2026. The safety zone will cover all the navigable waters of a portion of Boston Inner Harbor in the vicinity of Piers Park, East Boston, specifically within a box bound by the following coordinates: Corner #1 42°21'41.22" N, 071°2'22.6" W, thence to Corner #2 42°21'26.53" N, 071°2'32.28" W, thence to Corner #3 42°21'2.59" N, 071°1'32.92" W, thence to Corner #4 42°21'13.14" N, 071°1'24.6" W, and returning to the point of origin. Positions provided are expressed in Degrees (°) Minutes (') Seconds (") (DMS) based on North American Datum 1983 (NAD 83). The duration of the zone is intended to protect event participants and support personnel, vessels, and the marine environment in these navigable waters during the swim event. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

Requests to enter the zone will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at (856) 416–3015 or can be reached by VHF–FM channel 16.

Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed to minimize wake and comply with all lawful directions issued by the COTP or the designated representative.

V. 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

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

This 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.T01–0024 to read as follows:

§ 165.T01–0024 Safety Zone; Piers Park, Boston Inner Harbor, East Boston MA.

(a) *Regulated area.* The following area is a safety zone: all navigable waters of a portion of Boston Inner Harbor in the vicinity of Piers Park, East Boston, specifically within a box bound by the following coordinates: Corner #1 42°21′41.22″ N, 071°2′22.6″ W, thence to Corner #2 42°21′26.53″ N, 071°2′32.28″ W, thence to Corner #3 42°21′2.59″ N, 071°1′32.92″ W, thence to Corner #4 42°21′13.14″ N, 071°1′24.6″ W, and returning to the point of origin. Positions provided are expressed in Degrees (°) Minutes (′) Seconds (″) (DMS) based on North American Datum 1983 (NAD 83).

(b) *Definitions.* As used in this section—

(1) *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 Boston (COTP) in the enforcement of the regulations in this section.

(2) *Participant* means all persons registered with the event sponsor as a participant in the event.

(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 designated via VHF–FM Marine Channel 16 or by contacting the Coast Guard Sector Boston Command Center at (857) 416–3015. 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.

(3) The COTP or a designated representative will inform the public of the enforcement period for the regulated area as well as any changes of the enforcement times through local notice to mariners, Broadcast Notices to Mariners, or both, via VHF–FM marine channel 16.

(d) *Enforcement period:* This section will be enforced from 7 a.m. through noon on September 13, 2026.

Dated: August 18, 2026.

J.J. Schock,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Boston.

[FR Doc. 2026–17098 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165****[Docket Number USCG–2026–1070]****RIN 1625–AA87****Security Zone; Philippine Sea, Pacific Ocean, Apra Harbor, Guam****AGENCY:** Coast Guard, Department of Homeland Security.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for certain navigable waters of the Philippine Sea in the Pacific Ocean in Apra Harbor, Guam. The Coast Guard will only enforce this rule when the United States government officials or other persons under the protection of the Secret Service are present or expected to be present. This action is necessary to protect the official party, public, and surrounding waterways from terrorist acts, sabotage, or other subversive acts. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Forces Micronesia/Sector Guam.

DATES: This rule is effective from 9 a.m. ChST on August 27, 2026 through 4 p.m. ChST on August 27, 2026. For the purposes of enforcement, actual notice by Marine Broadcast will be used from 0900–1600 August 27, 2026.

ADDRESSES: To view available documents go to <https://www.regulations.gov> and search for USCG–2026–1070.

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

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

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

II. Background and Authority

The Coast Guard was requested by the Department of Homeland Security (DHS) to provide a security zone for an official DHS visit to include a multi

asset tactical exercise. The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port (COTP) Forces Micronesia/Sector Guam has determined that a security zone is necessary to protect the official party, public, and surrounding waterways from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. The purpose of this rule is to ensure the security of vessels and navigable waters during the visit to USCG Station Apra Harbor and the waters of Apra Harbor by the United States government officials and other persons under the protection of the Secret Service.

The Coast Guard is issuing this temporary rule without prior notice and comment under the authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. It is impracticable to publish an NPRM because we must establish this security zone by August 27, 2026. This short timeframe makes it impracticable to publish an NPRM and receive and respond to public comments.

For the same reasons, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to protect the official party, public, and surrounding waterways from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature.

III. Discussion of the Rule

This rule establishes a temporary security zone from 9 a.m. to 4 p.m. ChST on August 27, 2026. The security zone will cover all navigable waters of the Philippine Sea in a moving circle with a radius extending 250 yards from each Coast Guard vessel participating in the exercise area within Apra Harbor, Guam. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or their designated representative.

The Coast Guard will issue a Broadcast Notice to Mariners (BNM) over VHF marine radio on channel 16. The duration of the zone is intended to

protect the official party, public, and surrounding waterways from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Forces Micronesia/Sector Guam.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian

tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

D. Unfunded Mandates Reform Act

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

E. Environment

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

This rule involves a security zone lasting up to seven hours. 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.T14–0069 to read as follows:

§ 165.T14–1070 Security Zone; Philippine Sea, Guam.

(a) *Location.* The following area is a security zone: All navigable waters of the Philippine Sea in a moving circle with a radius extending 250 yards from each Coast Guard vessel participating in

the exercise area within Apra Harbor, Guam.

(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, or local officer designated by or assisting the Captain of the Port (COTP) Forces Micronesia/ Sector Guam in the enforcement of the security zone.

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

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

(d) *Enforcement periods.* This section will be enforced from 9 a.m. ChST to 4 p.m. ChST on August 27, 2026.

Dated: August 17, 2026.

Jessica S. Worst,

Captain, U.S. Coast Guard, Captain of the Port, Guam.

[FR Doc. 2026–17097 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2022–0455; FRL–13520–01–OCSPP]

Carboxin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of carboxin in or on multiple crops that are discussed later in this document. Under the Federal Food, Drug, and Cosmetic Act (FFDCA), UPL Delaware Inc. submitted a petition to EPA requesting that EPA establish a maximum permissible level for residues of this pesticide in or on the identified commodities.

DATES: This regulation is effective August 21, 2026. Objections and requests for hearings must be received on or before October 20, 2026 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of this document).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2022–0455, is available at <https://www.regulations.gov>. Additional information about dockets generally, along with instructions for visiting the docket in person, is available at <https://www.epa.gov/dockets>.

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

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

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

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

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

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

EPA is issuing this rulemaking under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. FFDCA section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” FFDCA section 408(b)(2)(A)(ii) defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. FFDCA section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical

residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .”

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

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. If you fail to file an objection to the final rule within the time period specified in the final rule, you will have waived the right to raise any issues resolved in the final rule. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2022-0455 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 20, 2026.

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

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

[commenting-epa-dockets#rules](#) and clearly mark the information that you claim to be CBI. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice.

II. Petitioned-For Tolerance

In the **Federal Register** of September 29, 2025 (90 FR 46544 (FRL–12474–07–OCSPP)), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F8976) by UPL Delaware, Inc. and UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR 180.301 be amended by establishing tolerances for residues of the fungicide carboxin in or on vegetable, legume, forage and hay, except soybean, subgroup 7–22A at 2 parts per million (ppm); vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E at 0.2 ppm; and vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F at 0.2 ppm. The petition also requested that 40 CFR 180.301 be amended by removing the tolerance for residues of carboxin in or on bean, dry, seed. The document referenced a summary of the petition prepared by UPL Delaware, Inc. and UPL NA Inc., which is available in the docket at <https://www.regulations.gov>.

The September 29, 2025 notice of filing supersedes two earlier notices of filing published in the **Federal Register** on January 3, 2023 (88 FR 38) (FRL–9410–08–OCSPP), and September 12, 2023 (88 FR 62499) (FRL–10579–07–OCSPP), which were based on earlier versions of the same petition (PP 1F8976) requesting tolerances for crop subgroup 6–22E: dried shelled bean, except soybean at 0.2 ppm; crop subgroup 6–22F: pulses, dried shelled pea at 0.2 ppm; pea, dry, forage at 0.4 ppm; and pea, dry, hay at 2 ppm. UPL Delaware, Inc. and UPL NA, Inc. subsequently amended their petition as noticed in the September 29, 2025, **Federal Register**.

EPA received one comment in response to the September 29, 2025, notice of filing expressing concerns that pesticide use is linked to cancer and other chronic diseases and any “exemption” should rarely be allowed outside of uses tied to national security. EPA also received one comment in response to the September 12, 2023, notice of filing expressing concerns about pesticide residues in food and their connection to resistance and allergic reactions.

The Agency acknowledges the commenters’ concerns regarding potential health effects associated with

pesticide use. However, the existing legal framework provided by section 408 of the FFDCA authorizes EPA to establish a tolerance when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data, as well as other factors the FFDCA requires EPA to consider, EPA has determined that the carboxin tolerances established in this action are safe. The commenters provided no information supporting the conclusion that these tolerances are not safe.

III. Final Tolerance Action

A. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA section 408(b)(2)(D) and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for carboxin, including exposure resulting from the tolerances established by this action. EPA’s assessment of exposures and risks associated with carboxin follows.

B. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The toxicity database for carboxin is adequate, with the exception of a subchronic inhalation toxicity study. In subchronic and chronic feeding studies in rats with carboxin, the kidney was the primary target organ with effects including chronic progressive nephropathy and histopathological changes showing increased incidence and severity with time. For dogs and mice, the primary target organ appeared to be the liver. The developmental toxicity studies in rats and rabbits and the reproduction study in rats with carboxin indicated no increased quantitative or qualitative susceptibility of the fetuses or pups, as compared to adults. In the carcinogenicity study in mice with carboxin, dose-related increases in the incidence of liver centrilobular hypertrophy were observed; however, this is considered to be an adaptive rather than an adverse response. Carboxin is classified as “Not Likely to Be Carcinogenic to Humans” based on the lack of evidence of

carcinogenicity in male and female rats and mice in acceptable carcinogenicity studies. Carboxin exhibits low acute toxicity via oral (Toxicity Category III), inhalation (Toxicity Category IV), and dermal (Toxicity Category III) routes of exposure. It is a slight eye irritant (Toxicity Category III). It is not a skin irritant (Toxicity Category IV) and is negative for dermal sensitization. The developmental toxicity studies in rats and rabbits and the reproduction study in rats with carboxin indicated no increased quantitative or qualitative susceptibility of the fetuses or pups, as compared to adults. In the developmental toxicity studies in rats for carboxin, no adverse effects were observed in either the dams or the fetuses. In a developmental toxicity study in rabbits, abortions were observed at 750 mg/kg/day on GDs 27–28. The abortions are considered to be both maternal and developmental adverse effects. In a two-generation reproduction study with carboxin in rats, the reproductive effects (decreased fertility indices in F2b parents) and offspring effects (decreased pup weight) occurred at higher doses than the parental effects (gross and histopathological changes in the kidneys, e.g., chronic nephritis).

Although no high temperature hydrolysis data is available for carboxin, the chemical structure of carboxin suggests that the release of aniline may occur following the processing of carboxin-treated crop commodities. Aniline may be a potential degradation product of carboxin in cooked food, but it is toxicologically different from carboxin. EPA has classified aniline as a B2-probable human carcinogen with an oral cancer slope factor of 5.7×10^{-3} (mg/kg/day)⁻¹, which is considered very conservative for cancer assessment of aniline. The Agency did not identify any other oral endpoint for aniline.

Specific information on the risk assessment conducted in support of this action, including on the studies received and the nature of the adverse effects caused by carboxin and aniline, can be found in the document titled “Carboxin: Human Health Risk Assessment for the Use of Liquid Formulations on Dried Shelled Peas; to Establish a Tolerance for Residues in/on Vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F and Vegetable, Legume, Forage and Hay, Except Soybean, Subgroup 7–22A; to Convert the Existing Tolerance for Residues in/on Bean, Dry, Seed Tolerance to Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E; and to Allow a 0-Day Plantback Interval for Vegetable, Legume, Pulse,

Pea, Dried Shelled, Subgroup 6–22F in Conjunction with a Tolerance on this Crop Subgroup” (hereinafter “Carboxin Human Health Risk Assessment”) which is available in the docket for this action.

C. Toxicological Points of Departure/ Levels of Concern

Once a pesticide’s toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level, generally referred to as a population-adjusted dose (PAD) or a reference dose, and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see <https://www.epa.gov/science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides>.

A summary of the toxicological endpoints for carboxin and aniline used for human health risk assessment can be found in the Carboxin Human Health Risk Assessment, which is available in the docket for this action.

D. Exposure Assessment

1. Dietary Exposure From Food and Feed Uses

In evaluating dietary exposure to carboxin and aniline, EPA considered exposure under the petitioned-for tolerances as well as all existing carboxin tolerances in 40 CFR 180.301. EPA assessed dietary exposures from carboxin and aniline in food as follows:

i. *Acute exposure. Carboxin.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of

a 1-day or single exposure. No such effects were identified in the toxicological studies for carboxin; therefore, a quantitative acute dietary exposure and risk assessment is not necessary.

Aniline. There are no data to determine an acute endpoint for aniline at this time; therefore, a quantitative acute dietary exposure and risk assessment for carboxin-derived aniline residues was not conducted.

ii. *Chronic exposure. Carboxin.* In conducting the chronic dietary exposure assessment for carboxin, EPA used the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database Version 4.02, which uses 2005–2010 food consumption data from the United States Department of Agriculture’s National Health and Nutrition Examination Survey, What We Eat in America. As to residue levels in food, EPA assumed tolerance-level residues, default processing factors, and 100 percent crop treated (PCT) for all crops.

Aniline. Aniline is a high temperature hydrolysis degradate for another registered pesticide, buprofezin. The highly refined estimated dietary exposure of the most highly exposed adult population (adults 50–99 years old) to buprofezin-derived aniline in cooked foods is 0.000052 mg/kg/day. Estimated chronic exposures to buprofezin-derived aniline residues are orders of magnitude below any potential chronic non-cancer reference dose for aniline. Any chronic exposures to carboxin-derived aniline residues are expected to be significantly lower than to buprofezin-derived aniline residues based on carboxin’s limited use patterns and lower tolerance-level residues in food commodities. Therefore, a quantitative chronic non-cancer dietary exposure and risk assessment for carboxin-derived aniline residues is not necessary.

iii. *Cancer. Carboxin.* Based on the data discussed in Unit III.A., EPA has concluded that carboxin is not likely to be carcinogenic to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is not necessary.

Aniline. Due to the absence of high temperature hydrolysis data for carboxin, a quantitative cancer dietary exposure and risk assessment for carboxin-derived aniline residues was not conducted. However, cancer dietary exposure and risk assessments for buprofezin-derived aniline residues are currently available. See “Buprofezin: Acute, Chronic (Food and Drinking Water) and Cancer (Aniline; Cooked Food Only) Aggregate Dietary Exposure

and Risk Assessments for the New Use on Bushberry Crop Subgroup 13–07B and Proposed Amendment to Expand the Use on Succulent Beans to All Members of Proposed Edible Podded Bean Legume Vegetable Subgroup 6–22A” and “Buprofezin. Human Health Risk Assessment for Proposed New Use on Bushberry Crop Subgroup 13–07B and Proposed Amendments to Expand Use on Succulent Beans to All Members of Proposed Edible Podded Bean Legume Vegetable Subgroup 6–22A and Use on Greenhouse-Grown Tomatoes and Peppers to All Members of Fruiting Vegetable Crop Group 8–10” in docket ID number EPA–HQ–OPP–2020–0235. EPA conducted a qualitative assessment of cancer dietary exposure and risk for carboxin-derived aniline residues based on the assessments for buprofezin-derived aniline residues.

Buprofezin is applied as a broadcast foliar application on a variety of food crops with the maximum seasonal application rates ranging from 0.7 to 4.0 pounds of active ingredient per acre per growing season. Tolerances established for residues of buprofezin in or on various food commodities range from 0.02 to 80 ppm, with most tolerances greater than 0.2 ppm. Buprofezin residue data indicate that there is a proportion of buprofezin residues in or on food crops that is available for conversion to aniline during food processing that is subjected to high temperature cooking conditions. A highly refined cancer dietary exposure and risk assessment for buprofezin-derived aniline residues was conducted for cooked food only using an oral cancer slope factor (Q_1^* of 5.7×10^{-3} (mg/kg/day) $^{-1}$) for aniline. This assessment was conducted using a maximum conversion factor of buprofezin to aniline of 18.9%, which was the highest found in a high temperature hydrolysis study of buprofezin-derived aniline and was applied to estimate residues of buprofezin-derived aniline which may form in food as a result of cooking. The highly refined estimated dietary exposure of the most highly exposed adult population (adults 50–99 years old) to buprofezin-derived aniline in cooked foods is 0.000052 mg/kg/day.

Any dietary exposure to carboxin-derived aniline residues in cooked foods are expected to be significantly lower than buprofezin-derived aniline residues based on carboxin’s limited use patterns and lower tolerance-level residues. Carboxin is used for pre-planting seed treatment, with low maximum application rates ranging from 0.005 to 0.825 pounds of active ingredient per acre per year. Carboxin

residues in or on certain food crops were non-detectable or below the limit of quantitation (LOQ) based on field trials conducted at exaggerated use rates. Residue data for other food crops indicate that there was not much carboxin residue, at the most less than 0.025 to less than 0.2 ppm, available for conversion to aniline during food processing that is subjected to high temperature cooking conditions. Tolerances established for residues of carboxin in or on various food commodities, including the tolerances established in this action, range from 0.03 to 0.2 ppm, with several tolerances at 0.2 ppm. The LOQ of the residue data collection method was 0.025 ppm, whereas the LOQ of the enforcement analytical methods was 0.2 ppm, indicating that many of the tolerances at 0.2 ppm would be much lower if not for the limitation of the enforcement analytical methods. These low residue levels can be attributed to carboxin’s limited used patterns.

2. Dietary Exposure From Drinking Water

The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for carboxin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of carboxin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/models-pesticide-risk-assessment>.

For surface water, estimated drinking water concentrations (EDWC) were modeled using Pesticide in Water Calculator (PWC) (version 1.52) for seed treatment of all labeled crops except rice. EDWCs for rice seed treatment use were modeled by Pesticide in Flooded Applications Model Version 2. For groundwater, EDWCs were modeled using PWC and the six standard groundwater scenarios at the maximum application rate of 0.825 lb a.i./A/yr for registered crops. The highest post breakthrough average EDWC for carboxin residues of concern (*i.e.*, carboxin and its sulfoxide metabolite) was 81.7 µg/L or parts per billion (ppb) in groundwater. The EDWC of carboxin residues of concern in surface water from chronic exposure was minimal (6.2 µg/L). EDWCs were directly entered into the dietary exposure model. For the chronic dietary risk assessment, the ground water concentration value of 81.7 ppb was used to assess the contribution to drinking water.

For aniline, the Agency has determined that there is no expectation of carboxin-derived aniline residues in drinking water.

3. From Non-Dietary Exposure

The term “residential exposure” is used in this document to refer to non-occupational, non-dietary exposure (*e.g.*, from lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Carboxin is not registered for any specific use patterns that would result in residential exposure to carboxin or carboxin-derived aniline.

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

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

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to carboxin and any other substances. For the purposes of this action, therefore, EPA has not assumed that carboxin has a common mechanism of toxicity with other substances.

For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides>.

E. Safety Factor for Infants and Children

1. In General

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) safety factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. Prenatal and Postnatal Sensitivity

The developmental toxicity studies in rats and rabbits and the reproduction study in rats with carboxin indicated no increased quantitative or qualitative susceptibility of the fetuses or pups, as compared to adults. In the developmental toxicity studies in rats for carboxin, no adverse effects were observed in either the dams or the fetuses. In a developmental toxicity study in rabbits, abortions were observed at 750 mg/kg/day on GDs 27–28. The abortions are considered to be both maternal and developmental adverse effects. In a two-generation reproduction study with carboxin in rats, the reproductive effects (decreased fertility indices in F_{2b} parents) and offspring effects (decreased pup weight) occurred at higher doses than the parental effects (gross and histopathological changes in the kidneys, *e.g.*, chronic nephritis).

3. Conclusion

EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA safety factor were reduced to 1X for dietary exposure scenarios. The current action does not have residential uses; if any future actions have residential uses, then the FQPA safety factor would also be 1X for all residential/non-occupational exposure scenarios, with the exception of inhalation scenarios due to the lack of a subchronic inhalation toxicity study. That decision is based on the following findings:

i. With the exception of a subchronic inhalation toxicity study, the toxicity database for carboxin is adequate for FQPA evaluation. Developmental toxicity studies in rats and rabbits and a two-generation reproduction toxicity study in rats with carboxin are available for FQPA consideration.

ii. There is no evidence of neurotoxicity in the existing toxicity database. No guideline acute or subchronic neurotoxicity studies were submitted; however, no indications of neurotoxic effects were observed in any of the subchronic or chronic studies in dogs, mice, or rats. Based on a Weight-of-Evidence approach, EPA determined that the acute and subchronic neurotoxicity studies are not required at this time.

iii. There was no evidence of increased quantitative or qualitative susceptibility in the developmental toxicity studies in rabbits or rats with carboxin.

iv. There is no residual uncertainty with respect to the dietary exposure

database. A conservative chronic dietary (food and water) risk assessment was conducted for carboxin incorporating tolerance-level residues, EPA's default processing factors, 100 PCT, and the highest EDWCs. There are no residential uses for carboxin. These assessments will not underestimate the exposure and risks posed by carboxin.

F. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. Carboxin: Acute Risk

An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, carboxin is not expected to pose an acute risk, and an acute aggregate risk assessment is not required.

2. Carboxin: Chronic Risk

Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to carboxin from food and drinking water will utilize 87% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. There are no residential uses for carboxin. Therefore, chronic aggregate exposures and risk estimates are equivalent to the chronic dietary (food and drinking water) exposure and risk estimates. These risks are not of concern.

3. Carboxin: Short- and Intermediate-Term Risk

Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Carboxin is not registered for any specific use patterns that would result in residential exposure. Therefore, short- and intermediate-term risk is equal to

chronic dietary risk, which is not of concern.

4. Carboxin: Aggregate Cancer Risk for U.S. Population

Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, carboxin is classified as "Not Likely to be Carcinogenic to Humans," and quantification of cancer risk is not required.

5. Aniline

There are no data to determine an acute endpoint for aniline at this time; hence, an acute dietary risk assessment was not conducted for carboxin-derived aniline residues. The highly refined estimated chronic exposure of the most highly exposed adult subpopulation (adults 50 to 99 years old) to buprofezin-derived aniline residues is 0.000052 mg/kg/day. Estimated chronic exposures to buprofezin-derived aniline residues are orders of magnitude below any potential chronic non-cancer reference dose for aniline. Any chronic exposures to carboxin-derived aniline residues are expected to be significantly lower than to buprofezin-derived aniline residues based on carboxin's limited use patterns and lower tolerance-level residues. Therefore, a quantitative chronic non-cancer dietary risk assessment for carboxin-derived aniline residues is not necessary to conclude with reasonable certainty that chronic exposures from carboxin-derived aniline residues do not pose a non-cancer dietary risk. The highly refined estimated chronic exposure of the most highly exposed adult subpopulation to buprofezin-derived aniline results in an upper bound cancer risk estimate of 3×10^{-7} . Based again on carboxin's limited use patterns and lower tolerance-level residues, the Agency concludes that the cancer risk estimate for buprofezin-derived aniline residues indicates that there should not be any cancer risk from carboxin-derived aniline residues.

6. Determination of Safety

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to carboxin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The Pesticide Analytical Manual, Vol. II lists three methods for determining the combined residues of carboxin and its metabolites,

determined as the common moiety, aniline, and expressed as carboxin. These methods include a colorimetric method, which in principle is based on the alkaline hydrolysis of carboxin and its sulfoxide metabolite to produce aniline; and gas-liquid chromatography (GLC) methods. A GLC/Mass Selective Detector data-collection method is also available to enforce tolerances for carboxin.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex has not established MRLs for carboxin in or on any commodities.

V. Conclusion

Therefore, tolerances are established for residues of carboxin, 5,6-dihydro-2-methyl- N-phenyl-1,4-oxathiin-3-carboxanilide, including its metabolites and degradates, in or on Vegetable, legume, forage and hay, except soybean, subgroup 7–22A at 2 ppm; Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E at 0.2 ppm; and Vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F at 0.2 ppm. The existing tolerance for bean, dry, seed at 0.2 ppm is removed as unnecessary, because this commodity is covered by the new tolerance for Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E at the same level.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and executive orders can be found at <https://www.epa.gov/regulations/and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review

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

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

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

C. Paperwork Reduction Act (PRA)

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

D. Regulatory Flexibility Act (RFA)

Since tolerance actions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the RFA, 5 U.S.C. 601 *et seq.*, do not apply to this action.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more (in 1995 dollars and adjusted annually for inflation) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or on the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because tolerance actions like this one are exempt from review under Executive Order 12866. However, EPA's 2026 *Policy on Children's Health* applies to this action. This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .” (FFDCA 408(b)(2)(C)). The Agency's consideration is summarized in Unit III.E.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355) (May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

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

K. Congressional Review Act (CRA)

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

List of Subjects in 40 CFR Part 180

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

Dated: August 3, 2026.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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

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

- 1. The authority citation for part 180 continues to read as follows:
Authority: 21 U.S.C. 321(q), 346a and 371.
- 2. In § 180.301, amend table 1 to paragraph (a) by:
 - a. Removing the entry for “Bean, dry, seed”; and
 - b. Adding alphabetically the entries “Vegetable, legume, forage and hay, except soybean, subgroup 7–22A”, “Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E”, and “Vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F”.The revisions and additions read as follows:

§ 180.301 Carboxin; tolerances for residues.
(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * *	*
Vegetable, legume, forage and hay, except soybean, subgroup 7–22A	2
Vegetable, legume, pulse, bean, dried shelled, except soybean, subgroup 6–22E	0.2
Vegetable, legume, pulse, pea, dried shelled, subgroup 6–22F	0.2
* * * *	*

[FR Doc. 2026–17088 Filed 8–20–26; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–300

[Docket No. OFCCP–2025–0002]

RIN 1250–AA19

Modifications to the Regulations Implementing the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as Amended

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor publishes this final rule to revise its implementing regulations for the

Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended (VEVRAA). These revisions will align the regulations with Executive Order 14173 and remove the VEVRAA regulations’ cross-references to the Executive Order 11246 authority. Executive Order 11246 was revoked by Executive Order 14173 on January 21, 2025. This final rule also makes technical revisions to update the VEVRAA regulations’ jurisdictional thresholds, which were adjusted for inflation by the Federal Acquisition Regulation Council on October 1, 2025. **DATES:** This rule is effective September 21, 2026.

FOR FURTHER INFORMATION CONTACT: Kenneth Wolfe, Director, OFCCP, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0101. Email: ofccp_guidance@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Labor (DOL) enforces VEVRAA, 38 U.S.C. 4212, and its implementing regulations at 41 CFR part 60–300. VEVRAA, as applied by regulation, prohibits Federal contractors and subcontractors (contractors)¹ from discriminating against employees and applicants because of their status as a protected veteran (defined by the statute to include disabled veterans, recently separated veterans, Armed Forces service medal veterans, and active duty wartime or campaign badge veterans). VEVRAA also requires covered contractors to take “affirmative action to employ and advance in employment qualified covered veterans.” 38 U.S.C. 4212(a).

The basic requirements in VEVRAA generally apply to any business or organization that holds a single Federal contract or subcontract of at least \$200,000.² Further, under the current regulations, contractors with 50 or more employees and a single Federal contract or subcontract of \$200,000 or more are also required to develop and maintain an affirmative action program (AAP), where they must implement and document their affirmative action efforts

¹ Hereinafter, the terms “contractor” or “Federal contractor” are used to refer collectively to Federal contractors and subcontractors that fall under OFCCP’s authority, unless otherwise expressly stated. This approach is consistent with OFCCP’s regulations, which define “contract” to include subcontracts and “contractor” to include subcontractors. See 41 CFR 60–300.2.

² Effective October 1, 2025, the coverage threshold under VEVRAA increased from \$150,000 to \$200,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. See Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

on an annual basis, as provided in 41 CFR part 60–300, subpart C.

II. Need for the Rulemaking

Prior to January 21, 2025, DOL administered and enforced Executive Order 11246, “Equal Employment Opportunity,” as amended (Executive Order 11246), Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), and VEVRAA. On January 21, 2025, President Trump issued Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” 90 FR 8633 (Jan. 31, 2025). Executive Order 14173 revoked Executive Order 11246. Executive Order 11246, and its implementing regulations at 41 CFR part 60–1 *et seq.*, prohibited contractors from discriminating against employees and applicants because of race, color, religion, sex, sexual orientation, gender identity, national origin, or because they inquired about, discussed, or disclosed their compensation or that of others, subject to certain limitations. Contractors were also required to take certain affirmative actions to promote equal employment opportunity in their workplaces, as specified in 41 CFR part 60–2 and 41 CFR part 60–4.

While VEVRAA remains in effect, the revocation of Executive Order 11246 necessitates several revisions to the VEVRAA implementing regulations. On July 1, 2025, DOL published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** proposing specific revisions. See 90 FR 28485 (July 1, 2025). Specifically, DOL proposed removal of the cross-reference to the Executive Order 11246 administrative proceeding procedures found in 41 CFR 60–300.65(b) and proposed the addition of those administrative proceeding procedures directly into VEVRAA’s implementing regulations, except where duplicative of current part 60–300 provisions (e.g., the severability clause).³

DOL also proposed removal of a reference to 41 CFR part 60–3 because this citation is part of the revoked Executive Order 11246 authority. Additionally, DOL proposed removal of the 29 U.S.C. 793 reference in the authority citation for 41 CFR part 60–300. The 29 U.S.C. 793 reference refers to the Section 503 authority and is unnecessary.

³ In a separate rulemaking, DOL proposed similar changes to the Section 503 regulations. If the proposed changes become final, the 41 CFR part 60–30 regulations will be duplicative and unnecessary as they will be incorporated into 41 CFR parts 60–300 and 60–741. As such, as part of the Section 503 rulemaking, DOL is also proposing to rescind 41 CFR part 60–30 using a delayed effective date.

Further, effective October 1, 2025, the coverage threshold under VEVRAA increased from \$150,000 to \$200,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908.⁴ The NPRM did not reflect the updated threshold amount because the increase became effective after the publication of the NPRM. To align the final rule with the current jurisdictional threshold, DOL has updated the relevant regulatory provisions in this final rule to reflect the threshold increase.⁵ DOL finds good cause to make these changes without prior notice and comment pursuant to 5 U.S.C. 553(b)(B). Specifically, DOL finds that notice and comment is unnecessary because the inflationary adjustments are minor and technical amendments that were previously subject to notice and comment through the Federal Acquisition Regulatory (FAR) Council's rulemaking process and are now binding on the VEVRAA regulations.⁶

III. Public Comments

The NPRM originally provided for a 60-day comment period, scheduled to close on September 2, 2025. After receiving comments requesting an extension of the comment period, DOL extended the comment period until September 17, 2025.⁷ DOL received 18 public comments in response to the NPRM. The commenters included employer associations, policy advocacy organizations, law firms and legal organizations, an education and research center, a veterans' rights organization, and individuals. The public comments are organized by topic and discussed below.

A. Comments Related to the Administrative Proceeding Procedures

DOL received numerous comments on its proposal to relocate the administrative proceeding procedures formerly contained in the Executive Order 11246 regulations into the VEVRAA implementing regulations. Several commenters supported this proposal, stating that conforming the regulatory structure in this manner is

reasonable and appropriate following the revocation of Executive Order 11246. These commenters noted that consolidating the applicable procedures within the VEVRAA regulations would improve regulatory clarity and transparency regarding the procedures governing enforcement of VEVRAA. Other commenters recommended that DOL modify or eliminate the administrative proceeding procedures because of recent case law challenging the use of Administrative Law Judges (ALJs) by Federal agencies. *See, e.g., Space Exploration Tech. Corp. v. Nat'l Labor Relations Bd.*, 151 F.4th 761 (5th Cir. 2025) (challenging the structure of the NLRB, including its ALJs); *ABM Indus. Groups, LLC v. U.S. Dep't of Labor, et al.*, 756 F. Supp. 3d 468 (S.D. Tex. Oct. 30, 2024) (holding that Plaintiff is likely to succeed on its claim that the assigned DOL ALJ is unconstitutionally protected by two layers of good-cause removal restrictions), *vacated*, No. 4:24-CV-03353, 2024 WL 6076919. Relying on this case law, some of these commenters asserted that DOL can no longer use the ALJ structure included in the current procedures. Commenters also cited *SEC v. Jarkesy*, 603 U.S. 109 (2024), in which the Supreme Court held that the Seventh Amendment requires the Securities and Exchange Commission (SEC) to pursue civil penalties in Federal court where the defendant is entitled to a jury trial. Some commenters further cited lower court decisions applying *Jarkesy* outside the SEC context, including *Sun Valley Orchards, LLC v. U.S. Dep't of Labor*, 148 F.4th 121 (3d Cir. 2025), *cert. granted*, 2026 WL 1127242 (U.S. Apr. 27, 2026) (applying *Jarkesy* to hold that DOL could not seek certain monetary remedies through administrative proceedings). However, the application of *Jarkesy* outside the SEC context remains unsettled and continues to be addressed by the courts. *Compare Sun Valley Orchards with Axalta Coating Systems LLC v. FAA*, 144 F.4th 467 (3d Cir. 2025) (holding that *Jarkesy* did not bar administrative adjudication of civil penalties for violations of hazmat regulations). DOL sought Supreme Court review of *Sun Valley Orchards*, and the Court granted a writ of certiorari.

In any event, these developments do not affect DOL's decision here. This final rule does not expand DOL's remedial authority, create new causes of action, or establish new enforcement mechanisms. It merely relocates the existing procedural provisions after the revocation of Executive Order 11246. To the extent future judicial decisions

clarify the constitutional status of DOL's ALJs, clarify the application of *Jarkesy* to DOL enforcement actions, or otherwise require changes to DOL's administrative enforcement structure or available remedies, then the impact of potential future judicial decisions on such issues may be addressed in a separate rulemaking. DOL reaffirms its position that moving the administrative proceeding procedures directly into the VEVRAA regulations is necessary due to the revocation of Executive Order 11246. This change will also provide clarity about the current administrative proceeding procedures applicable to VEVRAA.

B. Other Comments

Some commenters expressed general support for the VEVRAA regulations without addressing specific issues discussed in the NPRM. Other commenters raised issues unrelated to the proposed changes, such as recommending the removal of the show cause notice procedures from 41 CFR 60-300.62, recommending the removal of AAP requirements contained in the regulations, or requiring a barrier analysis when contractors are below the VEVRAA hiring benchmark, described at 41 CFR 60-300.45, for two consecutive years. DOL is not addressing these comments in the final rule as they are outside the scope of this rulemaking. If DOL determines that additional regulatory changes may be necessary, then DOL may pursue those changes in a separate rulemaking.

C. Final Rule Summary

For the reasons stated above, the final rule adopts the various changes proposed in the NPRM, which include each of the following: moving the administrative proceeding procedures directly into the VEVRAA regulations, specifically into 41 CFR 60-300.65(c) through (mm), except where duplicative of current part 60-300 provisions; removing the cross-reference to the Executive Order 11246 administrative proceeding procedures found in 41 CFR 60-300.65(b); removing the reference to 41 CFR part 60-3, which was included in 41 CFR 60-300.21(g)(2); and removing the unnecessary 29 U.S.C. 793 reference included in the authority citation for 41 CFR 60-300. The final rule also includes the recent inflationary adjustments to the VEVRAA jurisdictional thresholds. As detailed above, DOL has found good cause to implement the inflationary adjustments without notice and comment because the adjustments are minor and technical amendments that were previously subject to notice and comment through

⁴ See Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

⁵ Specifically, DOL has updated the jurisdictional threshold amounts included in 41 CFR 60-300.1(b), 41 CFR 60-300.2(f), (o), (p), (aa), 41 CFR 60-300.4(a)(1)-(2), 41 CFR 60-300.5(a)(11), 41 CFR 60-300.40(a), and 41 CFR 60-300.80(a) to reflect the inflationary adjustments.

⁶ See Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

⁷ Modifications to the Regulations Implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as Amended; Extension of Comment Period, 90 FR 42713 (Sept. 4, 2025).

the FAR Council's rulemaking process and the adjustments are now binding on the VEVRAA regulations.⁸

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of Executive Order 12866 also requires agencies to submit "significant regulatory actions" to the Office of Information and Regulatory Affairs (OIRA) for review. In accordance with Executive Order 12866, DOL has determined that this final rule does not constitute a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, this final rule was not submitted to OIRA for review under Executive Order 12866.

B. Costs and Regulatory Designation

This rule makes technical and conforming amendments that align regulatory text with existing requirements. It imposes no new obligations. The adjustment to the jurisdictional threshold increases the contract value required for coverage under VEVRAA from \$150,000 to \$200,000. Because the increased threshold exceeds a pure inflation adjustment, DOL expects that fewer contractors will be subject to the relevant VEVRAA regulatory requirements, resulting in reduced compliance burdens. Accordingly, the

rule has a deregulatory effect. DOL lacks data to determine how many contractors will no longer be covered as a result of this change, but DOL expects the number to be small given the incremental nature of the threshold increase. This rule is considered a deregulatory action under Executive Order 14192.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

DOL reviewed this final rule under the provisions of the Regulatory Flexibility Act. This final rule provides regulatory certainty to contractors and other stakeholders by aligning the regulations with the most recent executive orders and inflationary adjustments. As discussed above, the revisions are technical in nature, and do not impose any new requirements for covered entities. The increase in the jurisdictional threshold reduces the number of entities subject to the regulations. DOL lacks data to determine how many small entities will no longer be covered, but DOL expects the number to be small given the incremental nature of the threshold increase. Accordingly, DOL has concluded that the impacts of the final rule would not have a "significant economic impact on a substantial number of small entities" and that the preparation of a FRFA is not warranted. DOL will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act

This final rule imposes no new information or recordkeeping requirements and does not impact current information collections. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. 44 U.S.C. 3501 *et seq.*

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt

State law or that have federalism implications. Executive Order 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. Executive Order 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

DOL has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOL has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

⁸ See Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Sec. 201, Public Law 104–4 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a)–(b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this final rule according to UMRA and its statement of policy and determined that the final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOL has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (Mar. 18, 1988), DOL has determined that this final rule would not result in any takings that might require compensation under the

Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002). DOL has reviewed this final rule under the OMB guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13175

DOL has examined this final rule and determined that it does not have tribal implications under Executive Order 13175 that would require a tribal summary impact statement. It does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.”

L. Review Under Additional Executive Orders and Presidential Memoranda

DOL has examined this final rule and has determined that it is consistent with the policies and directives outlined in Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity” (see “Background” discussion regarding E.O. 14173). As noted above, this rule is considered a deregulatory action under Executive Order 14192.

List of Subjects in 41 CFR Part 60–300

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Labor, Veterans.

For the reasons set forth in the preamble, and under the authority of 38 U.S.C. 4212, as amended, DOL amends 41 CFR part 60–300 as set forth below:

PART 60–300—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING DISABLED VETERANS, RECENTLY SEPARATED VETERANS, ACTIVE DUTY WARTIME OR CAMPAIGN BADGE VETERANS, AND ARMED FORCES SERVICE MEDAL VETERANS

■ 1. Revise the authority citation for 41 CFR Part 60–300 to read as follows:

Authority: 38 U.S.C. 4211 and 4212; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

■ 2. Revise § 60–300.1(b) to read as follows:

§ 60–300.1 Purpose, applicability and construction.

* * * * *

(b) *Applicability.* This part applies to any Government contract or subcontract of \$200,000 or more, entered into or modified on or after December 1, 2003, for the purchase, sale or use of personal property or nonpersonal services (including construction): Provided, that subpart C of this part applies only as described in § 60–300.40(a); and that the non-discrimination protections in § 60–300.21 and the right to file complaints alleging discriminatory conduct set forth in § 60–300.61 also apply to “pre-JVA veterans” as defined in § 60–300.2, who are applicants or employees of a contractor with a Government contract of \$25,000 or more entered into prior to December 1, 2003, and unmodified since to a contract amount of \$200,000. Compliance by the contractor with the provisions of this part will not necessarily determine its compliance with other statutes, and compliance with other statutes will not necessarily determine its compliance with this part.

* * * * *

■ 3. Amend § 60–300.2 by revising paragraphs (f), (o), (p), and (aa) to read as follows:

§ 60–300.2 Definitions.

* * * * *

(f) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor holding a contract of \$200,000 or more.

* * * * *

(o) *Pre-JVA veteran* means an individual who is an employee of or applicant to a contractor with a contract of \$25,000 or more entered into prior to December 1, 2003 and unmodified since to \$200,000 or more, and who is a special disabled veteran, veteran of the Vietnam era, pre-JVA recently separated

veteran, or other protected veteran, as defined below:

* * * * *

(p) *Prime contractor* means any person holding a contract of \$200,000 or more, and, for the purposes of subpart D of this part, “General Enforcement and Complaint Procedures,” includes any person who has held a contract subject to the Act.

* * * * *

(aa) *Subcontractor* means any person holding a subcontract of \$200,000 or more and, for the purposes of subpart D of this part, “General Enforcement and Complaint Procedures,” any person who has held a subcontract subject to the Act.

* * * * *

■ 4. Revise § 60–300.4(a) to read as follows:

§ 60–300.4 Coverage and waivers.

(a) *General*—(1) *Contracts and subcontracts of \$200,000 or more.* Contracts and subcontracts of \$200,000 or more are covered by this part. No contracting agency or contractor shall procure supplies or services in less than usual quantities to avoid the applicability of the equal opportunity clause.

(2) *Contracts for indefinite quantities.* With respect to indefinite delivery-type contracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, “call-type” contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will be less than \$200,000. The applicability of the equal opportunity clause shall be determined at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order is \$200,000 or more. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

* * * * *

■ 5. Amend § 60–300.5 by revising paragraph (a)(11) to read as follows:

§ 60–300.5 Equal opportunity clause.

(a) * * *

(11) The contractor will include the provisions of this clause in every subcontract or purchase order of \$200,000 or more, unless exempted by

the rules, regulations, or orders of the Secretary issued pursuant to VEVRAA so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

* * * * *

■ 6. Revise § 60–300.21(g)(2) to read as follows:

§ 60–300.21 Prohibitions.

* * * * *

(g) * * *

(2) The Uniform Guidelines on Employee Selection Procedures do not apply to 38 U.S.C. 4212 and are similarly inapplicable to this part.

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■ 7. Revise § 60–300.40(a) to read as follows:

§ 60–300.40 Applicability of the affirmative action program requirement.

(a) The requirements of this subpart apply to every Government contractor that has 50 or more employees and a contract of \$200,000 or more.

* * * * *

■ 8. Revise § 60–300.65 to read as follows:

§ 60–300.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation or other review by OFCCP finds a violation of the Act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any of the above in this sentence. OFCCP may seek back pay and other make whole relief for aggrieved individuals identified during a complaint investigation or compliance evaluation. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service for the underpayment of taxes.

(2) In addition to the administrative proceedings set forth in this section, the Director may, within the limitations of applicable law, seek appropriate judicial

action to enforce the contractual provisions set forth in § 60–300.5, including appropriate injunctive relief.

(b) *Hearing practice and procedure.*

(1) In administrative enforcement proceedings the contractor shall be provided an opportunity for a formal hearing. All hearings conducted under the Act and this part shall be governed by the regulations in paragraphs (c) to (mm) of this section and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR part 18, subpart B: *Provided*, That a final administrative order shall be issued within one year from the date of the issuance of the recommended findings, conclusions and decision of the Administrative Law Judge, or the submission of exceptions and responses to exceptions to such decision (if any), whichever is later.

(2) Complaints may be filed by the Solicitor, the Associate Solicitor for Civil Rights and Labor-Management, Regional Solicitors, and Associate Regional Solicitors.

(3) [Reserved]

(c) *Applicability of rules of practice for administrative proceedings.* The regulations at paragraphs (c) to (mm) of this section provide the rules of practice for all administrative proceedings that relate to the enforcement of the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (VEVRAA), as amended, including but not limited to proceedings instituted against contractors or subcontractors covered by this part. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

(d) *Waiver, modification.* Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

(e) *Computation of time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

(f) *Form, filing, service of pleadings and papers*—(1) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations of this section shall be filed with the Administrative Law Judge assigned to the case or with the Chief

Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless otherwise ordered for good cause by the Administrative Law Judge regarding specific papers and pleadings in a specific case, all such papers and pleadings are public documents.

(2) *Service.* Service upon any party shall be made by the party filing the pleading or document in accordance with 29 CFR part 26. When a party is represented by an attorney, the service shall be upon the attorney.

(3) *Proof of service.* A certificate of the person serving the pleading or other document, setting forth the manner of service, shall be proof of the service.

(g) *Prehearing procedures: Administrative complaint—*(1) *Filing.* The Solicitor of Labor, Associate Solicitor for Labor Relations and Civil Rights Regional Solicitors and Regional Attorney upon referral from the Office of Federal Contract Compliance Programs, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, as shall be designated as the plaintiff.

(2) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(3) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party;

and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. An amended answer shall be responded to within 14 days of its service.

(h) *Prehearing procedures: Answer—*(1) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney and served on the Government in accordance with paragraph (f)(2) of this section.

(2) *Contents; failure to file.* The answer shall:

(i) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or

(ii) State that the defendant admits all the allegations of the complaint. The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(3) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision and to file briefs in support of the exceptions.

(i) *Prehearing procedures: Notice of prehearing conference.* The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days and shall serve a notice of prehearing conference on the parties. The notice shall contain the time and place of the conference.

(j) *Prehearing procedures: Motions; disposition of motions—*(1) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the

motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(2) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: *Provided,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

(k) *Prehearing procedures: Interrogatories and admissions as to facts and documents—*(1) *Interrogatories.* Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whoever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory.

(2) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either:

(i) Denying specifically the matter as to which an admission is requested; or

(ii) Setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(3) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

(l) *Prehearing procedures: Production of documents and things and entry upon land for inspection and other purposes.* (1) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(2) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and, which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(3) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(4) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

(m) *Prehearing procedures: Depositions upon oral examination.—*

(1) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding, and may use an administrative subpoena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined,

if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(2) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(3) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the

witness' failure or refusal to answer the question: *Provided*, That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(4) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order of the Administrative Law Judge for good cause shown.

(5) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(i) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(ii) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(iii) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the administrative law judge finds:

(A) That the witness is dead; or

(B) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(C) that the party offering the deposition has been unable to procure

the attendance of the witness by subpoena; or

(D) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(iv) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(6) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

(n) *Prehearing procedures: Prehearing conferences.* (1) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(iii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iv) Limitation of number of witnesses;

(v) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

(o) *Prehearing procedures: Consent findings and order—*(1) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(2) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(i) That the order shall have the same force and effect as an order made after full hearing;

(ii) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(iii) That any further procedural steps are waived; and

(iv) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(3) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(i) Submit the proposed agreement to the Administrative Law Judge for his consideration;

(ii) Inform the Administrative Law Judge that agreement cannot be reached.

(4) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings, and his decision shall constitute the final Administrative order.

(p) *Hearings and Related Matters: Designation of Administrative Law Judges.* Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and papers shall be filed with the Chief Administrative Law Judge.

(q) *Hearings and Related Matters: Authority and responsibilities of Administrative Law Judges.* The Administrative Law Judge shall propose findings and conclusions to the Secretary on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(1) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(2) Require parties to state their position with respect to the various issues in the proceeding;

(3) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;

(4) Administer oaths;

(5) Rule on motions, and other procedural items or matters pending before him;

(6) Regulate the course of the hearing and conduct of participants therein;

(7) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(8) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(9) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(10) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(i) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

(ii) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(iii) Expelling any party or person from further participation in the hearing;

(11) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(12) Recommend whether the respondent is in current violation of the order, regulations, or its contractual obligations, as well as the nature of the relief necessary to insure the full enjoyment of the rights secured by the order;

(13) Issue subpoenas; and

(14) Take any action authorized by these rules.

(r) *Hearings and Related Matters: Appearances—*(1) *Representation.* The parties or other persons or organizations participating pursuant to this section have the right to be represented by counsel.

(2) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the

Administrative Law Judge's recommended decision and to file exceptions to it.

(s) *Hearings and Related Matters: Appearance of witnesses.* (1) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpoena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(2) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(3) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

(t) *Hearings and Related Matters: Rules of evidence.* In any hearing, decision, or administrative review conducted pursuant to this part, all evidentiary matters shall be governed by Office of Administrative Law Judges' Rules of evidence at 29 CFR part 18, subpart B, *Provided however*, That the provision at 29 CFR 18.1104 which delays the effective date of the rule with respect to certain investigations does not apply.

(u) *Hearings and Related Matters: Objections; exceptions; offer of proof—*(1) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(2) *Exceptions.* Formal exception to an adverse ruling is not required.

Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

(3) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(v) *Hearings and Related Matters: Ex parte communications.* The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

(w) *Hearings and Related Matters: Oral argument.* Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

(x) *Hearings and Related Matters: Official transcript.* The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

(y) *Hearings and Related Matters: Summary judgment—*(1) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for a summary judgment upon all claims or any part.

(2) *For defendant.* The defendant may, at any time after commencement of

the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(3) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(4) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(5) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(6) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

(z) *Hearings and Related Matters: Participation by interested persons*—(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state:

- (i) Petitioner's interest in the proceedings;
- (ii) who will appear for petitioner;
- (iii) the issues on which petitioner wishes to participate; and
- (iv) whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: *Provided*, That the representative of a labor organization qualifying to participate under paragraph (z)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(5) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state:

- (i) The petitioner's interest in the hearing;
- (ii) who will represent the petitioner; and

(iii) the issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this section.

(6) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

(aa) *Post-Hearing Procedures: Proposed findings of fact and conclusions of law.* Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

(bb) *Post-Hearing Procedures: Record for recommended decision.* The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

(cc) *Post-Hearing Procedures: Recommended decision.* Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

(dd) *Post-Hearing Procedures: Exceptions to recommended decisions.* Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to

by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Administrative Review Board, United States Department of Labor, for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

(ee) *Post-Hearing Procedures: Record.* After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a decision, which shall be the Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

(ff) *Post-Hearing Procedures: Administrative Order.* After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a decision which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated VEVRAA, the equal opportunity clause, or the regulations, an Administrative Order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate cancellation, termination, and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

(gg) *Expedited Hearing Procedures: Expedited hearings—when appropriate.* Expedited Hearings may be used, *inter alia*, when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

(hh) *Expedited Hearing Procedures: Administrative complaint and answer.* (1) Expedited hearings shall be

commenced by filing an administrative complaint in accordance with paragraph (g) of this section. The complaint shall state that the hearing is subject to these expedited hearing procedures.

(2) The answer shall be filed in accordance with paragraphs (h)(1) and (2) of this section.

(3) Failure to request a hearing within the 20 days provided by paragraph (h)(1) of this section shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with paragraph (ll) of this section.

(4) If a request for a hearing is received within 20 days as provided by paragraph (h)(1) of this section, the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

(ii) *Discovery.* (1) Any party may serve requests for admissions in accordance with paragraphs (k)(2) and (3) of this section.

(2) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(3) For good cause shown, and upon motion made in accordance with paragraph (j) of this section, the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

(jj) *Conduct of hearing.* (1) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(2) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

(kk) *Recommended decision after hearing.* Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended decision shall be served on all parties and amici to the proceeding.

(ll) *Exceptions to recommendations.* Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Briefs or exceptions and responses shall be served simultaneously on all parties to the proceeding.

(mm) *Final Administrative Order.* After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue an Administrative Order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues an Administrative Order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this paragraph (mm), paragraph (ff) of this section shall be applicable.

■ 9. Revise § 60–300.80(a) to read as follows:

§ 60–300.80 Recordkeeping.

(a) *General requirements.* Except as set forth in paragraph (b) of this section, any personnel or employment record made or kept by the contractor shall be preserved by the contractor for a period of two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor has fewer than 150 employees or does not have a Government contract of at least \$200,000, the minimum record retention

period will be one year from the date of the making of the record or the personnel action involved, whichever occurs later, except as set forth in paragraph (b) of this section. Such records include, but are not necessarily limited to, records relating to requests for reasonable accommodation; the results of any physical examination; job advertisements and postings; applications and resumes; tests and test results; interview notes; and other records having to do with hiring, assignment, promotion, demotion, transfer, lay-off or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of two years from the date of the termination, except that contractors that have fewer than 150 employees or do not have a Government contract of at least \$200,000 shall keep such records for a period of one year from the date of the termination. Where the contractor has received notice that a complaint of discrimination has been filed, that a compliance evaluation has been initiated, or that an enforcement action has been commenced, the contractor shall preserve all personnel records relevant to the complaint, compliance evaluation or action until final disposition of the complaint, compliance evaluation or action. The term *personnel records relevant to the complaint, compliance evaluation or action* would include, for example, personnel or employment records relating to the aggrieved person and to all other employees holding positions similar to that held or sought by the aggrieved person, and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the aggrieved person applied and was rejected.

* * * * *

Dated: August 19, 2026.

Kenneth Wolfe,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2026–17116 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 140501394–5279–02; RTID 0648–XF957]

Fisheries of the South Atlantic; Commercial Closure for Blueline Tilefish in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure for the commercial harvest of blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. NMFS estimates that commercial landings of blueline tilefish will reach the commercial annual catch limit (ACL) for the 2026 fishing year. Accordingly, NMFS closes the commercial sector of blueline tilefish in the South Atlantic EEZ to protect the blueline tilefish resource from overfishing.

DATES: This temporary rule is effective from August 24, 2026, through December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Michelle Walsh, NMFS Southeast Regional Office, telephone: 727–824–5305, email: michelle.walsh@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes blueline tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights in this temporary rule are given in round weight.

The regulation codified at 50 CFR 622.193(z)(1)(i) specifies the commercial ACL and in-season accountability measure for blueline tilefish in the South Atlantic. The commercial ACL is 117,148 pounds (53,137 kilograms). NMFS is required to close the commercial sector of blueline tilefish when NMFS projects that commercial landings reach or are projected to reach the commercial ACL. NMFS projects that the commercial ACL will have been reached by August 24, 2026. Accordingly, the commercial sector of South Atlantic blueline tilefish is closed

from August 24, 2026, through December 31, 2026.

During the commercial closure, all sale or purchase of blueline tilefish is prohibited and harvest or possession of blueline tilefish in or from the South Atlantic EEZ is limited to the recreational bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in State or Federal waters (50 CFR 622.193(z)(1)(i)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(z)(1)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the closure of the blueline tilefish commercial sector at 50 CFR 622.193(z)(1)(i) have already been subject to notice and public comment, and all that remains is to notify the public of the commercial closure. Prior notice and opportunity for public comment are contrary to the public interest because there is a need to immediately implement this action to protect blueline tilefish, because the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the commercial ACL.

For the reasons already stated, there is also good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2026.

Shannon Bettridge,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 2026–17113 Filed 8–19–26; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 260505–0124; RTID 0648–XF958]

Fisheries of the Caribbean, Gulf of America, and South Atlantic; 2026 Commercial Closure for the Scamp and Yellowmouth Grouper Complex in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial harvest of the scamp and yellowmouth grouper complex in South Atlantic Federal waters. NMFS projects that commercial landings of the scamp and yellowmouth grouper complex will reach the commercial annual catch limit (ACL) for 2026. Therefore, NMFS closes the commercial sector of the scamp and yellowmouth grouper complex in South Atlantic Federal waters to protect the scamp and yellowmouth grouper resource from overfishing.

DATES: This temporary rule is effective from August 24, 2026, through December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727–824–5305, email: karla.gore@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes scamp and yellowmouth grouper 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, approved by the Secretary of Commerce, and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All weights in this temporary rule are in round weight.

The final rule for Amendment 55 to the FMP was effective on July 6, 2026, and among other measures, created a new scamp and yellowmouth grouper complex (91 FR 33661, June 4, 2026). The commercial annual catch limit (ACL) for the scamp and yellowmouth grouper complex for the 2026 fishing year is 46,147 pounds (20,932

kilograms) (50 CFR 622.193(i)(1)(i)). This regulation also specifies the commercial in-season accountability measure (AM) for the scamp and yellowmouth grouper complex in the South Atlantic. The AM requires NMFS to close the commercial sector of the scamp and yellowmouth grouper complex for the rest of the fishing year when commercial landings reach or are projected to reach the commercial ACL. NMFS projects that the commercial ACL will have been reached by *[insert date 5 days after date of filing for public inspection with the Office of the Federal Register]*. Accordingly, the commercial sector of the scamp and yellowmouth grouper complex is closed beginning on August 24, 2026, and will remain closed through December 31, 2026, the end of the current fishing year.

During the commercial closure, all sale or purchase of scamp and yellowmouth grouper is prohibited and harvest and possession of scamp and yellowmouth grouper in or from South Atlantic Federal waters is limited to the recreational bag and possession limits. These bag and possession limits apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter/vessel headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.*, in state or Federal waters.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(i)(1)(i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the commercial closure of the scamp and yellowmouth grouper complex have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment on this action is contrary to the public interest because of the need to immediately implement the commercial closure to protect the scamp and yellowmouth grouper resource in the South Atlantic. The capacity of the commercial fishing fleet allows for rapid harvest of the commercial ACL, and any delay in the closure could result in the exceedance

of the applicable ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest that exceeds the commercial ACL.

For the reasons just stated, NMFS also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2026.

Shannon Bettridge,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2026–17109 Filed 8–19–26; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1710319998630–02; RTID 0648–XF979]

Fisheries of the South Atlantic; 2026 Commercial Closure of Red Snapper in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure for red snapper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects that commercial landings of red snapper will reach the commercial annual catch limit (ACL) for the 2026 fishing year. Therefore, NMFS is closing the commercial sector for red snapper in the South Atlantic EEZ. This closure is necessary to protect the red snapper resource.

DATES: This temporary rule is effective from August 24, 2026, through December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, NMFS Southeast Regional Office, 727–824–5305, nikhil.mehta@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic 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, and 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 regulations codified at 50 CFR 622.193(y)(1) specify the commercial ACL and the commercial accountability measures (AM) for South Atlantic red snapper. The commercial ACL is 102,951 pounds (46,698 kilograms), round weight. The commercial AM states that NMFS is required to close the commercial sector for red snapper when NMFS projects that commercial landings reach or are projected to reach the commercial ACL. NMFS projects that the commercial ACL will have been reached by August 24, 2026. Accordingly, the commercial sector for South Atlantic red snapper is closed from August 24, 2026, through December 31, 2026, the end of the current fishing year. Unless NMFS specifies otherwise, the commercial season for red snapper in the 2027 fishing year will begin on the second Monday in July (50 CFR 622.183(b)(5)(i)).

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper with red snapper on board must have landed and bartered, traded, or sold such red snapper prior to August 24, 2026.

During the commercial closure for South Atlantic red snapper, all sale or purchase of red snapper is prohibited. This prohibition on the harvest, possession, sale, or purchase of red snapper applies in the South Atlantic on a vessel issued a Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, regardless if such fish were harvested or possessed in State or Federal waters (50 CFR 622.181(c)(2) and 622.193(y)(1)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.193(y)(1), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule that established the commercial AM for red snapper has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to

the public interest because of the need to immediately implement this action to protect red snapper, because the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial ACL.

For the reasons just stated, there is also good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2026.

Shannon Bettridge,

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

[FR Doc. 2026-17120 Filed 8-19-26; 4:15 pm]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260702-0161; RTID 0648-XF978]

Fisheries of the Northeastern United States; Mackerel, Squid, and Butterfish; 2026 *Illex* Squid Quota Harvested

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

ACTION: Temporary rule; possession limit adjustment.

SUMMARY: NMFS is closing the directed *Illex* squid fishery in Federal waters based on a projection that 96 percent of the 2026 domestic annual harvest (DAH) will be harvested. This closure is effective 0001 hour (hr) local time on August 23, 2026, through 2400 hr local time on December 31, 2026. This action is necessary to comply with the regulations implementing the Mackerel, Squid, and Butterfish Fishery Management Plan (FMP), and is intended to prevent the 2026 *Illex* squid annual catch limit from being exceeded.

DATES: Effective 0001 hr local time on August 23, 2026, through 2400 hr local time on December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Policy Analyst, 978-281-9196.

SUPPLEMENTARY INFORMATION: Regulations implementing the Mackerel, Squid, and Butterfish FMP appear at 50 CFR part 648, subpart B. The regulations

at § 648.22 describe the specifications that must be set annually for the fisheries managed under the Mackerel, Squid, and Butterfish FMP. For the *Illex* squid fishery, these specifications include the Domestic Annual Harvest (DAH), which is also known as the commercial quota and represents the total amount of *Illex* squid that can be landed by commercial fishing vessels in a given fishing year. On July 9, 2026, NMFS published a final rule (91 FR 42360) implementing a 38,631-metric ton (mt) *Illex* squid DAH for fishing year 2026 (January 1–December 31, 2026).

The regulations at § 648.24(a)(2) require NMFS to close the directed *Illex* squid fishery in Federal waters for the remainder of the year when the Regional Administrator projects that 96 percent of the DAH is harvested. When such a closure is in effect, vessels are prohibited from fishing for, possessing, or landing more than 10,000 pounds (lb; 4,536 kilograms (kg)) of *Illex* squid at any time per trip, and from landing *Illex* squid more than once per calendar day, as specified at § 648.26(c)(2).

Based on vessel reports, dealer reports, and other available information, the Regional Administrator projected that 96 percent of the *Illex* squid DAH will be harvested by August 23, 2026. Therefore, effective 0001 hr local time on August 23, 2026, through 2400 hr local time on December 31, 2026, vessels may not fish for, possess, or land more than 10,000 lb (4,536 kg) of *Illex* squid at any time per trip, and may only land *Illex* squid once per calendar day. Vessels issued an *Illex* squid moratorium permit that enter port before 0001 hr local time on August 23, 2026, may land and sell more than 10,000 lb (4,536 kg) of *Illex* squid from that trip, consistent with the possession restrictions at § 648.26(c).

Also, effective 0001 hr local time on August 23, 2026, through 2400 hr local time on December 31, 2026, federally permitted dealers may not purchase, possess, or receive for a commercial purpose or attempt to purchase, possess, or receive for a commercial purpose, more than 10,000 lb (4,536 kg) of *Illex* squid from a vessel unless the vessel enters port before 0001 hr local time on August 23, 2026.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act. This action is required by § 648.24(a)(2), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The public had prior notice and opportunity to comment on the 2026 *Illex* squid DAH through the proposed rule to implement the 2026 *Illex* squid fishery specifications (91 FR 12545; March 16, 2026), and the closure process for the *Illex* squid fishery when that provision of the FMP was put in place. Further, data indicating that 96 percent of the 2026 DAH will be harvested only recently became available. High volume landings in the *Illex* squid fishery can lead to harvest of the DAH relatively quickly. If implementation of this action is delayed, the 2026 DAH will likely be exceeded, thereby undermining the conservation objectives of the Mackerel, Squid, and Butterfish FMP. For these reasons, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2026.

Shannon Bettridge,

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

[FR Doc. 2026-17148 Filed 8-20-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 260209-0039; RTID 0648-XF973]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Massachusetts

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2026 commercial summer flounder quota to the Commonwealth of Massachusetts. This adjustment to the 2026 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2026

commercial quotas for North Carolina and Massachusetts.

DATES: Effective August 20, 2026, through December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Matthew Rigdon, Fishery Management Specialist, (978) 281–9336.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2026 allocations were published on February 19, 2026 (91 FR 7896).

The final rule implementing amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one

state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 2,435 pounds (lb; 1,104 kilograms (kg)) of summer flounder to Massachusetts through a mutual agreement between

the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2026 are: North Carolina, 2,899,571 lb (1,315,223 kg); and Massachusetts, 1,048,732 lb (475,697 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 19, 2026.

Shannon Bettridge,

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

[FR Doc. 2026–17129 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 161

Friday, August 21, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 100

DEPARTMENT OF ENERGY

U.S. Customs and Border Protection

19 CFR Part 122

[Docket No. USCBP–2026–0892]

RIN 1651–AB51

Withdrawal of International Airport Designation of Chalk Seaplane Base

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

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to withdraw the international airport designation of Chalk Seaplane Base, now operating as Miami Seaplane Base. This proposal is based on evidence that the facility at this location has not been in compliance with CBP regulatory and security standards and the amount of business clearing through the airport does not justify continued maintenance of inspection equipment and personnel. The proposed change is part of CBP's continued efforts to use its personnel, facilities, and resources more efficiently and to provide better service to carriers, importers, and the public.

DATES: Send comments on or before October 20, 2026.

ADDRESSES: Please submit comments, identified by docket number [USCBP–2026–0892], by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting

comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Joshua Serian, Special Advisor, Facilities and Tech Division, Office of Field Operations, U.S. Customs and Border Protection, by phone at 202–713–8649 or email at Joshua.Serian@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the notice of proposed rulemaking. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

A. Legal Authority

Section 402 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2142, as amended (HSA) (6 U.S.C. 202), sets forth the responsibilities of the Secretary of Homeland Security (Secretary), including, in pertinent part, securing the borders, ports, and air transportation systems of the United States, including managing and coordinating those functions transferred to the Department of Homeland Security (DHS) at ports of entry; carrying out certain immigration enforcement functions transferred to DHS; and administering the customs laws of the United States.¹ Section 403 of the HSA,

¹ Section 1512 of the HSA (6 U.S.C. 552) contains savings provisions governing completed administrative actions, pending proceedings and civil actions, references, employment provisions, and statutory reporting requirements following the transfer of functions to DHS. Section 1517 of the HSA (6 U.S.C. 557) provides that, with respect to transferred functions, references in Federal law to a department, commission, agency, officer, or office

codified at 6 U.S.C. 203, transferred to the Secretary of DHS the functions of the United States Customs Service, including functions of the Secretary of the Treasury relating thereto. *See* 6 U.S.C. 203(1). Although section 412 of the HSA, codified at 6 U.S.C. 212, retained certain customs revenue functions with the Secretary of the Treasury, the authority under 19 U.S.C. 1644a was not among the functions retained. *See* 6 U.S.C. 212(a). Accordingly, the Secretary may designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and for property transported on that aircraft, and may, by regulation, apply to civil air navigation, the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary. *See* section 2 of the Act of July 5, 1994, Public Law 103–272, 108 Stat. 745, 1358 (19 U.S.C. 1644a).

Additionally, the Secretary is charged with the administration and enforcement of the Immigration and Nationality Act (INA) and all other laws relating to the immigration and naturalization of aliens, except insofar as those laws relate to the powers, functions, and duties conferred upon the President, the Attorney General, the Secretary of State, officers of the Department of State, or diplomatic consular officers. *See* section 103(a)(1) of the INA, Public Law 82–414, 66 Stat. 163, 173 (1952)), as amended (INA) (8 U.S.C. 1103(a)(1)).² Pursuant to the HSA, the immigration functions previously exercised by the Attorney General through the Immigration and Naturalization Service were transferred to the Secretary of Homeland Security. Section 402 of the HSA (6 U.S.C. 202) further provides that the Secretary is responsible for securing the borders, territorial waters, ports, waterways, and air, land, and sea transportation systems, including managing and coordinating those functions transferred to the Department at ports of entry. Accordingly, the Secretary is authorized by regulation to designate as ports of entry for aliens arriving by aircraft any of the ports of entry for civil aircraft designated as such in accordance with law. *See* INA sec. 234 (8 U.S.C. 1224).

are deemed to refer to the Secretary, other official, or component of DHS to which the function is transferred.

B. Current Regulations

The airports designated for arriving aircraft under the authorities described above are known as “international airports.” See sections 234.1 and 234.4 of title 8 and section 122.1(e) of title 19 of the Code of Federal Regulations (CFR). Such international airports are so designated for the entry of aircraft arriving in the United States from any place outside thereof and for the merchandise carried on such aircraft, that is, for administration of the customs laws of the United States; as well as for the entry of aliens arriving on such aircraft, that is, for administration of the immigration laws of the United States. See 8 CFR 234.1, 234.4 (immigration); 19 CFR 122.1(e) (customs). Generally, the first landing of an aircraft entering the United States from a foreign area will be at a designated international airport unless the aircraft has been exempted or permission to land elsewhere has been granted. See 8 CFR 234.2; 19 CFR 122.33.

For purposes of the administration of the customs laws, such designated international airports are listed in 19 CFR 122.13 and are open to all aircraft for entry and clearance at no charge by CBP, as detailed in 19 CFR 122.12, along with other operational requirements. Each designated international airport must provide, without cost to the Federal Government, proper office and other space as detailed in 19 CFR 122.11(c). The following reasons for withdrawal of the designation as an international airport are set forth in 19 CFR 122.11(b): (1) the amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel; (2) proper facilities are not provided or maintained by the airport; (3) the rules and regulations of the Federal Government are not followed; or (4) some other location would be more useful.

For purposes of the administration of immigration laws, such designated international airports are described in 8 CFR 234.4 and listed in 8 CFR 100.4(b). Each designated international airport must provide adequate facilities at such airport without cost to the Federal Government for the proper inspection and disposition of aliens, including office space and such temporary detention quarters as may be found necessary, as detailed in 8 CFR 234.4. Pursuant to 8 CFR 234.4, the designation of an airport as an international airport for the entry of aliens may be withdrawn whenever, in the judgment of the Commissioner of

CBP, there appears just cause for such action.

IV. Purpose of the Rule and Proposed Amendments

DHS and CBP are proposing to remove Chalk Seaplane Base, now operating as Miami Seaplane Base (CSB),³ from the lists of designated international airports in both title 8 and title 19 of the CFR.⁴ 8 CFR 100.4(b) and 19 CFR 122.13. As detailed below, this proposal is based on the judgment of the Commissioner of CBP that there is just cause for the withdrawal of the designation for immigration purposes. See 8 CFR 234.4. Separately, the proposal is based on airport management’s failure to maintain proper CBP facilities and an insufficient volume of business at the airport for customs purposes. See 19 CFR 122.11(b).

A. History of Operations at Chalk Seaplane Base

In 1926, Chalks Airline built CSB on Watson Island, in Biscayne Bay, near the city of Miami, Florida, and was authorized to operate CSB by the City of Miami. CSB was added to the list of international airports for arriving aliens then codified at the former 8 CFR 231.6 on December 19, 1952 (17 FR 11469, 11501), and to the list of customs international airports in 19 CFR 122.13, on March 22, 1988 (53 FR 9292, 9295). Beginning in approximately 1929, Chalks Airline and other airlines operated flights to and from CSB, including international flights. Chalks Airline ceased flight operations in 2007 when the U.S. Department of Transportation revoked the airline’s flight authority due to safety issues, and Chalks Airline has not operated flights since that time. However, Chalks Airline still possessed the rights to operate CSB. In 2012, Nautilus Enterprises purchased Chalks Airline and, with it, the rights to operate CSB. Until May 2021, CBP processed passengers for customs and immigration purposes for up to 11 flights at CSB, on a weekly basis. The

³ While the airport is now commonly known as “Miami Seaplane Base,” the regulations refer to it as “Chalks Flying Service Seaplane Base” and “Chalk Seaplane Base.” (8 CFR 100.4 and 19 CFR 122.13.) For ease, this document will use the abbreviation “CSB” when referring to the seaplane base.

⁴ CBP ports of entry are also listed, along with a citation to their geographic boundaries in most cases, in 19 CFR 101.3. The geographic boundaries listed in 19 CFR 101.3 for the Miami port of entry include the location of CSB (as described in T.D. 53514). However, withdrawing the designation of CSB as an international airport will not affect the geographic boundaries of the Miami port of entry. Therefore, DHS is not proposing to amend 19 CFR 101.3 with regard to the Miami port of entry.

flights typically originated from the Bahamas and contained about five passengers each. During that time, CBP officers traveled from the Miami Seaport, located three miles away from CSB, to process passengers at CSB. Beginning in 2013, CBP engaged in several rounds of communication with CSB management regarding CSB’s facilities that did not meet CBP’s regulatory criteria for safety and security relating to inspectional activities and low passenger volume. Due to CSB’s continued failure to provide a compliant facility, CBP began denying all aircraft traveling from foreign areas permission to land at CSB starting in May 2021, as discussed below. The airport still exists and operates for non-international flights. All international flights use nearby aviation facilities such as Fort Lauderdale-Hollywood International and Miami International airports for CBP processing.⁵

B. Noncompliant CBP Processing Facility

The facilities at CSB do not meet CBP’s compliance standards as required in 8 CFR 234.4 and 19 CFR 122.11(b), despite repeated requests by CBP to the President of Chalks Airline, as the manager in charge of operations at CSB, to provide adequate space. After multiple rounds of communication between Chalks Airline and CBP regarding the noncompliant facility, on August 6, 2019, CBP sent the President of Chalks Airline a formal notice stating that CSB must provide a compliant facility within 12 months. CBP explained that if a compliant facility was not provided during this time, all passengers and crewmembers would be transported under safeguard to Port of Miami facilities for processing, at the expense of the operator. Chalks Airline confirmed receipt of this notice in October 2019, during conversations with CBP, but ultimately did not commit to providing compliant facilities. On March 2, 2020, CBP notified Chalks Airline that the transportation of passengers and crewmembers to Port of Miami facilities under safeguard would not be allowed after November 4, 2020, citing ongoing safety and security concerns. CBP stated that, after this date, CBP would deny permission to land to all aircraft operators seeking to land at CSB from any foreign area, until CSB provides and maintains a compliant facility. Due to the COVID-19 pandemic, this deadline was not enforced until 2021. On April 15, 2021, CBP sent Chalks Airline a

⁵ Information provided by CBP’s Office of Field Operations’ subject matter expert on July 8, 2024.

formal notice that CBP would begin denying permission to all aircraft operators seeking to land at CSB from any foreign area, on May 15, 2021. Since May 15, 2021, CBP has denied permission to land to all aircraft operators at CSB from foreign areas and has directed these flights to land at Miami International Airport or Fort Lauderdale-Hollywood International Airport, for CBP customs and immigration processing.

In April 2022, Chalks Airline stated that it had not started constructing a compliant facility and that it would be about two years until the facility would be complete. No progress has been made to date. Chalks Airline has repeatedly provided to CBP over the past five years an artistic rendition of the proposed new terminal. However, CBP has continued to state that the layout of this facility is still not compliant with the 2021 CBP Airport Terminal Design Standard. Therefore, CSB continues to violate the requirements of 8 CFR 234.4 and 19 CFR 122.11(b)(2) and (c).

C. Insufficient Passenger Volume

Even if Chalks Airline provided a compliant facility for CBP processing, there are not enough passengers traveling through CSB to warrant an international airport designation. The applicable customs regulations for the designation of international airports state that the designation may be withdrawn because the amount of business clearing through the airport does not justify maintenance of inspection equipment and personnel. 19 CFR 122.11(b)(1). As stated above, before 2021, CBP was only processing about 55 passengers weekly at CSB from only one international destination: the Bahamas. Furthermore, Miami International Airport is only three miles from CSB, offering a reasonable alternative to flights that would have otherwise been processed at CSB. Further, as noted above, designation as an international airport for entry of aliens may be withdrawn if the Commissioner of CBP finds just cause for such withdrawal. See 8 CFR 234.4. The Commissioner has recommended to the Secretary that the international airport designation for CSB should be withdrawn.

D. Proposed Amendments

For the aforementioned reasons, CBP is proposing to amend the regulations to remove “Chalk Seaplane Base” from the lists of designated international airports for immigration and customs purposes in 8 CFR 100.4(b) and 19 CFR 122.13. Revocation of the international airport designation would not result in any

significant reduction in CBP services in the area, as there are two suitable international airports nearby, Miami International Airport and Fort Lauderdale-Hollywood International Airport.

V. Congressional Notification

On November 25, 2025, the Secretary of DHS notified Congress of DHS’s intention to remove the designation of Chalk Seaplane Base, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

VI. Statutory and Regulatory Requirements

A. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.”

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

This rule is an Executive Order 14192 deregulatory action because this rule clarifies the regulations by removing a CBP port of entry from the codified lists of designated airports that has not been in use for CBP processing of international arrivals as of May 2021. Doing so eliminates public confusion for those who consult the regulations for a list of ports they may use. As this port has not been in use for several years, CBP believes the savings from eliminating the rule to be negligible and does not estimate any monetized savings associated with this deregulatory action. See OMB Memorandum M–25–20, “Guidance Implementing Section 3 of Executive Order 14192, titled ‘Unleashing

Prosperity Through Deregulation’ ” (Mar. 26, 2025).

As of May 2021, CBP has stopped the processing of arrivals at CSB due to the noncompliant nature of the facility and insufficient traveler volume. Instead, seaplanes now land at either Miami International Airport or Fort Lauderdale-Hollywood International Airport. Both Miami International and Fort Lauderdale-Hollywood International airports have facilities that meet CBP safety and inspection criteria. CBP is proposing to remove CSB from the lists of international airports in 8 CFR 100.4(b) and 19 CFR 122.13 and continue the processing of arrivals associated with Chalks Airline at the nearby facilities. CBP will not process any future arrivals at CSB, even in the absence of this rule, as the facility is not safe for CBP’s operations, and the seaplane base operator had more than five years to correct the deficiencies and did not do so.

Since CSB does not meet safety and security requirements for safe CBP operations, CBP will continue to process seaplane arrivals at either Miami International Airport or Fort Lauderdale-Hollywood International Airport. The effect of this proposed rule would be simply to update the CFR to reflect the current list of international airports in operation. CBP thus does not anticipate that this proposed rule would have any costs. Passengers will continue to land and disembark at either Miami International Airport or Fort Lauderdale-Hollywood International Airport for processing and will be unaffected by this rule. Since airplanes already land at Miami International Airport and Fort Lauderdale-Hollywood International Airport, there is no change from the baseline for these facilities either. Therefore, the economic cost on all parties is expected to be zero.

This proposed rule would remove an airport not used for international flights for several years from the lists of international airports in the regulations. To the extent that this alleviates public confusion, this proposed rule would have a minor transparency benefit.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities when the agency is required to publish a general notice of proposed rulemaking for a rule. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business

per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Because this proposed rule would merely remove an airport not used for international flights for several years from the lists of international airports, the proposed rule does not have a significant economic impact. As the proposed rule would affect only one party, the rule does not affect a substantial number of small entities. Accordingly, CBP certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

This proposed rule would not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it would not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*).

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that CBP consider the impact of paperwork and other information collection burdens imposed on the public. There is no new collection of information required in this document; therefore, the provisions of the Paperwork Reduction Act are inapplicable.

VII. Authority

The amendment to part 100 of title 8 of the CFR is proposed under the authority of 8 U.S.C. 1103, 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458), and 8 CFR part 2.

The amendment to part 122 of title 19 of the CFR is proposed under the authority of 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, and 2071 note.

VIII. Signing Authority

The signing authority for the proposed amendment to an immigration port of entry under title 8 of the CFR is governed by Section 441 of the Homeland Security Act of 2002, as amended (6 U.S.C. 251).

The signing authority for the proposed amendment to a customs port of entry under title 19 of the CFR falls under 19 CFR 0.2(a).

Accordingly, this notice of proposed rulemaking is signed by the Secretary of Homeland Security.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

IX. Proposed Regulatory Amendments

For the reasons stated in the preamble, DHS proposes to amend 8 CFR part 100 and 19 CFR part 122 as set forth below:

Title 8—Aliens and Nationality

PART 100—STATEMENT OF ORGANIZATION

SUBCHAPTER B—IMMIGRATION REGULATIONS

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

Authority: 8 U.S.C. 1103; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); 8 CFR part 2.

- 2. Amend section 100.4 by removing the entry “Miami, FL, Chalks Flying Service Seaplane Base” under District No. 6—Miami, Florida, in paragraph (b).

Title 19—Customs Duties

PART 122—AIR COMMERCE REGULATIONS

Subpart B—Classes of Airports

- 1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

Section 122.22 is also issued under 46 U.S.C. 60105.

Section 122.48b also issued under 49 U.S.C. 44901 note.

Section 122.49a also issued under 8 U.S.C. 1101, 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

Section 122.49b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49c also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49d also issued under 49 U.S.C. 44909(c)(3).

Section 122.75a also issued under 8 U.S.C. 1221, 19 U.S.C. 1431.

Section 122.75b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114.

- 2. Amend section 122.13 by removing the entry “Miami, Fla.—Chalk Seaplane

Base” from the list of international airports.

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2026–17108 Filed 8–20–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 103

[CIS No. 2798–25; DHS Docket No. USCIS–2026–0331]

RIN 1615–AD21

Genealogy Program Regulations To Clarify the Impact of Federal Records Requirements

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Homeland Security (DHS) proposes to amend its regulation governing genealogy program related records requests to revise its genealogy program regulations to clarify the impact of statutory and regulatory federal records requirements. This is necessary for individuals who request immigration records through the agency’s genealogy program to better understand which records may be requested.

DATES: Written comments must be submitted on or before October 20, 2026. The electronic Federal Docket Management System will accept comments prior to midnight eastern time at the end of that day.

ADDRESSES: You may submit comments on this proposed amendment, identified by Docket No. USCIS–2026–0331, through the federal eRulemaking Portal at <http://www.regulations.gov>. Follow the website instructions for submitting comments.

Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to U.S. Citizenship and Immigration Services (USCIS) in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS. Please note that DHS and USCIS cannot

accept any comments that are hand-delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. USCIS is also not accepting mailed comments at this time. If you cannot submit your comment by using <http://www.regulations.gov>, please contact the Regulatory Coordination Division, Office of Policy and Strategy, USCIS, DHS, by telephone at (240) 721-3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Identity and Information Management Division, Immigration Records and Identity Services, USCIS, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone (240) 721-3000 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Public Participation
- II. Discussion of Proposed Rule
 - A. Background and Purpose
 - B. Discussion of Proposed Changes
- III. Statutory and Regulatory Requirements
 - A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and Executive Order 14192 (Unleashing Prosperity Through Deregulation).
 - B. Regulatory Flexibility Act (RFA)
 - C. Unfunded Mandates Reform Act of 1995 (UMRA)
 - D. Executive Order 13132 (Federalism)
 - E. Executive Order 12988 (Civil Justice Reform)
 - F. Family Assessment
 - G. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)
 - H. National Environmental Policy Act (NEPA)
 - I. Paperwork Reduction Act (PRA)

Table of Abbreviations

AR-2—Alien Registration Forms
 C-Files—Naturalization Certificate Files
 CFR—Code of Federal Regulations
 DHS—U.S. Department of Homeland Security
 E.O.—Executive Order
 FR—Federal Register
 FY—Fiscal Year
 INA—Immigration and Nationality Act of 1952
 IRFA—Initial Regulatory Flexibility Act
 IT—Information Technology
 NARA—National Archives and Records Administration
 NEPA—National Environmental Policy Act
 OIRA—Office of Information and Regulatory Affairs
 OMB—Office of Management and Budget
 PRA—Paperwork Reduction Act
 RFA—Regulatory Flexibility Act
 RIA—Regulatory Impact Analysis
 SBA—U.S. Small Business Administration
 UMRA—Unfunded Mandates Reform Act of 1995

USCIS—U.S. Citizenship and Immigration Services

I. Public Participation

DHS invites all interested parties to participate in this rulemaking by submitting written data, views, comments and arguments on all aspects of this proposed rule. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments must be submitted in English, or an English translation must be provided. Comments that will provide the most assistance to USCIS in implementing these changes will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the proposed rule and may not receive a response from DHS.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS-2026-0331 for this rulemaking. Regardless of the method used for submitting comments or material, 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 public comment 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 and Security Notice available at <http://www.regulations.gov>.

Docket: For access to the docket and to read background documents or comments received, go to <http://www.regulations.gov>, referencing DHS Docket No. USCIS-2026-0331. You may also sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Discussion of Proposed Rule

A. Background and Purpose

The Department of Homeland Security, U.S. Citizenship and Immigration Services' Genealogy Program was established in 2008 in a

Final Rule (*see*, Establishment of a Genealogy Program, 73 FR 28026 (May 15, 2008)) as a fee-for-service program designed to provide genealogical and historical records and reference services to genealogists, historians, and others seeking certain kinds of immigration records. *See* 8 CFR 103.38–103.40. The program and collection of fees for service are based on authority in 8 U.S.C. 1356(t) which allows USCIS (formerly INS) to conduct genealogy research and information services for a fee as prescribed under regulation before disseminating any requested genealogical information. *See* 8 CFR 106.2(c)(1) and (2).

Under the program, the public can request copies of “historical records” as defined in 8 CFR 103.39. These historical records include Naturalization Certificate Files (C-Files) from September 27, 1906 to April 1, 1956; Microfilmed Alien Registration Forms from August 1, 1940 to March 31, 1944; Visa Files from July 1, 1924 to March 31, 1944; Registry Files from March 2, 1929 to March 31, 1944, and records contained in Alien Files numbered below 8 million (A8000000) and documents therein dated prior to May 1, 1951. *Id.*

Although the rule defined historical records (8 CFR 103.39) that may be produced under the program, it did not address the impact of general federal records management requirements (*see* 36 CFR part 1220) on historical records in the program. All Federal agencies must establish effective controls over the creation, maintenance and use, and preservation or disposal of its records. In so doing, each agency must cooperate with the Archivist of the United States to establish appropriate standards, procedures, and techniques. *See* 44 U.S.C. 3102, *et seq.* These controls are in part established through National Archives and Records Administration (NARA) approved records schedules (*see* 36 CFR 1220.18), which describes specific types of records, how long to retain the applicable records, and when to disposition¹ them. “Historical records” are also governed by records schedules.

NARA has determined that the USCIS records later defined by the regulation as “historical records” are permanent. *See* 36 CFR 1220.18. A permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its

¹ Disposition refers to actions taken regarding records no longer needed for the conduct of the regular current business of the agency in accordance with the terms of the legal authorization expressed in the applicable retention schedule. *See* 36 CFR 1220.18.

preservation in the National Archives of the United States, even while it remains in agency custody. Permanent records are those for which the disposition is permanent on SF 115, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. The term also includes all records accessioned by NARA into the National Archives of the United States. *Id.* Because historical records are permanent, they are transferred to NARA after the period specified in their applicable records schedule. See 36 CFR 1226.22, 1235.10, and 1235.12. NARA is responsible for providing access to the records that have been transferred to it and are in its legal custody. See 36 CFR 1250.8(a). Once legal custody has been transferred to NARA, USCIS may maintain non-record copies of those transferred records for its reference, and those copies will be purged when no longer needed for reference. See 36 CFR 1222.14(b) and 1222.16(b)(3). See also, <https://www.archives.gov/files/records-mgmt/grs/grs05-1.pdf>. Requesters must contact NARA to obtain copies of all historical records in NARA's legal custody.

If this proposed rule is finalized, the public will be able to find which record sets have been transferred to NARA via the published records schedules addressing the disposition of historical records online at www.archives.gov/records-mgmt/rcs. In addition, DHS would publish a notice on the USCIS genealogy website² explaining which historical records were transferred to NARA's custody. DHS also notes that NARA publishes notices on its website when USCIS files have been transferred to their custody.³ If an individual submits an index search or document request for historical records under the Genealogy Program, USCIS would search for the records and, for those records for which legal custody has been transferred to NARA, inform the requestor that such records may be requested directly from NARA. For more information on how to request USCIS records that have been transferred to NARA, see, <https://www.archives.gov/research>.

DHS does not anticipate designating additional files as "historical records" under the regulation in the future. Therefore, over time, all USCIS designated historical records will be

transferred to NARA in accordance with their records disposition schedule and requestors will no longer be able to access those records through the genealogy program. Instead, requestors may request access to those records directly from NARA. DHS welcomes public comment on all aspects of the proposed change to the definition of historical records, which records are produced by USCIS under the genealogy program, and the eventual discontinuation of the genealogy program process as USCIS transfers legal custody of historical records to NARA.⁴ USCIS will notify requesters when records have been transferred to NARA on the Genealogy public website. <https://www.uscis.gov/records/genealogy>.⁵

USCIS notes that for Alien Registration Forms (AR-2) requests, USCIS no longer processes these sets of records for requests received on or after May 17, 2024. In 2024, USCIS agreed to transfer AR-2s from August 1, 1940 to March 31, 1944 files to NARA. USCIS publicly announced that as of May 17, 2024, all AR-2s are available through NARA. USCIS notes that the impact of federal records requirements on the genealogy program is not necessarily clear to the public by reading DHS' existing genealogy regulations.⁶ This rulemaking is an effort to address this issue.

B. Discussion of Proposed Changes

In an effort to revise USCIS' existing genealogy program regulations to clarify the impact of statutory and regulatory federal records requirements, DHS proposes changes to the genealogy program regulations to state that USCIS will produce historical records that have not been transferred to NARA pursuant to applicable published records schedules. See proposed 8 CFR 103.38(a). Proposed § 103.38(c) explains how USCIS would process requests for these historical records. The proposed

definitions of historical records and records requests would be amended to exclude files, forms and documents for which legal custody has been transferred by USCIS to NARA. See proposed 8 CFR 103.39 and 103.40.

III. Statutory and Regulatory Requirements

A. Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and Executive Order 14192 (Unleashing Prosperity Through Deregulation)

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. E.O. 14192 directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that "any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations."

This rule is not an E.O. 14192 regulatory action because it is being issued with respect to an immigration-related function of the United States. The rule's primary direct purpose is to implement or interpret the immigration laws of the United States (as described in section (a)(17) of INA 8 U.S.C. 1101(a)(17) or any other function performed by the U.S. Federal Government with respect to aliens. See OMB Memorandum M-25-20, "Guidance Implementing Section 3 of Executive Order 14192, titled 'Unleashing Prosperity Through Deregulation'" (Mar. 26, 2025).⁷

The Office of Management and Budget (OMB) has not designated this rule as a "significant regulatory action under" section 3(f) of Executive Order 12866, as amended by Executive Order 14094. Accordingly, OMB has not reviewed this regulatory action.

1. Summary of Changes

As discussed in this preamble, the purpose of this notice for proposed rulemaking is to revise USCIS' existing genealogy program regulations to clarify

² <https://www.uscis.gov/records/genealogy>. This rulemaking would not change USCIS' policies regarding fees for historical records. Requestors should check the notice before submitting requests for historical records from USCIS.

³ See <https://www.archives.gov/research/genealogy/start-research/nara-resources> (last accessed April 4, 2025).

⁴ As explained in the preamble to DHS' 2024 fee rule, "USCIS strives to adhere to its records retention schedules and transfer files to NARA expeditiously when records are eligible for transfer. Unfortunately, issues such as incomplete or non-existent file indices and other operational difficulties may inhibit and delay such transfers. DHS agrees that NARA is the appropriate repository for permanently retained records as USCIS has deemed necessary." See 89 FR 6194, 6326, Jan. 31, 2024. The causes of such delays typically relate to how the Immigration and Naturalization Service (INS) used, organized, and managed its records in different ways over time.

⁵ (Record retention schedules for historical records are published by NARA, see <https://www.archives.gov/records-mgmt/rcs>.)

⁶ See <https://www.uscis.gov/records/genealogy/historical-records-series-available-from-the-genealogy-program> (last accessed May 6, 2025).

⁷ Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum M-25-20, Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulations" (2025).

the impact of statutory and regulatory federal records requirements. The proposed changes to the genealogy program regulations would state that USCIS will produce historical records that have not been transferred to NARA.

Most of the impacts of this rule are expected to be transfers in work and

collection of fees for service from USCIS to NARA. The benefits of revising the regulations are related to aligning the genealogy search and records request process with federal records management requirements, reducing the burden and workload on USCIS associated with producing and storing

records under the Genealogy Program that have been transferred to NARA, and transparency in how USCIS handles copies of records and uses its storage space. Table 1 provides a more detailed summary of the proposed rule provisions and their impacts.

TABLE 1—SUMMARY OF PROVISIONS AND IMPACTS OF THE NPRM

Proposed rule provisions	Description of the proposed change to provisions	Estimated transfers of provisions	Estimated benefits of provisions
Transferring the Genealogy Program files Form G–1041, Genealogy Requests, (Index Search Request) and Form G–1041A (Records Request) to National Archives and Records Administration (NARA).	DHS proposes changes to the genealogy program regulations to state that USCIS will produce historical records that have not been transferred to the legal custody of the National Archives and Records Administration.	Requestors— ☐ None. DHS/USCIS— ☐ Transfers of work and collection of fees for service from USCIS to NARA.	Requestors— ☐ None. DHS/USCIS— ☐ Aligns the genealogy search and records request process with federal records management requirements. Reduces the administrative burden on USCIS associated with producing and storing records under the Genealogy Program that have been transferred to NARA. ☐ Reduces the administrative burden on USCIS associated with producing and storing records under the Genealogy Program that have been transferred to NARA. ☐ Transparency in how USCIS handles copies of records and uses its storage space.

2. Background and Proposed Changes

The Department of Homeland Security, U.S. Citizenship and Immigration Services' Genealogy Program was established in 2008 in a Final Rule⁸ as a fee-for-service program designed to provide genealogical and historical records and reference services to genealogists, historians, and others seeking certain kinds of immigration records. In an effort to revise USCIS' existing genealogy program regulations to clarify the impact of statutory and regulatory federal records requirements, DHS proposes changes to the genealogy program regulations to clarify that USCIS will produce only historical

records that have not been transferred to the legal custody of NARA.

a. Impacts of the Proposed Rule

This proposed rule would transfer work and associated fees for service related to genealogical index searches and records requests from USCIS to NARA in line with federal records management requirements. Form G–1041 is provided as a convenient means for persons to provide data necessary to perform a search of historical agency indices. Form G–1041A provides a convenient means for persons to identify a particular record desired under the Genealogy Program. Table 2

shows that based on a 5-year annual average, DHS estimates the annual receipts from Form G–1041, Genealogy Index Search Request, (Paper Filing) to be 167, and Form G–1041 (Online Filing) to be 8,786. Based on a 5-year annual average, DHS estimates the total annual receipts for G–1041 to be 8,953. Table 2 also shows that based on a 5-year annual average, DHS estimates the annual receipts from Form G–1041A, Genealogy Records Requests (paper filing) to be 238, and for Form G–1041A (online filing) to be 5,552. Based on a 5-year annual average, DHS estimates the total annual receipts for G–1041A to be 5,790.

TABLE 2—RECEIPTS OF FORM G–1041, GENEALOGY INDEX SEARCH REQUEST AND RECEIPTS OF FORM G–1041A, GENEALOGY RECORDS REQUESTS FOR FY 2020 THROUGH FY 2024

Fiscal year	Form G–1041 (paper filing)	Form G–1041 (online filing)	Form G–1041 total	Form G–1041A (paper filing)	Form G–1041A (online filing)	Form G–1041A total
2020	305	7,496	7,801	315	4,567	4,882
2021	205	7,106	7,311	311	5,557	5,868
2022	137	8,328	8,465	219	5,816	6,035
2023	105	7,989	8,094	183	6,382	6,565
2024	82	13,013	13,095	164	5,437	5,601
5-year Total	834	43,932	44,766	1,192	27,759	28,951
5-year Annual Average	167	8,786	8,953	238	5,552	5,790

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality (OPQ) and National Records Center MiDAS, queried 09/2025.

Note: USCIS, IRIS tracks the online percentage of index searches and records requests.

⁸ See Establishment of a Genealogy Program, 73 FR 28026 (May 15, 2008). Requestors use the USCIS website <https://www.uscis.gov/records/genealogy/>

requesting-records or Form G–1041, Genealogy Index Search Request, to request an index search of USCIS historical records. See 8 CFR

103.7(b)(1)(i)(E). For more information see <https://www.uscis.gov/records/genealogy>.

Currently, USCIS charges a fee of \$80 for paper filing and \$30 for online filing for each Form G–1041 and Form G–1041A submitted.⁹ The opportunity cost of time for completing forms G–1041 and G–1041A is about 19 minutes (0.317 hours) per response.¹⁰ Under this proposal, once USCIS retires files to NARA, USCIS will no longer provide these records to requestors. Therefore, USCIS expects to receive fewer Genealogy Index Search and Genealogy Records Requests and corresponding filing fees as requests would instead be made according to NARA’s process. Assuming the burden to both requestors and NARA are equivalent to the current process between requestors and USCIS, this proposed rule would be a direct transfer of these economic activities. If costs or the burden on requestors or NARA differs, there could be corresponding impacts. Additionally, if requestors continue to submit forms to USCIS for which they no longer have legal custody, they may experience an added burden and related fees to also submit the request to NARA. USCIS does not expect this rule to change the demand for genealogy services or the type of services provided.

Requestors would eventually no longer come to USCIS for these historical genealogy requests. DHS does not have sufficient data from the genealogy forms to determine if entities or individuals submit these requests. The case management tracking system used by DHS for genealogy requests does not allow requestor data to be readily pulled. However, DHS previously determined that requests for historical records are usually made by individuals.¹¹ USCIS recognizes that there could be an adjustment period as requestors learn where to request records and how to obtain them from NARA.

The benefits of revising the current regulations are that it would align the genealogy search and records request process with federal records

management requirements, reduce the administrative burden and workload on USCIS associated with producing and storing records that have been transferred to NARA, and provide transparency in how USCIS would handle copies of historical records. Once historical records are sent to NARA, copies would be purged by USCIS when no longer needed for reference which would free up space in their facilities to be used to store other records.

B. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121 (Mar. 29, 1996), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, or governmental jurisdictions with populations of less than 50,000.¹² An “individual” is not considered a small entity and therefore a rule’s impacts on individuals are not considered for RFA purposes. *See* 5 U.S.C. 601, 632. In addition, the courts have held that the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates small entities.¹³

Consequently, a rule’s indirect impacts on a small entity not subject to the rule are not considered for RFA purposes. The RFA analysis for this proposed rule focuses on the population who file Genealogy Requests, Form G–1041 (Index Search Request) and Form G–1041A (Records Request). DHS currently does not have sufficient data on the requestors that file genealogy forms to determine whether such filings were made by entities or individuals

and thus is unable to determine if this proposed clarification of the genealogy regulations would have a significant economic impact on a substantial number of small entities. DHS recognizes that some small entities may be impacted by this proposal but cannot determine how many or the exact impact. DHS is publishing this Initial Regulatory Flexibility Analysis (IRFA) to request public comments on the impact of this proposed rule on small entities.

1. A description of the reason why the action by the agency is being considered.

This proposed rule seeks to revise USCIS’ existing genealogy program regulations to clarify the impact of statutory and regulatory federal records requirements.

2. A statement of the objectives of, and legal basis for, the proposed rule.

DHS’ objectives and legal authority for this proposed rule are discussed earlier in the preamble. *See* Section II. Discussion of Proposed Rule, A and B (Background and Purpose; Discussion of Proposed Changes).

3. A description and, where feasible, an estimate of the number of small entities to which the proposed changes would apply.

The population affected by this proposal includes individuals who use Form G–1041 to request a search of USCIS historical indices and individuals who use Form G–1041A to obtain copies of USCIS historical records. Based on the DHS records, Table 3 shows the estimated number of genealogy historical records requests and index search requests that were submitted to USCIS using Forms G–1041 and G–1041A for FY 2020 through FY 2024. DHS estimates that an annual average of 8,953 Form G–1041 index search requests and 5,790 Form G–1041A records requests were received during FY 2020 through FY 2024. For both forms, more than 95 percent of the requests were submitted electronically.

TABLE 3—RECEIPTS OF FORM G–1041, GENEALOGY INDEX SEARCH REQUEST, FORM G–1041A, GENEALOGY RECORDS REQUEST OR FY 2020 THROUGH FY 2024

Fiscal year	Form G–1041 (paper filing)	Form G–1041 (online filing)	Form G–1041 total	Percentage filed online
2020	305	7,496	7,801	96

⁹ See Fee Schedule, USCIS, Form G–1055, G–1041 Genealogy Index Search Request and G–1041A Genealogy Records Request at <https://www.uscis.gov/sites/default/files/document/forms/g-1055.pdf>.

¹⁰ See Instructions for Genealogy Index Search Request, USCIS, Form G–1041, Expires 02/28/2027 at <https://www.uscis.gov/sites/default/files/document/forms/g-1041instr.pdf> and Instructions

for Genealogy Records Request, USCIS, Form G–1041A, Expires 02/28/2027 at <https://www.uscis.gov/sites/default/files/document/forms/g-1041ainstr.pdf>.

¹¹ See 73 FR 28026 (May 15, 2008).

¹² A small business is defined as any independently owned and operated business not dominant in its field of operation that qualifies as

a small business per the Small Business Act, 15 U.S.C. 632.

¹³ See Small Business Administration, *A Guide For Government Agencies, How to Comply with the Regulatory Flexibility Act*. <https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf> (last visited April 10, 2025).

TABLE 3—RECEIPTS OF FORM G–1041, GENEALOGY INDEX SEARCH REQUEST, FORM G–1041A, GENEALOGY RECORDS REQUEST OR FY 2020 THROUGH FY 2024—Continued

Fiscal year	Form G–1041 (paper filing)	Form G–1041 (online filing)	Form G–1041 total	Percentage filed online
2021	205	7,106	7,311	97
2022	137	8,328	8,465	98
2023	105	7,989	8,094	99
2024	82	13,013	13,095	99
5-year Total	834	43,932	44,766	
5-year Annual Average	167	8,786	8,953	98
Fiscal year	Form G–1041A (paper filing)	Form G–1041A (online filing)	Form G–1041A total	Percentage filed online
2020	315	4,567	4,882	94
2021	311	5,557	5,868	95
2022	219	5,816	6,035	96
2023	183	6,382	6,565	97
2024	164	5,437	5,601	97
5-year Total	1,192	27,759	28,951	
5-year Annual Average	238	5,552	5,790	96

Source: Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Performance and Quality (OPQ) and National Records Center MiDAS, queried 09/2025.

Note: USCIS, IRIS tracks the online percentage of index searches and records requests.

DHS previously determined that requests for historical records are usually made by individuals.¹⁴ If professional genealogists and researchers submitted such requests in the past, they did not identify themselves as commercial requesters and, therefore, could not be separated within the data. Genealogists typically advise clients on how to submit their own requests. For those that submit requests on behalf of clients, DHS cannot ascertain the extent to which such fees may be passed along to individual clients. DHS assumes genealogists have access to a computer and the internet. Therefore, DHS does not currently have sufficient data to definitively assess the impact on small entities for these requests.

4. *A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills.*

This proposed rule would not directly impose any reporting, recordkeeping, or other compliance requirements on small entities.

¹⁴ See Establishment of a Genealogy Program, 73 FR 28026 (May 15, 2008). Requestors use the USCIS website <https://www.uscis.gov/records/genealogy/requesting-records> or Form G–1041, Genealogy Index Search Request, to request an index search of USCIS historical records. See 8 CFR 103.7(b)(1)(i)(E). For more information see <https://www.uscis.gov/records/genealogy>.

5. *Identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.*

DHS is unaware of any duplicative, overlapping, or conflicting Federal rules, but invites any comment and information regarding any such rules.

6. *Description of any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the proposed rule on small entities.*

DHS could produce records duplicative of those sent to NARA under the Genealogy Program, but it is redundant and expensive to do so.

C. *Unfunded Mandates Reform Act of 1995 (UMRA)*

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments.¹⁵ Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule, that includes any Federal mandate that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local,

¹⁵ The term “Federal mandate” means a Federal intergovernmental mandate or a Federal private sector mandate. See 2 U.S.C. 1502(1), 658(5), (6).

and tribal governments, in the aggregate, or by the private sector.

This proposed rule does not contain such a mandate, because it would not impose any enforceable duty upon any other level of government or private sector entity. Amending genealogy regulations to clarify the impact of statutory and regulatory records requirements, and to better inform individuals who request immigration records through the agency’s genealogy program which records may be requested through the program would not result in any expenditures by the State, local, or Tribal governments, or by the private sector. The requirements of title II of UMRA; therefore, do not apply, and DHS has not prepared a statement under UMRA.

D. *Executive Order 13132 (Federalism)*

This proposed rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

E. *Executive Order 12988 (Civil Justice Reform)*

This proposed rule was drafted and reviewed in accordance with E.O.

12988, Civil Justice Reform. This proposed rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. DHS has determined that this proposed rule meets the applicable standards provided in section 3(a) and 3(b)(2) of E.O. 12988.

F. Family Assessment

DHS has reviewed this proposed rule in line with the requirements of section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998). DHS has systematically reviewed the criteria specified in section 654(c)(1), by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by State or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If the agency determines a regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

DHS has no data that indicates that this proposed rule would have any impacts on family well-being. DHS has determined that the implementation of this proposal would not negatively affect family well-being and would not have any impact on the autonomy and integrity of the family as an institution and no further actions are required.

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

This proposed rule would not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

H. National Environmental Policy Act (NEPA)

DHS and its components analyze proposed regulatory actions to

determine whether the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, applies and, if so, what degree of analysis is required. DHS Directive 02301 Rev. 01 “Implementing the National Environmental Policy Act” (Dir. 023–01 Rev. 01) and Instruction Manual 023–01–001–01 Rev. 01, “Implementation of the National Environmental Policy Act” (Instruction Manual)¹⁶ established the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA.

NEPA allows Federal agencies to establish, in their NEPA implementing procedures, categories of actions (“categorical exclusions”) that experience has shown do not, individually or cumulatively, have a significant effect on the human environment and, therefore, do not require an environmental assessment or environmental impact statement.¹⁷ The Instruction Manual, Appendix A lists the DHS Categorical Exclusions.¹⁸

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.¹⁹

This proposed rule is limited to clarifying the effect of USCIS transferring legal custody of historical records to NARA, and to better inform individuals who request immigration records through the agency’s genealogy program which agency to request these records from. This proposed rule is strictly administrative and procedural. DHS has reviewed this proposed rule and finds that no significant impact on the environment, or any change in environmental effect will result from the amendments being promulgated in this proposed rule.

Accordingly, DHS finds that these proposed amendments to current regulations clearly fit within categorical exclusion A3 established in DHS’s NEPA implementing procedures as an administrative change with no change

in environmental effect, are not part of a larger Federal action, and do not present extraordinary circumstances that create the potential for a significant environmental effect.

I. Paperwork Reduction Act (PRA)

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–12, DHS must submit to Office of Management and Budget (OMB), for review and approval, any reporting requirements inherent in a rule unless they are exempt. Please see the accompanying PRA documentation for the full analysis. The following information collections are part of this notice of proposed rulemaking.

USCIS Forms G–1041 and G–1041A (OMB Control Number 1615–0096)

DHS and USCIS invite the general public and other Federal agencies to comment on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0096 in the body of the letter and the agency name. Please refer to the **ADDRESSES** and I. Public Participation section of this proposed rule for instructions on how to submit comments. Comments on this proposed information collection should address one or more of the following four points:

(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 the agency’s 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, 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.

¹⁶ The Instruction Manual contains DHS’s procedures for implementing NEPA and was issued November 6, 2014. See DHS, Office of the Chief Readiness Support Officer, National Environmental Policy Act Compliance, <https://www.dhs.gov/ocrso/eed/epb/nepa> (last updated July 29, 2025).

¹⁷ See 42 U.S.C. 4336(a)(2), 4336e(1).

¹⁸ See Instruction Manual, Appendix A, Table 1.

¹⁹ Instruction Manual 023–01 at V.B(2)(a)–(c).

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Genealogy Index Search Request; Genealogy Records Request.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1041; G–1041A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals or households. The Genealogy Program is intended to streamline and improve the process for acquiring genealogical and historical records. Form G–1041 is provided as a convenient means for persons to provide data necessary to perform a search of historical agency indices. Form G–1041A provides a convenient means for persons to identify a particular record desired under the Genealogy Program. The forms provide rapid identification of such requests and ensures expeditious handling. Persons such as researchers, historians, and social scientists seeking ancestry information for genealogical, family history and their location purposes will use Forms G–1041 and G–1041A.

(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 G–1041 (paper) is 103 and the estimated hour burden per response is 0.317 hours; the estimated total number of annual respondents for the information collection G–1041 (electronic) is 8,166 and the estimated hour burden per response is 0.3 hours; the estimated total number of annual respondents for the information collection G–1041A (paper) is 185 and the estimated hour burden per response is 0.317 hours; the estimated total number of annual respondents for the information collection G–1041A (electronic) is 6,206 and the estimated hour burden per response is 0.3 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 of information is 4,403 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 \$9,202.

List of Subjects and Regulatory Amendments

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security proposes to amend chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 103—IMMIGRATION BENEFIT REQUESTS; USCIS FILING REQUIREMENTS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1184, 1185 note, 1304, 1356, 1365b, 1372, 1801–1815; 31 U.S.C. 9701; 48 U.S.C. 1806; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E. O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2; Pub. L. 112–54, 125 Stat 550; 31 CFR part 223.

■ 2. Amend § 103.38 by revising paragraph (a) and adding paragraph (c) as follows:

§ 103.38 Genealogy Program.

(a) *Purpose.* The Department of Homeland Security, U.S. Citizenship and Immigration Services Genealogy Program is a fee-for-service program designed to provide historical records and reference services to genealogists, historians, and others seeking documents maintained within USCIS record systems that have not been transferred to the National Archives and Records Administration (NARA) pursuant to a published records schedule. Once transferred, USCIS will notify the public by posting notice of the transfer on the USCIS Genealogy website, <https://www.uscis.gov/records/genealogy>.

(c) *Effect of Transfer of Historical Records to National Archives and Records Administration.* Under the genealogical research request process, USCIS will not provide requestors with historical records, as defined under 8 CFR 103.39, that have been transferred to the legal custody of the National Archives and Records Administration in accordance with the records schedule that governs the disposition of the records.

■ 3. Amend § 103.39 by revising the introductory paragraph to read as follows:

§ 103.39 Historical Records.

Historical Records are files, forms, and documents in USCIS' legal custody, and are located within the following records series:

* * * * *

■ 4. Amend § 103.40 by revising paragraph (a) to read as follows:

§ 103.40 Genealogical research requests.

(a) *Nature of requests.* Genealogy requests are requests for searches and/or copies of historical records maintained within the historical USCIS record systems that have not been transferred to the National Archives and Records Administration in accordance with a published records schedule, relating to a deceased person, usually for genealogy and family history research purposes. <https://www.archives.gov/records-mgmt/rcs/schedules/index.html?dir=/departments/department-of-homeland-security/rg-0566>.

* * * * *

Markwayne Mullin,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2026–17119 Filed 8–20–26; 8:45 am]

BILLING CODE 9111–97–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 38

RIN 3038–AF77

Request for Comment on the Listing of Compute Derivatives Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for comment.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is seeking public responses to this Request for Comment to better inform its understanding and oversight of derivatives markets in compute.

DATES: Comments must be received on or before October 20, 2026.

ADDRESSES: You may submit comments, specifically referencing “Request for Comment on the Listing of Compute Derivatives Contracts” and RIN 3038–AF77, 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 Notice 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 and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT:

Tyler S. Badgley, General Counsel, rulemaking@cftc.gov, 202–418–5000, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; Stephen Andrews, Deputy General Counsel for Regulation, rulemaking@cftc.gov, 202–418–5000, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; Aaron Levine, rulemaking@cftc.gov, 646–746–9700, Office of the General Counsel, Commodity Futures Trading Commission, 290 Broadway, New York, NY 10007; and, CFTC Innovation Task Force, Innovation@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

a. Background

The derivatives markets that the Commission oversees pursuant to the Commodity Exchange Act (“CEA” or the “Act”) are “affected with a national public interest” because they facilitate risk management and price discovery “through trading in liquid, fair and financially secure trading facilities.”¹ Under the Commission’s oversight, the Act seeks to deter disruptions to market integrity, ensure the financial integrity of transactions, avoid systemic risk, and promote responsible innovation and fair competition.² In its oversight of the derivatives markets subject to the Act and in order to minimize market disruptions and protect market participants, the Commission may prescribe by rule, regulation, or order the terms and conditions on which a

designated contract market (“DCM”) may list a contract for trading.³

As discussed further below, this request for comment addresses an emerging class of derivatives contracts that reference the price of access to computing power (“compute”),⁴ which is the processing power primarily used by the large language models (“LLMs”) at the center of the artificial intelligence (“AI”) economy. AI anchors a large and growing share of the U.S. economy and public equity markets and, accordingly, compute has become a multi-hundred-billion-dollar enterprise⁵ and is a scarce, capital-intensive commodity.

The Commission is seeking comment on the factors that a DCM should consider when addressing certain provisions of the CEA and CFTC regulations thereunder that are relevant to the listing for trading of derivatives with compute as the underlier (“compute derivatives”).⁶ The Commission recognizes that compute derivatives are a comparatively new and evolving class of products, and believes responses from industry participants may enable it to advance the standardization of such products in a manner that promotes transparency, liquidity, and responsible innovation. The Commission invites comment on the specific questions set forth in Section II related to the listing for trading of compute derivatives, as well as on all aspects of the compute markets (including those not mentioned herein).

b. The Regulatory Framework for Designated Contract Markets

DCMs are CFTC-regulated exchanges that provide participants in the derivatives markets with the ability to trade derivative contracts.⁷ In order to

³ CEA section 5c(c), 7 U.S.C. 7a–2(c); *see also* CEA section 5(d), 7 U.S.C. 7(d).

⁴ This request for comment uses “compute”, “compute capacity”, “compute services” and similar terms interchangeably depending on the context.

⁵ Federico M. Bandi, (*Early*) *AI Compute Asset Pricing* (Jul. 1, 2026) (“(Early) AI Compute Asset Pricing”) (“The economic scale of AI compute is already macroeconomically material. Based on our calculations, the 2025–Q4 installed compute stock already implies a gross compute service flow of around \$430 billion to \$1.3 trillion per year, or approximately 1.4% to 4.0% of U.S. GDP.”).

⁶ While this request for comment primarily focuses on the listing of compute derivatives by DCMs, the Commission further seeks comment on issues that may arise in connection with a swap execution facility (“SEF”) listing a contracts that settle to the price of compute, or physically-settled compute swap contracts.

⁷ *See* CEA section 1a(6), 7 U.S.C. 1a(6) (defining the term “board of trade” to mean any organized exchange or other trading facility); CEA section 1a(51)(A), 7 U.S.C. 1a(51)(A) (defining the term “trading facility” to mean a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which

¹ CEA section 3, 7 U.S.C. 5.

² CEA section 3(b), 7 U.S.C. 5(b).

obtain and maintain designation as contract markets with the CFTC, DCMs must comply with statutory “Core Principles” that are set forth in the CEA,⁸ as well as applicable CFTC rules and regulations promulgated thereunder.⁹ The statutory Core Principles for DCMs reflect the important role that these exchanges play in promoting the integrity of derivatives markets. DCMs are self-regulatory organizations, and each DCM has Core Principle obligations to, among other matters, establish and enforce rules for trading on the DCM¹⁰ and provide a competitive, open and efficient market for trading.¹¹ Therefore, although each DCM is a commercial enterprise, the fact that each entity has self-regulatory obligations means that each entity “is not simply a corporation, but a corporation charged with the public trust.”¹²

Section 3(b) of the CEA confers on the Commission the responsibility to ensure that each DCM appropriately prioritizes its self-regulatory obligations,¹³ which include, *e.g.*, establishing and enforcing rules applicable to its member futures commission merchants (“FCMs”) and other intermediaries with respect to their financial integrity,¹⁴ financial

multiple participants have the ability to execute or trade agreements, contracts, or transactions—(i) by accepting bids or offers made by other participants that are open to multiple participants in the facility or system; or (ii) through the interaction of multiple bids or multiple offers within a system with a predetermined non-discretionary automated trade matching or execution algorithm; and CEA section 5(d)(1)(A), 7 U.S.C. 7(d)(1)(A) (providing that to be designated, and maintain a designation, as a contract market, a board of trade shall comply with—(i) any core principle described in this subsection; and (ii) any requirement that the Commission may impose by rule or regulation pursuant to CEA section 8a(5)).

⁸ See, generally, CEA section 5(d), 7 U.S.C. 7(d). There are 23 statutory Core Principles for DCMs.

⁹ CEA section 5(d)(1)(A), 7 U.S.C. 7(d)(1)(A); 17 CFR part 38.

¹⁰ DCM Core Principle 2 requires, among other things, that a DCM establish, monitor, and enforce compliance with the rules of the DCM, including access requirements, the terms and conditions of any contracts to be traded on the DCM, and rules prohibiting abusive trade practices on the DCM. DCM Core Principle 2 also requires a DCM to have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the DCM. CEA section 5(d)(2), 7 U.S.C. 7(d)(2); see also 17 CFR 38.150–38.160.

¹¹ DCM Core Principle 9 requires, among other things, that a DCM 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 DCM. CEA section 5(d)(9), 7 U.S.C. 7(d)(9); see also 17 CFR 38.500.

¹² See “Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding the Mitigation of Conflicts of Interest,” Notice of Proposed Rulemaking, 75 FR 63732 (Oct. 18, 2010).

¹³ CEA section 3(b), 7 U.S.C. 5(b).

¹⁴ CEA section 5(d)(11), 7 U.S.C. 7(d)(11).

standards,¹⁵ segregation of customer and proprietary funds,¹⁶ custody of customer funds,¹⁷ investment standards for customer funds,¹⁸ default procedures,¹⁹ and related recordkeeping.²⁰ Core Principle 11 also requires a DCM ensure the financial integrity of transactions entered into on or through its facilities by establishing and enforcing rules concerning the clearance and settlement thereof by a derivatives clearing organization.²¹

Each DCM also has a specific statutory obligation under DCM Core Principle 3 to only list for trading derivative contracts that are not readily susceptible to manipulation.²² A DCM may elect to list a new derivative contract for trading either by “self-certifying” to the Commission that the contract complies with the CEA and CFTC regulations,²³ or by seeking Commission approval to list the contract.²⁴ In either case, the DCM must submit the contract’s terms and conditions, and other prescribed information relating to the contract, to the Commission prior to listing.²⁵

Core Principle 4 further requires that DCMs have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process, through market surveillance, compliance, and enforcement practices and procedures.²⁶

For a number of the DCM Core Principles, the Commission has adopted rules that establish the manner in which a DCM must comply with the relevant Core Principle.²⁷ These implementing rules are set forth in part 38 of the Commission’s regulations.²⁸ The Commission has also adopted, in

¹⁵ 17 CFR 38.603.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ CEA section 5(d)(11), 7 U.S.C. 7(d)(11).

²² CEA section 5(d)(3), 7 U.S.C. 7(d)(3); see also 17 CFR 38.200–38.201.

²³ CEA section 5c(c)(1), 7 U.S.C. 7a–2(c)(1); see also 17 CFR 40.2.

²⁴ CEA section 5c(c)(4)–(5), 7 U.S.C. 7a–2(c)(4)–(5); see also 17 CFR 40.3.

²⁵ See generally 17 CFR 40.2 and 40.3.

Amendments to contract terms and conditions also must be submitted to the Commission in accordance with procedures set forth at CEA section 5c(c), 7 U.S.C. 7a–2(c), and 17 CFR part 40.

²⁶ CEA section 5(d)(4), 7 U.S.C. 7(d)(4); see also 17 CFR 38.250–38.258.

²⁷ Unless otherwise determined by the Commission by rule or regulation, a DCM has reasonable discretion in establishing the manner in which it complies with a Core Principle. CEA section 5(d)(1)(B), 7 U.S.C. 7(d)(1)(B).

²⁸ 17 CFR part 38.

appendix B to part 38,²⁹ guidance and acceptable practices for DCMs to consider with respect to certain of the Core Principles.³⁰ For example, the Appendix B Guidance provides that the detection and prevention of market manipulation, disruptions, and distortions should be incorporated into the design of programs a DCM uses to monitor trading activity.³¹ Further, monitoring of intraday trading should include the capacity to detect developing market anomalies, including abnormal price movements and unusual trading volumes, and position-limit violations.³²

Moreover, with respect to the DCM Core Principle 3 requirement that a DCM only list for trading derivatives contracts that are not readily susceptible to manipulation, the Commission has adopted guidance that is set forth in appendix C to part 38—Demonstration of Compliance That a Contract is Not Readily Susceptible to Manipulation.³³ The Appendix C Guidance outlines certain relevant considerations for a DCM both when designing a derivative contract and providing supporting documentation and data in connection with the submission of the derivative contract listing to the Commission.³⁴ The Commission takes the considerations outlined in the Appendix C Guidance into account when determining whether, with respect to a particular contract, the DCM is satisfying its DCM Core Principle 3 obligation only to list derivatives contracts that are not readily susceptible to manipulation.

Among other matters, the Appendix C Guidance outlines, for both physically-settled and cash-settled derivatives contracts, certain considerations in connection with the design of the contract’s rules and terms and conditions.³⁵ The Commission

²⁹ 17 CFR part 38, appendix B (the “Appendix B Guidance”).

³⁰ See 17 CFR part 38, appendix C. Guidance set forth in the Appendix B Guidance states that a DCM may use the Appendix C Guidance as guidance in meeting DCM Core Principle 3 for both new product listings and existing listed contracts. 17 CFR part 38, Appendix B Guidance, Core Principle 3.

³¹ Appendix B Guidance.

³² *Id.*

³³ 17 CFR part 38, appendix C (the “Appendix C Guidance”).

³⁴ See *Core Principles and Other Requirements for Designated Contract Markets*, 77 FR 36612, 36632 (June 19, 2012).

³⁵ Physically-settled derivative contracts are contracts that may settle directly into the commodity underlying the contract. If the holder of a position in a physically-settled derivative contract still has an open position at the expiration of trading in the contract, then the position holder must, in accordance with the rules for delivery set forth in the contract, make or take delivery (as

preliminarily understands that the majority of compute derivatives initially would be cash-settled because of the potential infrastructure-related challenges associated with delivering the underlying commodity. With respect to cash-settled derivative contracts, the Appendix C Guidance states that an acceptable specification of the cash settlement price would, among other things, include rules that fully describe the essential economic characteristics of the underlying commodity, as well as how the final settlement price is calculated.³⁶ The Appendix C Guidance further provides that the utility of a cash-settled contract for risk management and price discovery purposes would be significantly impaired if the cash settlement price is not a reliable or robust indicator of the value of the underlying commodity.³⁷ Accordingly, the Appendix C Guidance states that careful consideration should be given to the potential for manipulation or distortion of the cash settlement price, as well as the reliability of that price as an indicator of cash market values.³⁸

c. Compute Markets

1. White House Directives

The United States is in a race to achieve global dominance in AI. As the White House described in its July 2025 AI Action Plan (“AI Action Plan”), “whoever has the largest AI ecosystem will set global AI standards and reap broad economic and military benefits. . . . [I]t is imperative that the United States and its allies win this race.”³⁹ Indeed, one of the recommended policy actions of America’s AI Action Plan is to ensure access to large-scale compute for startups and academics by improving the financial market for compute.⁴⁰ President Trump took decisive steps toward achieving American AI leadership during his first days in office by signing Executive Order 14179, “Removing Barriers to American

Leadership in Artificial Intelligence.”⁴¹ These actions echo the statutory purposes and objectives of the Commission that Congress codified in the Act in 1974, including furthering the national public interest in the commodity derivative markets by promoting responsible innovation and fair competition therein.

2. Overview of Potential Challenges in the Development in Compute Derivatives Markets

The price of compute is one of the most material costs of AI that affects the entire AI production stack.⁴² A compute futures market may therefore provide a means for managing and assuming price risks, discovering prices, or disseminating pricing information as to general trends in AI adoption. Futures markets aggregate the disparate views of individual market participants and are designed to reveal prices that allows such market participants to efficiently hedge risks or speculate (in this case, on, for example, the future scale of AI demand). In short, compute futures contracts would allow financial markets “to aggregate and reveal information about the future of the AI economy.”⁴³

However, there are potential challenges to the development of a mature compute derivatives market. The Commission preliminarily understands that compute markets are fragmented and price formation primarily occurs in opaque bilateral transactions, hindering the availability of current and historical price data, along with consensus still forming concerning the appropriate underlying “compute” commodity. Moreover, dominant market participants may wield significant pricing power that may lead to manipulability, preferential pricing arrangements, and, in turn, unfair market dynamics. Further, pricing can vary dramatically across providers, regions, and contract structures. In other words, the Commission preliminarily believes that compute may not yet exhibit certain of the characteristics of commodities that

typically underlie a commodity derivatives market, including fungibility, standardization, and sufficient liquidity.⁴⁴ These complex issues are novel in some respects, but also informed by historical antecedents in the development of derivative markets in similar commodities.⁴⁵

For example, with respect to fungibility and standardization, the Commission preliminarily understands that the commodity underlying a compute futures contract would typically be access to rented compute capacity from hardware the purchaser of such capacity does not own (e.g., the hourly rental price of compute from a B200), though the underlier may be a different type of compute-related commodity, such as access to a stated volume of LLM inference tokens. The Commission preliminarily believes that the price of the compute underlying a futures contract would likely be derived from a bundle of factors (e.g., provider, region, contract structures). Thus, it is the Commission’s preliminary belief that the emergence of a compute derivatives market in accordance with Commission rules and regulations would likely require standardizing variables typically associated with compute, both with respect to the price index used as a settlement reference, and with respect to the standards of compute that is required to be physically delivered.

II. Request for Comment

The Commission has a statutory obligation under the CEA to, among other matters, foster the national public

applicable) of the underlying commodity. By contrast, cash-settled derivative contracts are, at the expiration of trading in the contract, settled by way of a cash payment instead of physical delivery of the underlying commodity.

³⁶ Appendix C Guidance, paragraph (c)(1).

³⁷ Appendix C Guidance, paragraph (c)(2).

³⁸ *Id.* The Appendix C Guidance requires appropriate consideration also should be given to the commercial acceptability, public availability, and timeliness of the price series that is used to calculate the cash settlement price.

³⁹ The White House, *Winning the Race: America’s AI Action Plan* (July 23, 2025), available at <https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf>.

⁴⁰ *Id.* at 4.

⁴¹ Executive Order 14179, *Removing Barriers to American Leadership in Artificial Intelligence*, 90 FR 8741 (Jan. 31, 2025).

⁴² NVIDIA CEO Jensen Huang described the AI stack as a five-layer cake, involving energy, chips, infrastructure, models, and applications. “The compute market sits at the interface between infrastructure and model production. Its price, therefore, contains information about both sides of the AI economy. On the supply side, it reflects the cost of deploying and operating data centers, which in turn depends on the cost of chips, energy and other inputs. On the demand side, it reflects the value of training and inference workloads, which in turn depends on the productivity of AI applications and, ultimately, on the scale of AI adoption.” (Early) *AI Compute Asset Pricing*, at 3.

⁴³ *Id.*

⁴⁴ Dennis W. Carlton, *Futures markets: Their purpose, their history, their growth, their successes and failures*, 4 J. of Futures Mkts. 237–71 (1984); see also *Merrill Lynch v. Curran*, 456 U.S. 353 (1982) (“In the 19th century, the practice of trading in futures contracts led to the development of recognized exchanges or boards of trade. At such exchanges, standardized agreements covering specific quantities of graded agricultural commodities to be delivered during specified months in the future were bought and sold pursuant to rules developed by the traders themselves. Necessarily, the commodities subject to such contracts were fungible. For an active market in the contracts to develop, it also was essential that the contracts themselves be fungible. The exchanges therefore developed standard terms describing the quantity and quality of the commodity, the time and place of delivery, and the method of payment; the only variable was price. The purchase or sale of a futures contract on an exchange is therefore motivated by a single factor—the opportunity to make a profit (or to minimize the risk of loss) from a change in the market price.”).

⁴⁵ See, e.g., *Proposal To Exempt Certain Transactions Involving Not-for-Profit Electric Utilities*, 77 FR 164 (Aug. 23, 2012) (“Unlike many physical commodities, electric energy is not capable of being purchased in large commercial quantities ahead of time, delivered, and stored for later consumption or use. That is, electric energy must be used or consumed on an as-needed basis.”).

interest in the commodity derivatives markets by “promot[ing] responsible innovation” therein. In adherence to this obligation and the CEA’s other purposes,⁴⁶ as well as the AI Action Plan and in light of the context set forth above, the Commission is seeking input on the following questions.

1. Compute Cash Markets: Size, Liquidity, and Other Considerations

a. How does observed price behavior in compute markets compare to price behavior in cash markets underlying derivatives that the Commission has customarily regulated? In responding, please distinguish between on-demand, spot, reserved, committed purchase modes, and state for each the volume transacted, the number of distinct counterparties transacting, and whether any transaction price is published. Are there particular commodity markets that the Commission should consider as being especially relevant or similar to the compute cash market?

b. What data sources, analyses, calculations, variables, or other factors should be used to determine the market size, liquidity, transaction volume, types of participants, and supplier concentration of compute markets? Please distinguish between publicly available data sources and the data derived from non-public, bilateral agreements. How should the Commission consider the fact that, in the Commission’s preliminary understanding, non-public, bilateral agreements carry the majority of economic value but tend to be undisclosed and negotiated privately?

c. What proportion of compute transactions occur at publicly disclosed prices, and what proportion does not? What data applicable to this question is available by voluntary disclosure, as opposed to obligations under statutory, regulatory, or contractual obligations? Would it be appropriate to permit trading in a derivative contract settling to a price computed from data that the Commission may not be able to observe, verify, or surveil, in whole or in part?

d. Have any audits, studies, or independent verifications of the transaction data referenced in question 1(c) above been conducted, and if so, what did they conclude?

e. How do the characteristics of the compute cash markets differ from those

of the cash markets underlying derivatives customarily regulated by the Commission? Please address the following characteristics: (i) whether the underlying commodity is storable; (ii) whether a publicly observable transaction record exists, and what proportion of the total transaction volume it captures; (iii) the number of producers of the commodity and the share of commodity production attributable to the largest producers; (iv) the extent to which units of the commodity are fungible across producers without adjustment, and if not, what quality or grade adjustments are necessary to foster fungibility; and (v) whether any price reporting agency or enforced standardized methodology exists.

f. Please describe any potential effects on the cash market for compute that may arise in connection with the listing or trading of compute derivatives. In particular, would the existence of a listed futures contract settling to a published compute index change provider incentives with respect to the publication of posted rates, the pricing or structuring of bilateral reservations, the disclosure of utilization and committed capacity data, or the allocation of capacity amongst purchasers? How should the Commission consider whether the parties best positioned to influence the reference price are the same parties that supply capacity or contribute transactions or posted rates from which price is computed? Is this different from other derivative contracts and their commodity underliers?

g. Regarding DCM Core Principle 5, what would be an appropriate deliverable supply estimate methodology to evaluate the necessity and appropriateness of position limits or position accountability levels?

2. Market Oversight and Susceptibility to Manipulation

a. Core Principle 3 requires a DCM to list only contracts not readily susceptible to manipulation. What features would a compute derivatives contract that cash settles to an index calculated over predominantly bilateral and privately priced cash market transactions be required to demonstrate to satisfy that standard, consistent with the Appendix C Guidance?

b. Certain published compute price series are constructed in whole or in part from posted or listed rates that the compute capacity providers themselves administer, with the remainder of transactions executed on venues that a small number of participants operate or dominate. Are there protections or

requirements that would prevent a compute capacity provider from manipulating a cash settlement index by adjusting a posted rate, directing capacity onto or away from a venue whose transactions the index calculation methodology treats as input data, or by executing or declining to execute transactions during the observation window? Please describe any such protections or requirements which the Commission should consider.

c. What volume, transaction-frequency, and contributor concentration data typically characterize the population from which a compute reference price may be calculated? What thresholds would be appropriate for a compute settlement reference price given the idiosyncrasies of the cash markets for compute?

d. Core Principle 4 requires a DCM to have the capacity and responsibility to prevent manipulation, price distortion, and disruption of the delivery or cash-settlement process. What surveillance capabilities would be necessary to satisfy Core Principle 4 for compute derivatives, and are those capabilities presently feasible from a technological, operational, and legal perspective? Should a DCM be expected or required to maintain an information-sharing arrangement with each compute venue and each compute capacity provider whose transactions or posted rates enter a settlement reference price against which a compute derivative settles on the DCM?

e. What, if any, recalibration of market safeguards, risk controls, and liquidity protections should a DCM implement for compute derivatives to ensure price formation remains representative of genuine supply and demand, and to prevent thin liquidity conditions from resulting in disproportionate or runaway price movements that could influence benchmark markets?

f. Are there any types or patterns of trader or intermediary conduct that has occurred in the compute cash markets that raise market risks or challenges and should be monitored closely by trading venues or regulators? How do these risks and challenges compare to cash markets underlying more mature futures products?

g. Appendix C to part 38 provides that a cash-settled derivative contract is readily susceptible to manipulation if the settlement price is not reliable, acceptable, publicly available, and timely, and is computed from a cash market that is sufficiently liquid and not itself readily susceptible to manipulation. Is there a cash price series for compute cash markets that could serve as a reference price that

⁴⁶ See CEA section 3(b), 7 U.S.C. 5(b), providing that “it is further the purpose of this chapter to deter and prevent price manipulation or any other disruptions to market integrity; to ensure the financial integrity of all transactions subject to this chapter and the avoidance of systemic risk; to protect all market participants from fraudulent or other abusive sales practices and misuses of customer assets.”

satisfies those criteria? Please describe the series, its computation methodology and governance, and the venues and transaction volumes from which it is derived. What steps should the Commission take, if any, if no such cash price series is available?

h. The Appendix C Guidance addresses the adequacy of deliverable supply and susceptibility to squeezes and corners. What is the estimated deliverable supply for compute at the relevant pricing point or points and how are they measured? Please provide associated data.

i. Are there any other considerations the Commission should take into account with respect to evaluating a DCM's compliance with the Core Principles in connection with the listing and trading of compute derivatives?

3. Customer Protection of Market Participants

a. What heightened anti-money laundering and know your customers concerns, if any, are present in the compute markets, as compared to more mature commodities markets? What challenges may introducing brokers, FCMs, and other intermediaries face in implementing a BSA/AML program for compute futures?

b. What customer-protection considerations, such as disclosure requirements arise from offering a compute derivatives contract settling against a geopolitically sensitive commodity, including to retail participants? How do these considerations differ, if at all, from derivatives that settle against other commodities, such as oil?

c. What the terms and conditions of a compute futures contract be required to include any specific information related to idiosyncratic risks? If so, what are those idiosyncratic risks?

d. What, if any, unique protections and prophylactic measures are appropriate or necessary for the protection of retail users of compute derivatives and markets, including as compared to other derivatives markets?

e. Are there any types of trader or intermediary conduct that are particular to compute cash markets and contemplated compute derivative markets, including any such conduct that may require additional action by the Commission?

4. Perpetual Compute Futures

a. Would perpetual compute futures have advantages for market participants over "traditional" or "fixed date" futures contracts? Would perpetual compute derivatives provide commercial risk management features

that cannot be met with existing products?

b. Would perpetual compute derivatives pose any unique risks for market participants or the broader markets? Are there additional protections or safeguards that the Commission or exchanges should adopt to mitigate risks associated with these products?

III. General Request for Comment and Data

The Commission is requesting comment from the public on all aspects of these questions and encourages the public to provide any information that may provide value to the Commission as it considers compute derivatives markets. The Commission particularly encourages commenters to provide empirical and data-driven input.

IV. Regulatory Planning and Review

This request for comment is a significant regulatory action under section 3(f) of Executive Order 12866, and has been reviewed by the Office of Management and Budget.

Issued in Washington, DC, on August 19, 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 Request for Comment on the Listing of Compute Derivatives Contracts—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026-17163 Filed 8-20-26; 8:45 am]

BILLING CODE 6351-01-P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

RIN 3038-AF78

Commodity Pool Operators and Commodity Trading Advisors: Reduction of Duplicative Regulation Through Intermediary Registration Exemptions; Expansion of the Exemption for Small Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is proposing several amendments to its registration

requirements for certain commodity pool operators ("CPOs") and commodity trading advisors ("CTAs") to reduce duplicative and overlapping regulation and reflect inflation ("Proposal"). The Proposal would add an exemption from CPO registration for certain investment advisers registered with the Securities and Exchange Commission ("Registered Investment Advisers" or "RIAs") in relation to commodity pools for which the participants are limited to certain sophisticated investors and which meet other conditions; add a related registration exemption for CTAs; and increase the total gross capital contributions threshold in the CPO registration exemption for small commodity pools (commonly referred to as the "Small Pool Exemption") to account for inflation. The Commission preliminarily intends for the Proposal, if adopted, to supersede certain no-action positions issued by the Commission's Market Participants Division ("MPD").

DATES: Comments must be in writing and received by October 5, 2026.

ADDRESSES: You may submit comments, specifically referencing "Commodity Pool Operators and Commodity Trading Advisors: Reduction of Duplicative Regulation Through Intermediary Registration Exemptions; Expansion of the Exemption for Small Commodity Pools" and RIN 3038-AF78, 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 Notice 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 Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is available at *regulations.gov*.

FOR FURTHER INFORMATION CONTACT: DJ Hennes, Director, *dhennes@cftc.gov*; Frank Fisanich, Deputy Director, *ffisanich@cftc.gov*; Jacob Chachkin, Associate Director, *jchachkin@cftc.gov*;

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SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
 - A. Statutory and Regulatory Framework and Existing CPO/CTA Registration Architecture
 - B. Former Regulation 4.13(a)(4)
 - C. The Trump Administration's Prosperity Agenda and the "Minimum Effective Dose" Regulatory Approach
 - D. CFTC Staff Letter 25–50
 - E. CFTC Staff Letter 26–06
 - F. Need for Rulemaking
- II. The Proposal
 - A. Proposed Regulation 4.13(a)(4)
 - B. Conforming Amendments to Regulation 4.13
 - C. Proposed Regulation 4.14(a)(8): CTA Exemption for Advisers to Certain Exempt Pools
 - D. Proposed Regulation 4.13(a)(2): Inflation-Based Adjustment to the Small Pool Exemption Threshold
- III. Request for Comment
- IV. Related Matters
 - A. Regulatory Flexibility Act
 - B. Paperwork Reduction Act
 - C. Cost-Benefit Considerations
 - D. Antitrust Considerations
 - E. Executive Orders 12866, 13563, and 14192

I. Background

The Commission is proposing to amend certain part 4 regulations,¹ such that RIAs regulated and overseen by the Securities and Exchange Commission ("SEC") would qualify for an exemption from CPO registration with respect to their pools that are offered only to certain sophisticated investors ("Proposed Regulation 4.13(a)(4)" or "Proposed RIA–QEP Exemption"), subject to certain conditions, and to make related changes to 17 CFR part 4. The Proposed RIA–QEP Exemption would generally codify the no-action positions issued by MPD in CFTC Letter 25–50 ("Letter 25–50")² with certain modifications, as discussed below.

In addition, the Commission is proposing an inflation-based adjustment for the Small Pool Exemption to continue its efforts at maintaining and

modernizing long-standing regulations with financial thresholds, similar to recently adopted increases to certain financial thresholds of the "qualified eligible person" ("QEP") definition found in 17 CFR 4.7.³

A. Statutory and Regulatory Framework and Existing CPO/CTA Registration Architecture

Section 1a(11) of the Commodity Exchange Act ("CEA" or "Act") defines the term "commodity pool operator" as any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, with respect to that commodity pool, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interests.⁴ CEA section 1a(10) defines a "commodity pool" as any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests.⁵ CEA section 1a(12) defines the term "commodity trading advisor" as any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writing, or electronic media, as to the value of or the advisability of trading in commodity interests.⁶ CEA section 4m(1) makes it unlawful for any person whose intermediary activities satisfy either the CPO or CTA definitions to make use of themails or any means or instrumentality of interstate commerce in connection with its business as a CPO or CTA, unless so registered with the Commission.⁷

With respect to both CPOs and CTAs, the CEA authorizes the Commission to include persons within, or exclude them from, those definitions, by rule, regulation, or order, if the Commission determines that such action will effectuate the purposes of the CEA.⁸ The CEA also gives the Commission authority to make and promulgate such rules and regulations, as in the judgment of the Commission, are reasonably necessary to effectuate the

³ See Commodity Pool Operators, Commodity Trading Advisors, and Commodity Pools Operated: Updating the 'Qualified Eligible Person' Definition; Adding Minimum Disclosure Requirements for Pools and Trading Programs; Permitting Monthly Account Statements for Funds of Funds; Technical Amendments, 89 FR 78793 (Sep. 26, 2024) ("2024 CPO/CTA Final Rule").

⁴ 7 U.S.C. 1a(11).

⁵ 7 U.S.C. 1a(10).

⁶ 7 U.S.C. 1a(12).

⁷ 7 U.S.C. 6m(1).

⁸ 7 U.S.C. 1a(11)(B); 7 U.S.C. 1a(12)(B)–(C).

¹ 17 CFR pt. 4. The Commission's regulations referred to in this release are found at 17 CFR ch. I (2025) and are accessible on the Commission's website at <https://www.cftc.gov/LawRegulation/CommodityExchangeAct/index.htm>.

² CFTC Staff Letter 25–50 (Dec. 19, 2025), available at <https://www.cftc.gov/csl/25-50/download> ("Letter 25–50").

provisions or to accomplish any purposes of the CEA.⁹

17 CFR part 4 specifically governs the operations and activities of CPOs and CTAs. These regulations implement the statutory authority provided to the Commission by the CEA and also establish registration exemptions and definitional exclusions for CPOs and CTAs.¹⁰ Part 4 also contains detailed regulations that establish additional ongoing compliance requirements applicable to CPOs and CTAs registered with the Commission as such. These compliance requirements pertain to the commodity pools and separate accounts that CPOs and CTAs operate and advise, and provide customer protection through, among other things, requiring disclosures and regular reporting to a registrant's pool participants or advisory clients.

Several regulations in part 4 also reduce regulatory burdens and compliance obligations for certain persons engaged in CPO and CTA activities, where the Commission has determined as a matter of policy that it is appropriate and serves the interests of the public or the purposes of the CEA to do so.¹¹ For instance, Regulation 4.7 provides exemptions from certain part 4 compliance requirements regarding disclosure, periodic reporting, and recordkeeping for registered CPOs and CTAs, whose prospective and actual pool participations and/or advisory clients are restricted to individuals and entities determined to be QEPs and who claim the desired exemptions pursuant to paragraph (d) of that section.¹²

While 17 CFR 4.7 does not provide exemptions from CPO registration and instead provides exemptions from certain part 4 compliance obligations of CPOs applicable to qualifying commodity pools, Regulation 4.13 provides exemptions from CPO registration and related registrant compliance obligations for each qualifying pool.¹³ These registration

exemptions are intended to calibrate regulatory requirements to the nature and scale of the pools and their participants.¹⁴ Similarly, 17 CFR 4.14 provides CTA registration exemptions in situations where registration and compliance provides limited benefit, *e.g.*, where the CTA is registered in another capacity with the Commission, its advisory activities are limited in scope, it is substantially otherwise regulated, or it does not offer tailored trading advice or direct client accounts.

B. Former Regulation 4.13(a)(4)

Former Regulation 4.13(a)(4) (the "Original QEP Exemption"),¹⁵ which was adopted in 2003, provided an exemption from CPO registration for the operators of privately offered commodity pools whose participants were limited to certain financially sophisticated persons (including QEPs), subject to additional conditions regarding the nature of participants and marketing, as described below.¹⁶ It was adopted to facilitate participation in the commodity interest markets by collective investment vehicles and their operators and advisers, with the intended added benefit of increasing liquidity for all market participants,¹⁷ and, in part, to reduce duplicative, overlapping, and conflicting regulatory requirements applicable to CPOs, including CPOs routinely regulated by

respect to pools with no more than 15 participants and total gross capital contributions not exceeding \$400,000.

¹⁴ See, *e.g.*, Commodity Pool Operators and Commodity Trading Advisors: Final Rules, 44 FR 1918, 1919 (Jan. 8, 1979) ("1979 CPO/CTA Final Rule") (explaining that exemptions found in today's Regulations 4.13(a)(1)–(a)(2) "are being granted because the costs of compliance with the Part 4 rules outweigh the benefits to be gained from regulating family, club and small pools").

¹⁵ Though, as discussed below, this exemption allowed for certain pool participants that are accredited investors and not QEPs, it is commonly referred to by market participants as the "QEP Exemption," and this release refers to it as the "Original QEP Exemption" for consistency and to avoid confusion.

¹⁶ 17 CFR 4.13(a)(4) (2010), available at <https://www.govinfo.gov/content/pkg/CFR-2010-title17-vol1/pdf/CFR-2010-title17-vol1-part4.pdf>; see Additional Registration and Other Regulatory Relief for Commodity Pool Operators and Commodity Trading Advisors: Past Performance Issues, 68 FR 47221 (Aug. 8, 2003) ("2003 CPO/CTA Final Rule"); see also Commodity Pool Operators and Commodity Trading Advisors: Compliance Obligations, 77 FR 11252 (Feb. 24, 2012) ("2012 CPO/CTA Final Rule").

¹⁷ 2003 CPO/CTA Final Rule, 68 FR at 47223 (citing the related proposed rulemaking, Additional Registration and Other Regulatory Relief for Commodity Pool Operator and Commodity Trading Advisors: Past Performance Issues, 68 FR 12622, 12625 (Mar. 17, 2003) ("2003 CPO/CTA NPRM")). The Commission has also previously used its authority to reduce regulatory burden for entities otherwise subject to extensive federal or state regulation. See, *e.g.*, 17 CFR 4.5.

the SEC as RIAs.¹⁸ The Commission recognized that QEPs—such as institutional investors, family offices, and high-net-worth individuals—possess the resources and expertise to evaluate investment risks without the need for prescriptive regulatory protections.¹⁹

The Original QEP Exemption had the following conditions with respect to the related commodity pool: (i) interests in the pool were exempt from registration under the Securities Act of 1933 ("Securities Act"),²⁰ and such interests were offered and sold without marketing to the public in the United States ("U.S."); and (ii) the CPO reasonably believed, at the time of investment, that each natural person participant is a QEP of the type listed in 17 CFR 4.7(a)(6)(i) ²¹ (*i.e.*, those not required to satisfy the Portfolio Requirement (as defined in 17 CFR 4.7(a)(5)) ²² to be a QEP), and each non-

¹⁸ See 2003 CPO/CTA Final Rule.

¹⁹ *Id.* at 47222.

²⁰ 15 U.S.C. 77a, *et seq.*

²¹ These QEPs are considered to have a higher level of sophistication, resilience, and experience in trading or managing commodity interest portfolios, within the QEP definition, and to not need the level of protection afforded by the Commission's regulatory regime applicable to registered CPOs (including in the QEP definition (1) registered futures commission merchants ("FCMs"), registered retail foreign exchange dealers, registered swap dealers, and principals thereof; (2) a registered broker or dealer, or a principal thereof; (3) certain registered CPOs and principals thereof; (4) certain registered CTAs and principals thereof; (5) certain RIAs and the principals thereof; (6) "qualified purchasers" as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 ("ICA"), 15 U.S.C. 80a–2(a)(51)(A); (7) "knowledgeable employees" as defined in 17 CFR 270.3c–5 pursuant to the ICA; (8) certain persons associated with an exempt pool or account, outlined in Regulations 4.7(a)(6)(i)(I) and (K), respectively; (9) certain trusts; (10) organizations described in section 501(c)(3) of the Internal Revenue Code ("IRC"), 26 U.S.C. 501(c)(3), subject to certain conditions; (11) non-U.S. persons; (12) entities in which all unit owners or participants are QEPs; (13) exempt pools; and (14) entities for which an exclusion under Regulation 4.5 has been claimed, if all unit owners or participants are also QEPs).

²² The Portfolio Requirement requires a person "own securities (including pool participations) of issuers not affiliated with such person and other investments with an aggregate market value of at least \$4,000,000;" "has had on deposit with an [FCM], for its own account at any time during the six-month period preceding either the date of sale to that person of a pool participation in the exempt pool or the date that the person opens an exempt account with the [CTA], at least \$400,000 in exchange-specified initial margin and option premiums, together with any required minimum security deposits for retail foreign exchange transactions, . . . for commodity interest transactions;" or some combination of the two tests that, when combined, amount to 100%, *e.g.*, \$2,000,000 in assets (50% of the asset test), and \$200,000 in margin, premiums, and security deposits (50% of the margin test). 17 CFR 4.7(a)(5)(i)–(iii). The Commission has previously stated that the Portfolio Requirement, "provides a reasonable proxy for the experience, acumen, and

⁹ 7 U.S.C. 12a(5).

¹⁰ See 7 U.S.C. 6n; see, *e.g.*, 17 CFR 4.5, 4.6, 4.13, and 4.14.

¹¹ See H.R. Rep. No. 93–975, 93d Cong., 2d Sess. (1974), p. 23, available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@swaps/documents/file/hr93975.pdf> (last retrieved May 14, 2026) (explaining that the U.S. House Committee on Agriculture intended the "discretionary power" to exclude CPOs and CTAs from the statutory definitions in the CEA "be exercised to exempt from registration those persons who would otherwise meet the criteria for registration . . . if, in the opinion of the Commission, there is no substantial public interest served by such registration").

¹² 17 CFR 4.7.

¹³ 17 CFR 4.13. For example, under 17 CFR 4.13(a)(2), the Small Pool Exemption currently exempts a person from CPO registration with

natural person participant is a QEP or an accredited investor (as defined in 17 CFR 230.501(a)(1)–(3), (7), or (8)) (each such participant, an “Eligible Participant”).²³ Finally, the Original

resources necessary for certain persons, including natural persons, to be considered QEPs eligible to invest in complex commodity interest products without receiving the full panoply of information [and protection] otherwise required under part 4.” Commodity Pool Operators, Commodity Trading Advisors, and Commodity Pools Operated: Updating the “Qualified Eligible Person” Definition; Adding Minimum Disclosure Requirements for Pools and Trading Programs; Permitting Monthly Account Statements for Funds of Funds; Technical Amendments, 88 FR 70852, 70854 (Oct. 12, 2023) (“2024 CPO/CTA NPRM”).

²³ Non-natural persons, therefore, could be considered QEPs under either 17 CFR 4.6(a)(i) or (a)(ii), or meet the specified accredited investor definitions. For the types of entities and persons who must meet the Portfolio Requirement to be a QEP, see 17 CFR 4.7(a)(6)(ii) (including in the QEP definition the following entities who must meet the Portfolio Requirement in order to be a QEP: (1) an investment company registered under the ICA, or a business development company as defined in section 2(a)(48) of the ICA, 15 U.S.C. 2(a)(48), not formed for the specific purpose of either investing in the exempt pool or opening an exempt account; (2) a bank as defined in section 3(a)(2) of the Securities Act, 15 U.S.C. 77c(a)(2), or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Securities Act, 15 U.S.C. 77c(a)(5)(A), acting for its own account or for the account of a QEP; (3) an insurance company as defined in section 2(13) of the Securities Act, 15 U.S.C. 77b(a)(13), acting for its own account or for the account of a QEP; (4) a plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; (5) an employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, 29 U.S.C. ch. 18, provided that the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, 29 U.S.C. 1002(21), which is a bank, savings and loan association, insurance company, or RIA, or that the employee benefit plan has total assets in excess of \$5,000,000, or if the plan is self-directed, that investment decisions are made solely by persons that are QEPs; (6) a private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940 (“Advisers Act”), 15 U.S.C. 80b–2(a)(22); (7) an organization described in section 501(c)(3) of the IRC, with total assets in excess of \$5,000,000; (8) a corporation, Massachusetts or similar business trust, or partnership, limited liability company, or similar business venture, other than a pool, which has total assets in excess of \$5,000,000, and is not formed for the specific purpose of either participating in the exempt pool or opening an exempt account; (9) a natural person whose individual net worth, or joint net worth with that person’s spouse, at the time of either his purchase in the exempt pool or his opening of an exempt account would qualify him as an accredited investor as defined in 17 CFR 230.501(a)(5); (10) a natural person who would qualify as an accredited investor as defined in 17 CFR 230.501(a)(6); (11) a pool, trust, insurance company separate account or bank collective trust, with total assets in excess of \$5,000,000, not formed for the purpose of either participating in the exempt pool or opening an exempt account, and whose participation in the exempt pool or investment in the exempt account is directed by a QEP; and (12) except as provided or the governmental entities referenced above, if otherwise authorized by law to engage in such

QEP Exemption provision permitted persons relying on it with respect to qualifying pools to do so without affecting their ability to claim exemption for additional pools investing a *de minimis* amount of pool assets in commodity interests, clearly establishing the pool-by-pool basis on which a pool operator could rely with respect to both of those CPO registration exemptions.²⁴

The Commission rescinded the Original QEP Exemption in 2012.²⁵ At that time, the Commission determined it was appropriate to require the registration of certain previously exempt CPOs and to require the reporting with respect to commodity pools of information similar to Form PF, which the Commission had previously adopted jointly with the SEC.²⁶ When the Commission rescinded the Original QEP Exemption by removing and reserving paragraph (a)(4) in Regulation 4.13, the Commission also removed cross-references to former Regulation 4.13(a)(4) found elsewhere in Regulations 4.13 and 4.14, which included provisions governing the electronic filing of exemption notices and the availability of the related CTA registration exemption.²⁷

C. The Trump Administration’s Prosperity Agenda and the “Minimum Effective Dose” Regulatory Approach

In 2025, the Trump Administration articulated an agenda that emphasizes removing unnecessary and duplicative regulations, streamlining oversight where other federal regulators already provide robust coverage, and enhancing the efficiency and competitiveness of U.S. financial markets.²⁸ Consistent with that agenda, the Chairman of the CFTC (“Chairman Selig”) has publicly advocated for a regulatory approach that focuses on delivering the “minimum effective dose” of regulation—no more

transactions, a governmental entity (including the U.S., a state, or a foreign government) or political subdivision thereof, or a multinational or supranational entity or an instrumentality, agency, or department of any of the foregoing). See also 17 CFR 230.501(a)(1)–(3), (7)–(8).

²⁴ See 17 CFR 4.13(a)(4)(ii)(B) (2010).

²⁵ 2012 CPO/CTA Final Rule.

²⁶ *Id.* Following the joint adoption with the SEC of Form PF, the Commission subsequently adopted a new reporting requirement for CPOs through Regulation 4.27, which, among other things, requires certain CPOs to report periodically on Form CPO–PQR regarding their pool assets and activities. See 17 CFR pt. 4, app. A; and 17 CFR 4.27. See also Compliance Requirements for Commodity Pool Operators on Form CPO–PQR, 85 FR 71772 (Nov. 10, 2020) (adopting changes in the reporting required by Form CPO–PQR).

²⁷ See 2012 CPO/CTA Final Rule.

²⁸ See Executive Order 14192, Unleashing Prosperity Through Deregulation, 90 FR 9065 (Feb. 6, 2025) (“Prosperity Through Deregulation”).

and no less—to maintain the protection of market participants, to foster sound, liquid, and competitive markets, and to support innovation.²⁹ In public statements explaining the Commission’s regulatory priorities and approach, Chairman Selig expressed concern that the costs and complexity of accessing commodity interest markets have become too burdensome for smaller and mid-sized participants, and he committed the Commission to developing clear, *ex ante* “rules of the road.”³⁰

D. CFTC Staff Letter 25–50

Consistent with the regulatory agenda articulated above, on December 19, 2025, MPD issued Letter 25–50, which responded to a request from the Managed Funds Association (“MFA”). MFA argued that providing a registration no-action position to an RIA that is required to be registered as a CPO with the Commission (“RIA–CPO”) “would mitigate the burdens of duplicative, overlapping regulation and is wholly aligned with the Trump Administration’s efforts to identify regulations that eliminate jobs, or inhibit job creation; are outdated, unnecessary, or ineffective; impose costs that exceed benefits; or implement more stringent standards than required by law” and would further “policy goals [of the CFTC that] . . . recognize the sophistication of QEP investors and better harmonize CFTC regulation with the SEC, thereby reducing unnecessary expenses and burdens.”³¹ Letter 25–50 was intended by MPD to bridge the period between its issuance and when the Commission formally promulgated rules to reinstate the Original QEP Exemption (or determined otherwise).³²

Letter 25–50 provides no-action positions on CPO and CTA registration similar to the Original QEP Exemption in former Regulations 4.13(a)(4) and 4.14(a)(8), conditioned, among other things, on: (1) the CPO being an RIA regulated by the SEC; (2) the relevant

²⁹ See Michael S. Selig, Chairman, CFTC, Remarks at FIA Global Cleared Markets Conference (Mar. 9, 2026), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig2> (“FIA Remarks”); Michael S. Selig, Chairman, CFTC, Testimony of Chairman Michael S. Selig Before the U.S. House Committee on Agriculture (Apr. 16, 2026) (“My staff have been working diligently to right-size cumbersome rules so that even our smallest producers can properly manage risk.”), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/opaselig4>.

³⁰ See *supra* FIA Remarks.

³¹ Letter 25–50, at 5.

³² *Id.* at 7 (providing that the no-action position is effective “until such time as the Commission promulgates rules, or publicly determines not to promulgate rules, addressing the reinstatement” of the Original QEP Exemption).

pool interests being privately offered in the U.S. and exempt under the Securities Act, with general solicitation permitted for pools offered under Regulation 230.506(c);³³ (3) at the time of investment or reliance on Letter 25–50, the participants of the pool qualifying as QEPs pursuant to the definition found in 17 CFR 4.7(a)(6); and (4) the RIA filing a Form PF³⁴ with respect to such pool (CPOs qualifying under the conditions therein, “QEP No-Action CPOs”).³⁵ It provides additional clarity that QEP No-Action CPOs are not required to offer pool participants an opportunity to redeem their participations in such pools pursuant to 17 CFR 4.13(e)(2) in order to qualify for the no-action position.³⁶ Notwithstanding the more streamlined and harmonized regulatory posture provided by Letter 25–50, the Commission understands that its practical implementation, in coordination with the National Futures Association (“NFA”), to which many of the Commission’s registration and exemption functions have been delegated,³⁷ has proven to be complex, time-consuming, and difficult for MPD, NFA, and market participants seeking to rely on it due to, among other things, the need for NFA to mechanically enter each entity’s reliance on the no-action position in its systems.

E. CFTC Staff Letter 26–06

On February 26, 2026, MPD issued CFTC Staff Letter 26–06 (“Letter 26–06”), which provided an additional no-

action position with respect to certain delegation arrangements between CPOs entered into in reliance on the no-action position established by CFTC Staff Letter 14–126 (“Letter 14–126”), issued by MPD’s predecessor, the Division of Swap Dealer and Intermediary Oversight.³⁸ Letter 14–126 provides a no-action position on CPO registration to CPOs who delegate their CPO responsibilities and functions (“Delegating CPOs”) to “Designated CPOs,” provided certain conditions (defined as “Criteria” in Letter 14–126) are met, including that the Designated CPO is registered with the Commission as a CPO.³⁹ Subsequent to the issuance of Letter 25–50, MFA informed MPD staff that Designated CPOs wished to avail themselves of the no-action positions provided by Letter 25–50, but were concerned that deregistering as a CPO in reliance on Letter 25–50 would make the Delegating CPO ineligible for the no-action position in Letter 14–126. As a result, MPD believed that an additional no-action position addressing this issue was warranted, and therefore, reissued the content of Letter 25–50 with an additional no-action position in relation to Letter 14–126 by publishing Letter 26–06, stating “MPD will not recommend that the Commission commence an enforcement action against a Delegating CPO for failure to register as a CPO where all of [the Criteria in Letter 14–126] are satisfied except that the Designated CPO is a QEP No-Action CPO instead of being a registered CPO (as otherwise required by Criterion 2).”⁴⁰

F. Need for Rulemaking

The Commission believes that formal rulemaking in this context of CPO exemptions is necessary to provide durable, transparent, and uniformly applicable regulatory standards, while reducing the duplicative regulation of RIA–CPOs and the commodity pools they operate, and to provide consistency with past efforts to codify in its regulations staff letters that become routinely or widely utilized by market participants. The Commission believes it serves the public interest, and particularly the interests of market participants, to engage in notice-and-comment rulemaking and to seek and consider the public’s views in amending

its regulations, consistent with the requirements of the APA. Moreover, the Commission believes that long-term reliance on no-action positions, like those in Letter 25–50, which do not represent the views of the Commission itself, and which could easily be withdrawn or modified by MPD, provides less long-term certainty for market participants and limits the opportunity for public input on Commission policy-making decisions.

The Commission further believes it is appropriate to undertake this rulemaking effort because it is consistent with the Commission’s current regulatory approach of harmonizing CFTC and SEC regulatory regimes by reducing overlapping registration and compliance requirements, and because the Commission wishes to provide clarity in the context of CPO exemptions, while ensuring the statutory mandates and oversight goals contemplated by the CEA and the Commission’s part 4 regulations are met. The Commission’s experience administering Regulation 4.13 supports the premise that registration exemptions play a critical role in tailoring regulatory obligations to the nature of pools and their participants. Further, through this rulemaking process, the Commission intends to address many of the practical complexities of complying with the no-action positions in Letter 25–50.

II. The Proposal

A. Proposed Regulation 4.13(a)(4)

1. Overview and Policy Rationale

Proposed Regulation 4.13(a)(4) would provide an exemption from CPO registration for RIAs in relation to commodity pools that meet certain proposed conditions discussed in more detail below (each commodity pool satisfying all of the conditions in Proposed Regulation 4.13(a)(4), an “Eligible Pool”).⁴¹ Proposed Regulation 4.13(a)(4) is modeled on the Original QEP Exemption and the no-action position for QEP No-Action CPOs in Letter 25–50, but incorporates refinements, discussed below, to reflect the Commission’s experience with implementing Letter 25–50 and past CPO exemptions.

As discussed above, the Commission has previously determined that providing an exemption from CPO registration is appropriate, where appropriately calibrated, when CPO registration with the Commission and

³³ 17 CFR 230.506(c).

³⁴ Form PF is a reporting form for certain investment advisers to private funds and certain CPOs and CTAs, which is intended to collect information for the protection of investors, and for the assessment of systemic risk. The CFTC and SEC have signed a Memorandum of Understanding (“MOU”) that creates the framework for sharing Form PF data between the agencies. See Memorandum of Understanding Between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission Regarding the Use of Form PF Data (Feb. 8, 2024), available at https://www.cftc.gov/media/10216/mou_sec_cftc_form_pf/download.

³⁵ Letter 25–50, at 7–8.

³⁶ Under Regulation 4.13(e)(2)(iii), persons withdrawing from CPO registration to claim an exemption under Regulation 4.13(a)(3) must offer all participants an opportunity to redeem their interests when the pool’s status changes, and prior to 2012, it required the same of pools exempt under the Original QEP Exemption. 17 CFR 4.13(e)(2)(iii) (2010). In response to MFA’s request, in Letter 25–50, “MPD confirm[ed] that a QEP No-Action CPO who is relying on this no-action position, would not be required to comply with the requirements of Commission regulation 4.13(e)(2) solely with respect to pools for which the QEP No-Action CPO is relying on this no-action position.” Letter 25–50, at 8.

³⁷ See, e.g., Performance of Registration Functions by National Futures Association, 49 FR 39593 (Oct. 9, 1984).

³⁸ CFTC Staff Letter 26–06 (Feb. 26, 2026), available at <https://www.cftc.gov/csl/26-06/download> (“Letter 26–06”); CFTC Staff Letter 14–126 (Oct. 15, 2024), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/lrlettergeneral/documents/letter/14-126.pdf> (“Letter 14–126”).

³⁹ Letter 26–06, at 1; Letter 14–126, at 4–6.

⁴⁰ Letter 26–06, at 2, 9.

⁴¹ The new text would replace the currently reserved paragraph (a)(4) of Regulation 4.13. 17 CFR 4.13(a)(4).

full compliance with its requirements would provide limited benefit to the public.⁴² Consistent with the Commission's historical justifications for proposing and adopting CPO exemptions in other contexts, the Commission preliminarily believes that a CPO registration exemption is appropriate with respect to RIAs and their Eligible Pools that are already subject to robust SEC oversight and regulation, through the Investment Advisers Act of 1940 (the "Advisers Act") and Form PF, and that this exemption would effectively reduce overlapping regulatory requirements consistent with the Trump Administration's efforts to streamline federal regulatory oversight.⁴³

2. SEC Investment Adviser Registration

The Commission is proposing to limit the exemption in Proposed Regulation 4.13(a)(4) to RIAs. Doing so is consistent with the conditions of Letter 25–50 and ensures that CPOs relying on the Proposed RIA–QEP Exemption are subject to a robust federal regulatory regime. RIAs are already subject to oversight and regulation under the Advisers Act and the SEC's regulations issued thereunder, including conduct standards, examinations under the federal securities laws, disclosure to RIA clients and reporting to the SEC, and for certain RIAs, reporting on Form PF.⁴⁴ The Commission recognizes that this oversight by the SEC is significant and appropriately tailored for the conduct of RIAs in the financial markets.

This condition of the Proposed RIA–QEP Exemption is also consistent with the Commission's approach of ensuring that the "minimum effective dose" of regulation is applied to Commission registrants and entities participating in markets subject to Commission jurisdiction. Moreover, exempting RIAs from CPO registration would effectively and significantly reduce duplicative regulatory burdens, as requested by industry groups like MFA, and encouraged by the Trump Administration's executive orders, without undermining the purposes and goals of the Commission's mandates established by the CEA. Under these circumstances, the Commission preliminarily believes that it is appropriate to rely upon the existing SEC regulatory system applied to RIAs, and that the CFTC can safely reduce duplicative federal regulation of RIAs whose conduct also meets the CPO

definition through the Proposed RIA–QEP Exemption, rather than requiring compliance with its part 4 regulatory regime applicable to CFTC-registered CPOs.

3. Private U.S. Offerings and Limited Solicitation

The Commission is proposing to require that interests in Eligible Pools be exempt from registration under the Securities Act and only marketed to the public in the U.S. under certain limited circumstances. Pursuant to the Original QEP Exemption, and consistent with Letter 25–50, interests in a pool exempt thereunder were required to be exempt from registration under the Securities Act,⁴⁵ and offered and sold without marketing to the public in the U.S. Since the Original QEP Exemption was rescinded by the Commission in 2012, Congress passed, also in 2012, the Jumpstart Our Business Startups Act ("JOBS Act"),⁴⁶ described as "an act to increase American job creation and economic growth by improving access to the public capital markets for emerging growth companies."⁴⁷ The SEC implemented the JOBS Act in a variety of ways, including by amending provisions of Regulation D,⁴⁸ to permit issuers (including private funds⁴⁹) to engage in general solicitation or general advertising in offering and selling securities, provided that all purchasers of the securities are accredited investors and the issuer takes reasonable steps to verify that such purchasers meet the SEC's definition of "accredited investor."⁵⁰ In 2019, the Commission adopted amendments to the exemptions in 17 CFR 4.7(b) and 4.13(a)(3) that effectively codified Commission staff letters⁵¹ and sought to harmonize those

CFTC regulations with those of the SEC, as amended, to comply with and facilitate the stated goals of the JOBS Act.⁵² The Commission preliminarily believes that it is appropriate to continue its harmonization of CPO exemptions with the goals of the JOBS Act and related subsequent amendments to applicable securities regulations. Therefore, to provide greater flexibility for solicitation in limited circumstances that have been encouraged and facilitated by the JOBS Act, and consistent with the marketing condition in Letter 25–50, the Commission is proposing that Eligible Pools be prohibited from marketing to the public in the U.S., except with respect to Eligible Pools offered pursuant to 17 CFR 230.506(c).

4. Limiting Eligible Pool Participation Consistent With the Original QEP Exemption

The Commission proposes to require in Proposed Regulation 4.13(a)(4) that pool participants be limited in the same manner as in the Original QEP Exemption, with different requirements for non-natural and natural person participants. Accordingly, participants would be limited to Eligible Participants, as defined above, *i.e.*, natural person participants limited to those QEPs listed in 17 CFR 4.7(a)(6)(i) (those that do not have to meet the Portfolio Requirement), and non-natural person participants limited to all QEPs and accredited investors listed under 17 CFR 230.501(a)(1)–(3), (a)(7), or (a)(8).

The Commission recognizes that this is a recalibration of the participant condition MPD included in Letter 25–50, which did not differentiate between natural and non-natural persons; however, given its experience in administering the Original QEP Exemption from its 2003 adoption to its 2012 rescission, the Commission preliminarily believes that it is appropriate to include the participation limitations from the Original QEP Exemption in Proposed Regulation 4.13(a)(4). As the Commission has previously recognized, the QEP definition "encompasses a broad spectrum of market participants from large fund complexes and other institutional investors with significant assets under management to individuals

⁴⁵ 15 U.S.C. 77a, *et seq.*

⁴⁶ Public Law 112–106, 126 Stat. 306 (2012).

⁴⁷ *Id.*

⁴⁸ Eliminating the Prohibition Against General Solicitation and General Advertising in Rule 506 and Rule 144A Offerings, 77 FR 54464 (Sep. 5, 2012), and 78 FR 44771 (Jul. 24, 2013).

⁴⁹ For additional discussion on private funds, see "Private Funds," U.S. Securities and Exchange Commission (last reviewed Aug. 18, 2026), available at <https://www.sec.gov/resources-small-businesses/capital-raising-building-blocks/private-funds>.

⁵⁰ 17 CFR 230.506(c).

⁵¹ See, e.g., CFTC Staff Letter 14–116 (Sep. 9, 2014) available at <https://www.cftc.gov/csl/14-116/download>, superseded by Registration and Compliance Requirements for Commodity Pool Operators (CPOs) and Commodity Trading Advisors: Family Offices and Exempt CPOs, 84 FR 67355 (Dec. 10, 2019) ("Family Offices and Exempt CPOs Final Rule"). This final rule additionally adopted CPO and CTA exemptions with respect to "family offices," thereby codifying CFTC Staff Letters 12–37 and 14–143, and further harmonizing CFTC and SEC regulatory regimes. Family Offices and Exempt CPOs Final Rule, 84 FR at 67357–60, 67368–69.

⁵² Family Offices and Exempt CPOs Final Rule, 84 FR at 67361 (stating that "harmonizing the impact of the JOBS Act on dually-regulated entities eliminates incompatibilities between comparable SEC and CFTC regulatory regimes, and generally provides legal certainty regarding these transactions in a manner that allows these entities to benefit from the new offering process under the JOBS Act").

⁴² See 1979 CPO/CTA Final Rule.

⁴³ See Prosperity Through Deregulation.

⁴⁴ See 17 CFR pt. 275.

with varying backgrounds and experience, each of which has vastly different resources available to [them].”⁵³ Moreover, the Commission has previously recognized that there is a fundamental difference between large institutional investors, financial entities, and fund complexes, when compared with individual natural persons, and that such differences sometimes warrant different treatment of entities and natural persons, even those that are sophisticated, in the application of Commission regulations. Tailoring participation to maintain consistency with prior Commission opinions and statements regarding the wide variety and spectrum of investors encompassed by the QEP definition preserves an appropriate balance between customer protection and providing much-needed flexibility and innovative opportunities for investors and intermediaries in the commodity interest markets. Further, this approach recognizes that non-natural person QEPs typically possess greater financial resources and resilience, sophisticated compliance and risk management regimes with which to evaluate potential investment opportunities, and greater overall experience trading in financial markets, and thus, require less customer protection or intervention from CFTC regulations. Finally, given that the proposed requirement is sourced directly from the Original QEP Exemption, the Commission preliminarily expects that RIAs seeking to rely on the Proposed RIA–QEP Exemption will already be familiar with these participant limitations and readily able to comply with them.

5. Form PF Reporting

The Commission is proposing that for an RIA–CPO to be eligible for the exemption in Proposed Regulation 4.13(a)(4) with respect to an Eligible Pool, it must file Form PF for that pool, if required to do so.⁵⁴ The Commission preliminarily believes that this proposed condition is appropriate and

will allow the CFTC and other Financial Stability Oversight Council (“FSOC”) regulators to obtain non-duplicative data needed for effective market oversight and systemic risk monitoring without imposing separate, and potentially duplicative, reporting obligations. This condition aligns with the Trump Administration’s emphasis on coordinated regulation among federal agencies and reducing regulatory overlap, while preserving the CFTC’s ability to monitor whether Eligible Pools pose risks to the commodity interest markets or to financial stability more broadly.

B. Conforming Amendments to Regulation 4.13

Finally, as discussed in further detail below, the Proposal reinstates prior references to paragraph (a)(4) throughout Regulation 4.13, which would, in effect, require compliance with the existing provisions of 17 CFR 4.13(b), (c), (d), and (e). The Commission preliminarily believes that these requirements are an important part of the “minimum effective dose” of regulation for all exempt CPOs and pools, ensuring basic transparency to participants and the Commission, and that the conforming amendments outlined below effectively integrate Proposed Regulation 4.13(a)(4) into the existing framework of Regulation 4.13.⁵⁵

1. Regulation 4.13(b)(1)(ii): Electronic Notice of Exemption

Under Regulation 4.13(b)(1), persons claiming an exemption from CPO registration must file a notice of exemption with the NFA, typically through NFA’s “electronic exemption filing system,” today known as NFA’s Online Registration System.⁵⁶ The Commission is proposing to amend Regulation 4.13(b)(1)(ii)⁵⁷ to restore the ability of persons claiming an exemption under Proposed Regulation 4.13(a)(4) to identify that exemption in their electronic filings. Specifically, Regulation 4.13(b)(1)(ii) would be amended to add a reference to paragraph (a)(4). This proposed amendment reinstates the reference to paragraph (a)(4) that was removed when the Original QEP Exemption was rescinded and ensures that NFA’s

electronic exemption filing system can properly capture and track claims under the restored exemption. The Commission notes further that RIA–CPOs claiming an exemption under Proposed Regulation 4.13(a)(4), like all other persons claiming an exemption under Regulation 4.13, would be subject to the remaining provisions of paragraph (b) thereunder, including, but not limited to, required representations regarding statutory disqualifications, required annual notices of exemption with NFA confirming continued reliance on the RIA–QEP Exemption, and necessary updates to ensure exemption notices are accurate and complete, as well as the recordkeeping requirements found in Regulation 4.13(c).⁵⁸

2. Regulation 4.13(e)(2): Treatment of Certain Pools Operated by Registered CPOs

Regulation 4.13(e)(2) currently provides that a person, who operates one or more exempt pools described in paragraph (a)(3), and one or more pools for which it must be, and is, registered as a CPO, is exempt from requirements applicable to registered CPOs with respect to its exempt pools, provided that specified disclosures and rights are afforded to participants.⁵⁹ The Commission proposes to amend Regulation 4.13(e)(2) as shown in the proposed rule text to extend this framework to pools described in revised paragraph (a)(4), which had been referenced in this regulation prior to the 2012 rescission of the Original QEP Exemption. This proposed amendment ensures that participants in pools transitioning from registered to exempt status under Regulations 4.13(a)(3) or (a)(4) receive notice, an opportunity to redeem, and ongoing transparency, consistent with the existing protections in Regulation 4.13.

3. Integration of No-Action Positions Provided by Letters 25–50 and 26–06 and the Proposed Amendments in Regulation 4.13

The Commission additionally wishes to provide clarity with respect to the impact of the Proposal and its potential codification of the no-action positions provided by Letter 25–50. The Commission preliminarily intends the proposed amendments herein to ultimately supersede the no-action positions provided currently by Letter 25–50, if they are finalized by the

⁵³ 2024 CPO/CTA Final Rule, 89 FR at 78796 (citing the 2024 CPO/CTA NPRM, 88 FR at 70856).

⁵⁴ Currently, the Commission, in a joint proposed rulemaking with the SEC, has proposed, among other amendments, raising the filing thresholds for Form PF, which, if adopted, will likely reduce the number of RIAs required to file Form PF for the private funds they operate and advise. Form PF; Reporting Requirements for All Filers, 91 FR 22232 (Apr. 24, 2026) (“Form PF Joint NPRM”). As such, the Commission proposes to require a Form PF filing to qualify for the Proposed RIA–QEP Exemption, where the CPO is required by securities regulations and Form PF, as amended, to do so. This proposed requirement maintains harmonization efforts going forward between applicable securities regulations and CFTC regulations applicable to CPOs.

⁵⁵ The Commission notes that certain other cross-references in Regulation 4.13 and other Commission regulations will be given effect by the replacement of paragraph (a)(4) and the creation of a new CPO registration exemption. *See, e.g.*, 17 CFR 4.13(a)(3)(iv) and (a)(7)(i). These provide, respectively, for pool-by-pool exemptions as noted above and for the delivery of certain communications to prospective participants.

⁵⁶ 17 CFR 4.13(b)(1).

⁵⁷ 17 CFR 4.13(b)(1)(ii).

⁵⁸ *See* 17 CFR 4.13(b)(1)(iii), (b)(4), and (b)(5); 17 CFR 4.13(c).

⁵⁹ 17 CFR 4.13(e)(2).

Commission in a final rule.⁶⁰ As explained further below, the Commission solicits comment on this and many other aspects of the Proposal.⁶¹

Nonetheless, the Commission acknowledges that Letter 25–50 provides a no-action position regarding the requirements of Regulation 4.13(e)(2). In particular, a no-action position on the requirement that a CPO offer a right of redemption to all pool participants prior to claiming and relying upon the CPO registration no-action position in Letter 25–50, potentially conflicts with the proposed conforming amendments to Regulation 4.13 reinstating cross-references to paragraph (a)(4) that would require, among other things listed in 17 CFR 4.13(e)(2), that a CPO transitioning a pool operated by a registered CPO to an exempt status offer such a redemption right as a condition of claiming the exemption in Proposed Regulation 4.13(a)(4). The Commission believes it is important to reincorporate references to proposed paragraph (a)(4) within Regulation 4.13 to restore the original coordination and efficacy of Regulation 4.13 prior to the 2012 rescission of the Original QEP Exemption. However, the Commission does not intend to place additional, conflicting requirements upon RIA–CPOs that are currently relying on Letter 25–50 for qualifying pools, many of whom may have consequently deregistered as CPOs.⁶² Therefore, the Commission preliminarily intends that, consistent with their claims under Letter 25–50, such CPOs would generally not be subject to 17 CFR 4.13(e)(2) for such pools. However, like other CPOs claiming an exemption under 17 CFR 4.13(a)(3) or (a)(4), they would be subject to 17 CFR 4.13(e)(2) for pools for which they have not relied on Letter 25–50. To carry out its intention to not subject CPOs and pools relying on Letter 25–50 to 17 CFR 4.13(e)(2), the Commission is considering whether a separate, later effective date with respect to the application of 17 CFR 4.13(e)(2) to pools relying on the exemption in Proposed Regulation

4.13(a)(4) would appropriately address this issue and requests public comment on this proposed methodology.⁶³

With respect to the no-action position in Letter 26–06 preserving the no-action position for Delegating CPOs in Letter 14–126, the Commission preliminarily believes the proposed amendments to Regulation 4.13 do not create concerns for Delegating and Designated CPOs engaged in delegation arrangements with respect to Eligible Pools. The Commission notes that the Proposed QEP Exemption would be broadly available to both Delegating and Designated CPOs with respect to an Eligible Pool, and more broadly, that a no-action position on CPO delegation, like that in Letter 14–126, is not necessary where the pool for which responsibility is being delegated is an exempt pool, including an Eligible Pool under the Proposed QEP Exemption, rather than one requiring CPO registration.⁶⁴ The Commission specifically requests comment from Delegating and Designated CPOs with respect to this issue.⁶⁵

C. Proposed Regulation 4.14(a)(8): CTA Exemption for Advisers to Certain Exempt Pools

Regulation 4.14(a) provides various exemptions from registration as a CTA.⁶⁶ 17 CFR 4.14(a)(8) currently allows an investment adviser whose commodity interest trading advice is directed solely to, and for the sole use of, among other clients listed therein, a CPO that has claimed an exemption under Regulation 4.13(a)(3), to be exempt from CTA registration with respect to its advisory activities for pools meeting that exemption's criteria. Prior to the 2012 rescission of the Original QEP Exemption, CPOs exempt under Regulation 4.13(a)(4) were also permitted clients in this CTA exemption.⁶⁷

The Commission is proposing to amend 17 CFR 4.14(a)(8)(i)(D) to restore

the cross-reference to Regulation 4.13(a)(4), such that the CTA exemption would also be available to investment advisers, including RIAs, whose commodity interest trading advice is directed, among others, solely to a CPO that has claimed an exemption under Proposed Regulation 4.13(a)(4) with respect to Eligible Pools. The Commission preliminarily believes that this proposed amendment is necessary to restore the integrated functioning of Regulations 4.13 and 4.14 as they operated prior to the 2012 rescission of the Original QEP Exemption and to avoid requiring separate CTA registration for advisory activities related solely to CPOs and pools that qualify for the exemption in Proposed Regulation 4.13(a)(4). This approach is consistent with past Commission approaches regarding intermediary exemptions, namely that exempt CPOs should, generally speaking, also be exempt from CTA registration with respect to qualifying exempt pools,⁶⁸ and with the Commission's rationale explained in **Federal Register** releases proposing and adopting the CPO exemptions in Regulations 4.13(a)(3) and (a)(4) in 2003.⁶⁹ Finally, the Commission notes that this proposed amendment implements and expands the no-action position provided in Letter 25–50 with respect to CTA activity and services provided by QEP No-Action CPOs relying on Letter 25–50.⁷⁰

D. Proposed Regulation 4.13(a)(2): Inflation-Based Adjustment to the Small Pool Exemption Threshold

Chairman Selig has publicly noted that current regulatory costs can be disproportionately burdensome for small- and medium-sized businesses accessing the commodity interest markets, and thus, has advocated for a “minimum effective dose” of regulation.⁷¹ An inflation-based adjustment to the Small Pool Exemption is consistent with this philosophy: a carefully considered increase to the gross capital contributions threshold preserves the original intent and rationale of the Small Pool Exemption

⁶⁰ In such case, MPD may determine to rescind Letter 25–50. Letter 25–50, at 8 (stating that “MPD retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of the position taken herein, in its discretion”).

⁶¹ See *infra* III. Request for Comment.

⁶² The Commission notes that, to the extent QEP No-Action CPOs have already claimed Letter 25–50 for qualifying pools and have already deregistered as CPOs, they would not be registered CPOs operating pools transitioning from registered to exempt status under Regulation 4.13, which the right of redemption requirement in Regulation 4.13(e)(2)(iii) is intended to address.

⁶³ See *infra* III.C.3.

⁶⁴ Letter 14–126 notes that CPO delegation arrangements in pools operated by registered CPOs seeking guidance and no-action positions from MPD's predecessor division(s) likely increased, at least in part, as a result of the 2012 rescission of the Original QEP Exemption, which caused an increase in CPO registration applications. Letter 14–126, at 3, n. 8 (citing CFTC Staff Letter 14–69 (May 12, 2014)).

⁶⁵ See *infra* III.A.3.

⁶⁶ 7 U.S.C. 6m; 17 CFR 4.14(a).

⁶⁷ 17 CFR 4.14(a)(8) (providing a CTA exemption to qualifying persons who are, “an investment adviser registered under the [Advisers Act] or with the applicable securities regulatory agency of any State, or . . . exempt from such registration, or . . . excluded from the [investment adviser] definition . . . of the [Advisers Act]”). Cf. 17 CFR 4.14(a)(8) (2010).

⁶⁸ See, e.g., 17 CFR 4.14(a)(5).

⁶⁹ 2003 CPO/CTA Final Rule, 68 FR at 47223; see also 2003 CPO/CTA NPRM, 68 FR at 12625 (explaining that the amendments therein were “intended to allow greater flexibility and innovation, and to take into account market developments and the current investment environment” and “to facilitate participation in the commodity interest markets by additional collective investment vehicles and their advisers, with the added benefit to all market participants of increased liquidity”).

⁷⁰ Letter 25–50, at 7.

⁷¹ See *supra* FIA Remarks.

(that the regulatory costs of registration and compliance outweigh the benefits participants may receive as a result, in the context of small commodity pools and their CPOs), maintains existing participant limits and exclusions from the gross capital contributions calculation, updates the threshold in a manner that reflects current economic conditions, and effectively lowers the bar to entry in commodity interest markets for comparatively small commodity pools, their CPOs, and their pool participants.

1. Existing Small Pool Exemption

Under the Small Pool Exemption, 17 CFR 4.13(a)(2) currently provides an exemption from CPO registration for operators of “small pools,” defined as pools with no more than 15 participants and total gross capital contributions across all pools the person operates or intends to operate not exceeding \$400,000, subject to certain exclusions for those contributions.⁷² This threshold was last updated in 2003, when the Commission doubled the threshold of \$200,000 as adjusted in 1981 to the current \$400,000 to account for the effects of inflation in the intervening 22 years.⁷³ The Small Pool Exemption is intended to relieve operators of pools with a small total financial and participant footprint from the costs and burdens of full CPO registration, while still subjecting them to the anti-fraud and other provisions of the CEA.⁷⁴

2. Proposed Increase of Gross Capital Contributions Limit to \$800,000

Given that more than two decades have passed since its last adjustment, and to again account for the effects of inflation and maintain the original scope and purpose of the Small Pool Exemption, the Commission is proposing to amend the threshold in Regulation 4.13(a)(2)(ii) by increasing the total gross capital contributions threshold from \$400,000 to \$800,000. This doubling of the threshold reflects the approximate cumulative inflationary impact since 2003, consistent with the Commission’s methodology in adjusting

this threshold in 2003 based on the Consumer Price Index for All Urban Consumers (“CPI-U”) and its recent adjustments to QEP Portfolio Requirement thresholds under Regulation 4.7.⁷⁵

The proposed amendment would not alter the 15-participant per pool limit or the exclusion of certain contributions from the calculation of gross capital contributions. By updating only the monetary threshold, the Commission seeks to maintain the exemption’s focus on small pools, while recognizing that the real value of the 2003 threshold has eroded over time. Utilizing the CPI Inflation Calculator, which uses data from the CPI-U to determine the current value of financial amounts, the Commission has determined that \$400,000 in January 2003 has the same buying power as \$735,097 as of July 2026.⁷⁶

Like its 2024 amendments to the Portfolio Requirement in Regulation 4.7,⁷⁷ the Commission is continuing its efforts to ensure that its exemptions and regulatory thresholds remain appropriate, especially in the context of rapidly growing and expanding commodity interest markets. The Commission preliminarily believes that rounding up to the nearest hundred thousand, *i.e.*, \$800,000, is an appropriate Small Pool Exemption threshold for financial size that will be simpler for persons seeking to calculate their gross capital contributions across their operated pools, and provides a degree of durability, as it will add a buffer in advance of any near-term inflation.

III. Request for Comment

The Commission is requesting comment on all aspects of the Proposal. In responding to each of the following questions, please provide a detailed response, including the rationale for such response, cost and benefit considerations, and relevant supporting information, such as data or studies available. The Commission specifically requests comment on the following:

A. Proposed Regulation 4.13(a)(4)

1. Is it appropriate for the Commission to endeavor to provide a CPO registration exemption for RIAs operating and advising commodity pools that participate in the commodity

interest markets on behalf of sophisticated investors? Why or why not?

2. Are the conditions of Proposed Regulation 4.13(a)(4)—SEC registration, exempted offering of pool interests, marketing limitations, participant limits based upon the Original QEP Exemption, and, where applicable, Form PF reporting—appropriate? Why or why not? For instance, please consider the following specific issues:

i. Does the exception of Rule 506(c) offerings from the marketing prohibition in Proposed Regulation 4.13(a)(4)(i) effectively incorporate developments in securities law and private funds practice since the JOBS Act was passed and the SEC adopted related regulatory amendments?

ii. Is the proposed Form PF reporting condition sufficient to provide the Commission and FSOC with the information needed to monitor Eligible Pools for market and systemic risk? Given the proposed increases in Form PF filing thresholds discussed above,⁷⁸ what, if any, regulatory risk is presented by certain RIAs and private funds potentially no longer being required to file Form PF, and also being exempt from reporting on Form CPO-PQR?⁷⁹ Should the Commission consider additional or alternative reporting conditions for Eligible Pools? How should the Commission address these concerns, if at all, in Proposed Regulation 4.13(a)(4)?

iii. Are there other categories of “accredited investor” that the Commission should consider adding to the list of Eligible Participants in Proposed Regulation 4.13(a)(4)?

iv. Please describe in detail any suggested adjustments to the conditions of the Proposed RIA-QEP Exemption, or any different or additional conditions the Commission should consider, as well as the specific rationale justifying such adjustments or conditions.

3. By its terms, Letter 25–50 is intended to remain in effect until the Commission completes a rulemaking addressing the reinstatement of the Original QEP Exemption (or determines not to complete such a rulemaking). The Commission requests comment on whether the Proposal, if adopted as a final rule, should supersede Letter 25–50 in its entirety or only in part. Why or why not? In addition, the Commission requests comment on whether it should take any action similar to that in Letter 26–06 with respect to the treatment of CPO delegation arrangements under Letter

⁷² 17 CFR 4.13(a)(2)(iii) excludes certain contributions from counting towards the financial threshold, *i.e.*, those from the pool’s CPO, CTA, or principals thereof; from any child, sibling or parent of those participants; any spouse of those participants; and any relative of those participants, its spouse or a relative of its spouse, who has the same principal address as such participants. 17 CFR 4.13(a)(2)(iii)(A)–(D).

⁷³ See *supra* 2003 CPO/CTA Final Rule. For further discussion, see 2003 CPO/CTA NPRM, 68 FR at 12626.

⁷⁴ 1979 CPO/CTA Final Rule, 44 FR at 1919 (“because the costs of compliance with the Part 4 rules outweighs the benefits to be gained from regulating [. . .] small pools.”).

⁷⁵ See *supra* 2024 CPO/CTA Final Rule; 2003 CPO/CTA NPRM, 68 FR at 12626, finalized by 2003 CPO/CTA Final Rule.

⁷⁶ See U.S. Bureau of Labor Statistics, CPI Inflation Calculator, available at https://www.bls.gov/data/inflation_calculator.htm.

⁷⁷ See 2024 CPO/CTA Final Rule; 17 CFR 4.7(a)(5).

⁷⁸ Form PF Joint NPRM.

⁷⁹ 17 CFR 4.27, and pt. 4, app. A.

14–126 if it ultimately adopts the Proposed QEP Exemption. Why or why not?

B. Inflation-Based Increase of the Small Pool Exemption's Gross Capital Contributions Threshold

Is the proposed increase of the gross capital contributions threshold in 17 CFR 4.13(a)(2)(ii) from \$400,000 to \$800,000 an appropriate adjustment that effectively considers inflation since its last adjustment in 2003? Should the Commission consider a different amount? Why or why not? Please provide appropriate or relevant data on commodity pool size justifying alternative thresholds, whether higher or lower than that currently proposed.

C. Proposed Amendments Reinstating Cross-References to Regulation 4.13(a)(4) and Related CTA Exemption

1. Are the proposed conforming amendments to 17 CFR 4.13(b)(1)(ii), 4.13(e)(2), and 4.14(a)(8)(i)(D) clear and sufficient to reinstate the full functionality and coordination of the CPO and CTA exemption framework as it existed prior to the 2012 rescission of the Original QEP Exemption? Why or why not?

2. Should the Commission not make any particular proposed conforming amendment? Please identify the particular proposed amendment and provide a detailed explanation as to why it should or should not be included in amendments adopting a finalized RIA–QEP Exemption.

3. If the Proposal is ultimately finalized by the Commission through the publication of a related final rule, the amendments would generally become effective on the date that such a final rule is published. Should the Commission consider utilizing a later effective date solely with respect to the conforming amendment to 17 CFR 4.13(e)(2), especially with respect to qualifying pools and QEP No-Action CPOs that claimed Letter 25–50? Why or why not?

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (“RFA”) requires Federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis reflecting the impact.⁸⁰ Whenever an agency publishes a general notice of proposed rulemaking for any rule, pursuant to the

notice-and-comment provisions⁸¹ of the APA, a regulatory flexibility analysis or certification is typically required.⁸²

The Commission has previously established certain definitions of “small entities” to be used by the Commission in evaluating the impact of its regulations on small entities in accordance with the RFA.⁸³ The Proposal published by the Commission today would affect only persons registered or required to be registered as CPOs and CTAs in relation to commodity pools and trading programs qualifying for a registration exemption under the proposed amendments to Regulations 4.13 or 4.14, as shown in the attached rule text.

1. CPOs

With respect to CPOs, the Commission has previously determined that a CPO is a small entity for purposes of the RFA, only if it meets the criteria for the Small Pool Exemption.⁸⁴ Only one proposed amendment would directly impact CPOs considered to be small entities, and thus would require RFA analysis with respect to its potential impact on CPOs, and that is the proposed amendment to the requirements of the Small Pool Exemption. The proposed amendment would revise Regulation 4.13(a)(2) to expand the availability of the current Small Pool Exemption by increasing the gross capital contributions across pools operated by eligible CPOs from \$400,000 to \$800,000. The Commission expects this doubling would result in savings and reducing compliance costs arising from CPO registration and compliance for those CPOs that would be newly eligible for the exemption. However, the Commission preliminarily believes that this proposed increase, which is intended to update the financial threshold to account for the effects of inflation since 2003, would not result in a substantial increase in the number of CPOs claiming the Small

Pool Exemption and the Commission does not expect resulting cost reductions to result in a significant economic impact. Therefore, the Commission preliminarily believes that Proposed Regulation 4.13(a)(2) will not have a significant economic impact on a substantial number of small entities. Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to 5 U.S.C. 605(b) that this Proposal will not have a significant economic impact on a substantial number of small entities, with respect to CPOs.

2. CTAs

Regarding CTAs, the Commission has previously considered whether such registrants would be deemed small entities for purposes of the RFA on a case-by-case basis, in the context of the particular Commission regulation at issue.⁸⁵ Only one proposed amendment in the Proposal would directly impact CTAs, and that is the addition of a cross-reference of Regulation 4.13(a)(4) to Regulation 4.14(a)(8)(i)(D). 17 CFR 4.14(a)(8) provides an exemption from CTA registration for RIAs, state-registered investment advisers, and exempt investment advisers, with respect to certain investment vehicles, persons, and entities that they advise. The effect of Proposed Regulation 4.14(a)(8)(i)(D) is to slightly expand the availability of this exemption because it would add to the list of permissible clients, the CPOs of those pools that qualify for the exemption under Proposed Regulation 4.13(a)(4). The Commission preliminarily believes that CTAs claiming the exemption in Regulation 4.14(a)(8) are investment advisers, primarily RIAs, with large amounts of assets under management and significant trading experience, who are frequently affiliated with large financial institutions, and thus, not likely to be persons the Commission would consider to be “small entities.”⁸⁶

Accordingly, the Chairman, on behalf of the Commission, certifies pursuant to 5 U.S.C. 605(b) that the Proposal will not have a significant economic impact on a substantial number of small entities, with respect to CTAs.

⁸¹ See 5 U.S.C. 553 (for specific notice-and-comment provisions).

⁸² See 5 U.S.C. 601(2), 603–605.

⁸³ See, e.g., Policy Statement and Establishment of Definitions of “Small Entities” for Purposes of the Regulatory Flexibility Act, 47 FR 18618, 18618–21 (Apr. 30, 1982).

⁸⁴ *Id.* at 18619–20. As stated above, 17 CFR 4.13(a)(2) exempts a person from registration as a CPO when: (1) none of the pools operated by that person has more than 15 participants at any time, and (2) when excluding certain sources of funding, the total gross capital contributions the person receives for units of participation in all of the pools it operates or intends to operate do not, in the aggregate, exceed \$400,000. The Commission notes that its proposed increase to this dollar threshold may also increase the number of CPOs that are eligible for the Small Pool Exemption and, thus, that are treated as “small entities” for purposes of the Commission’s RFA compliance.

⁸⁵ *Id.* at 18620.

⁸⁶ See, e.g., 2024 CPO–CTA Final Rule, 89 FR at 78804 (describing CTAs relying upon Regulation 4.7 “for the purposes of soliciting and serving QEP advisory clients” as “large financial institutions with substantial financial assets and advisory experience, or affiliates thereof”). The Commission preliminarily expects that the population of CTAs claiming the exemption in Regulation 4.14(a)(8) would be very similar to those CTAs that claim an exemption under Regulation 4.7 and may include a number of CTAs already claiming the exemption in Regulation 4.14(a)(8) with respect to other qualifying individuals or entities.

⁸⁰ 5 U.S.C. 601, *et seq.*

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (“PRA”)⁸⁷ imposes certain requirements on federal agencies, including the Commission, in connection with their 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 valid control number from the Office of Management and Budget (“OMB”).⁸⁸ 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.⁸⁹ 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.⁹⁰ 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.”⁹¹

This proposed rulemaking would affect regulations that contain collections of information within the meaning of the PRA.⁹² Specifically, the Proposal would affect two collections of information for which the Commission has previously received control numbers from OMB. The first collection of information is OMB Control Number 3038–0005 (“Collection 3038–0005”) (Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants), which primarily accounts for the burden associated with the Commission’s part 4 regulations that concern compliance

generally applicable to CPOs and CTAs, as well as certain exemptions from registration as such and exclusions from those definitions, and available relief from compliance with certain regulatory requirements.⁹³ The second collection is OMB Control Number 3038–0023 (“Collection 3038–0023”) (Registration under the Commodity Exchange Act), which pertains to the registration of intermediaries generally.⁹⁴ The Commission believes that the information collection burdens of both of these collections would be reduced if the Proposal were adopted, because of a decrease in the number of CPOs and CTAs required to register with the Commission and, thus, required to comply with applicable Commission regulations. However, in an effort to be conservative, the Commission has preliminarily determined to leave its estimated burdens for these collections unchanged at this time, as the potential amount of the reduction of any such burden is unknown. For example, the Commission does not know what percentage of CPOs will be eligible to rely on the Proposed RIA–QEP Exemption or what CPOs may opt to rely on the Proposed RIA–QEP Exemption but not on Letter 25–50 due to the limitations of no-action positions as compared to Commission regulations. In addition, the reduction in burden from relying on the proposed exemption may be offset to some extent by any burden entailed by compliance with the exemption requirements.

If the Proposal is adopted, responses to the collections of information referenced below related to the Proposal would be optional for those wishing to claim the exemptions. The Commission will protect proprietary information it may receive according to FOIA and 17 CFR part 145, “Commission Records and Information.” In addition, section 8(a)(1) of the CEA strictly prohibits the Commission, unless specifically authorized by the CEA, from making public “data and information that would separately disclose the business transactions or market positions of any person and trade secrets or names of customers.”⁹⁵ The Commission also is required to protect certain information contained in a government system of records according to the Privacy Act of 1974.⁹⁶

The Commission invites the public and other Federal agencies to comment on any aspect of the proposed information collection requirements discussed above. The Commission will consider public comments on the proposed collections of information in: (1) evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use; (2) evaluating the accuracy of the estimated burdens of the proposed collections 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 proposed information collection requirements on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological information collection techniques, e.g., permitting electronic submission of responses.

Copies of the submission from the Commission to OMB are available from the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, 202–418–5714 or from <http://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 Budget, 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 make a decision concerning the proposed information collection requirements between 30 and 60 days after publication of this release in the **Federal Register**. Therefore, a comment to OMB is best assured of receiving full consideration if OMB receives it within 30 calendar days of publication of this release. Nothing in the foregoing affects the deadline enumerated above for

⁸⁷ 5 U.S.C. 601, *et seq.*

⁸⁸ See 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

⁸⁹ See 44 U.S.C. 3501.

⁹⁰ See 44 U.S.C. 3502(3).

⁹¹ See 44 U.S.C. 3502(2).

⁹² To the extent that the Commission does not identify a specific provision, the Commission does not believe that any associated change substantively or materially modifies an existing information collection burden or creates a new one.

⁹³ For information on the Commission’s burden estimates for this collection, see ICR Ref. No. 202407–3038–001 (concluded on Nov. 19, 2024).

⁹⁴ For information on the Commission’s burden estimates for this collection, see ICR Ref. No. 202512–3038–002 (concluded on Apr. 16, 2026).

⁹⁵ 7 U.S.C. 12(a)(1).

⁹⁶ 5 U.S.C. 552a.

public comment to the Commission on the proposed rules.

C. Cost-Benefit Considerations

1. Statutory and Regulatory Background

As discussed above, CEA sections 4m and 4n generally require the registration of persons acting as CPOs and CTAs, as well as compliance with a variety of substantive requirements explained in further detail in part 4 of the Commission's regulations. The Commission has further utilized this statutory authority to establish exemptions for persons from CPO and CTA registration under certain circumstances, when the purposes of the CEA and the public interest are not negatively affected.

2. Consideration of the Costs and Benefits of the Proposal

i. Section 15(a) of the CEA

Section 15(a)⁹⁷ of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders. CEA 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 markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations (collectively, the "Section 15(a) Factors").⁹⁸ 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 Act. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the Section 15(a) Factors.

ii. Costs and Benefits of the Proposal

The baseline for the Commission's consideration of the costs and benefits of the Proposal is the regulatory status quo, as determined by the CEA and the Commission's existing regulations in 17 CFR part 4, including specifically: (1) the existing CPO registration and compliance framework under the part 4 regulations; and (2) the existing and currently available exemptions under Regulations 4.13 and 4.14, with existing

qualifications and financial thresholds (e.g., without the Original QEP Exemption). The Commission recognizes, however, that to the extent that market participants have relied on Letter 25–50, the actual costs and benefits of the proposed rulemaking, as realized in the market, may not be as significant. These circumstances shape the Commission's evaluation of incremental benefits and costs associated with proposing an exemption from CPO registration with respect to Eligible Pools operated by RIAs and the related conforming adjustments to the other regulatory provisions. In situations where the Commission is unable to quantify the costs and benefits, the Commission identifies and considers the costs and benefits of these proposed rules in qualitative terms.

iii. Benefits

Proposed Regulation 4.13(a)(4) would significantly reduce duplicative, overlapping registration and compliance obligations for qualifying RIA–CPOs and Eligible Pools, which are supervised by the SEC and subject to that agency's investment adviser regulatory regime. For these market participants, the Commission preliminarily believes that separate, additional CPO registration and related compliance requirements in 17 CFR part 4 may provide only a limited incremental benefit to participants, given the pre-existing application of SEC regulations to their advisory and fund activities, as well as the sophistication of participants required to qualify for the exemption in Proposed Regulation 4.13(a)(4). Reducing duplicative regulations applicable to RIAs also engaged in CPO activities by providing this proposed registration exemption would substantially reduce such RIA–CPOs' legal, operational, and administrative costs, while maintaining the core regulatory protections provided by the CEA and Commission regulations for investors most in need of them. In particular, the exemption in Proposed Regulation 4.13(a)(4) would eliminate the need for qualifying RIAs to incur costs associated with applying for and obtaining CPO registration, complying with applicable CFTC reporting requirements, and arising from other related compliance requirements typically applicable to commodity pools.

Moreover, the Commission generally endeavors, wherever possible and when prudent to do so, to codify in its regulations widely relied upon no-action positions created by its operating

divisions.⁹⁹ These efforts help to level the playing field for market participants by ensuring that staff letters become more durable and universally applicable and available when they are specifically added and memorialized in Commission regulations. Therefore, the Commission preliminarily believes that adding the RIA–QEP Exemption at Proposed Regulation 4.13(a)(4) will establish uniform and transparent standards for RIAs participating in the commodity interest markets and who wish to claim an exemption from CPO registration. By definition, Commission staff letters are limited to the authority of the issuing division or office of the Commission,¹⁰⁰ whereas Commission regulations, once proposed and adopted, are more reliable and less subject to change, in that they are an official Commission action, with the input of public notice and comment under the APA. As a result, the Commission preliminarily believes that Proposed Regulation 4.13(a)(4) would additionally provide a degree of regulatory clarity and certainty to market participants eligible for the RIA–QEP Exemption that may only be provided through the proposal and adoption of Commission regulations.

The Commission further preliminarily believes that, in addition to adding Proposed Regulation 4.13(a)(4), market participants will benefit from the restoration of appropriate cross-references in Regulations 4.13 and 4.14. These proposed amendments are intended to recreate the integrated functionality of the CPO and CTA exemption framework, as it existed prior to the 2012 rescission of the Original QEP Exemption. Specifically, these proposed amendments would incorporate Proposed Regulation 4.13(a)(4) into the existing exemption claim and annual notice system, administered by NFA; clarify the limited compliance obligations applicable to exempt CPOs and their pools once the proposed amendments are adopted and effective; and ensure that RIAs operating Eligible Pools exempt under Proposed Regulation

⁹⁹ See, e.g., Family Offices and Exempt CPOs Final Rule; 2024 CPO/CTA Final Rule (codifying commonly relied upon quarterly account statement relief for CPOs and pools utilizing Regulation 4.7 exemptions).

¹⁰⁰ See 17 CFR 140.99(a)(2). The Commission notes further that the staff letter particularly relevant here, Letter 25–50, was specifically issued by MPD, and continues to be available until the Commission determines to formally adopt regulations superseding it or specifically declines to do so. Letter 25–50, at 7. See also *id.*, at 8 (stating that the no-action positions therein are the decision of MPD only, and not a position or view by any other office or division of the Commission or the Commission itself and are not binding on the Commission).

⁹⁷ 7 U.S.C. 19(a).

⁹⁸ *Id.*

4.13(a)(4) may again qualify for the corresponding CTA exemption in Regulation 4.14(a)(8). The Commission preliminarily believes that these proposed amendments will enhance predictability for market participants by providing more complete exemptions from applicable CFTC regulations and facilitating more efficient administration of the CPO and CTA exemption regime by both the Commission and NFA. Additionally, the Commission preliminarily expects that RIA-CPOs who qualify for the CTA exemption in Regulation 4.14(a)(8) because of the proposed amendment will experience lower costs, when claiming that exemption, than those typically associated with CTA registration and compliance for advising such pools. Further, the Commission preliminarily believes that, by virtue of claiming Proposed Regulation 4.13(a)(4), eligible RIAs may also be able to reallocate their internal compliance resources currently devoted to CFTC obligations toward other aspects of their operations, like risk management functions and investor-facing activities.

With respect to the Small Pool Exemption, the Commission preliminarily believes that the commodity interest markets and market participants will benefit from the increased gross capital contributions threshold in Proposed Regulation 4.13(a)(2). As discussed in more detail above, the Commission has historically endeavored to ensure that financial thresholds in its regulations maintain their relevancy and intended scope by periodically adjusting them to account for time and economic factors like inflation. Therefore, the Commission preliminarily believes that increasing the gross capital contributions threshold in Regulation 4.13(a)(2) from \$400,000 to \$800,000 would account for inflation occurring since 2003, effectively aligning the exemption with current economic conditions. By modernizing this threshold in one of the CPO exemptions originally adopted in 1979, the Commission also preliminarily believes that the proposed increase preserves the original purpose and scope of the Small Pool Exemption: to avoid disproportionate regulatory burdens for operators of small pools with a limited financial footprint, which do not substantially benefit the public interest. Persons qualifying for the exemption in Proposed Regulation 4.13(a)(2) would be able to offer commodity pool investment opportunities and experience a lower bar to entry in the commodity interest markets, with little customer protection

or regulatory risk, due to other aspects of the Small Pool Exemption remaining unchanged. As with CPOs qualifying for Proposed Regulation 4.13(a)(4), the Commission preliminarily believes that registered CPOs who may instead qualify for and claim the exemption in Proposed Regulation 4.13(a)(2) would benefit from a significant reduction in legal, operational, and administrative costs, by virtue of their being able to deregister with the Commission as CPOs.

iv. Costs

Notwithstanding the expected benefits of being able to deregister as CPOs and CTAs, the Commission recognizes that some costs will arise specifically from the Proposed RIA-QEP Exemption. For instance, the Commission expects that RIAs seeking to claim Proposed Regulation 4.13(a)(4) with respect to Eligible Pools would incur costs associated with: (1) verifying pool participants' sophistication; (2) filing the initial claim of exemption and annually renewing it for each pool and RIA-CPO; and (3) meeting the other requirements in Regulation 4.13, including providing required disclosures and maintaining books and records of the exempt RIA-CPO and exempt pool activities.

The Commission preliminarily expects that RIA-CPOs may experience costs in their efforts to ensure that their pool participants meet the proposed eligibility criteria in Proposed Regulation 4.13(a)(4)(iii). However, it is the Commission's understanding that many RIA-CPOs wishing to claim the exemption in Proposed Regulation 4.13(a)(4) may likely be transitioning from other regulatory statuses that currently already involve some degree of eligibility assessment for their pool participants. For example, RIA-CPOs currently exempt under Regulation 4.13(a)(3) are already experienced in evaluating and limiting their pool participants to qualify for that exemption, and RIA-CPOs who are registered, but offer pools pursuant to Regulation 4.7, also routinely evaluate their participants to determine their status as QEPs. The Commission notes further that the proposed participant eligibility criteria are derived from the Original QEP Exemption, with which many RIA-CPOs have had prior experience and familiarity, until its rescission in 2012. Therefore, with the exception of newly formed RIA-CPOs who have not previously operated commodity pools subject to CFTC jurisdiction, the Commission preliminarily expects that the costs of the proposed participant eligibility

requirements in the RIA-QEP Exemption would be mitigated by the substantial likelihood that potential claimants already have experience and existing processes in place to meet that qualification of the proposed exemption. Moreover, the Commission preliminarily believes that the proposed participant requirements in the RIA-QEP Exemption are necessary to ensure the proposed exemption is appropriately tailored and narrowed in scope to financially sophisticated and experienced investors who would receive far fewer benefits from the complete application of the CPO registration and compliance regulations, than other investors more in need of those protections, *i.e.*, persons participating in pools offered to the general or retail public.

The Commission further recognizes that RIA-CPOs would incur costs from complying with the requirement to electronically file a claim for Proposed Regulation 4.13(a)(4), and further, to annually verify that the RIA-CPO and Eligible Pool continue to qualify for the RIA-QEP Exemption. Again, however, given that RIA-CPOs seeking to rely upon Proposed Regulation 4.13(a)(4) may be transitioning from another exemption provided by Regulation 4.13(a)(3), or from registered CPO status operating a Regulation 4.7 pool, the Commission preliminarily expects that such entities would already be experienced and familiar with the online system administered by NFA on the Commission's behalf to receive and maintain exemption claims under Regulation 4.13 and other part 4 regulations, and familiar with what such notices must contain to be effective. Consequently, the Commission preliminarily believes that any costs incurred from the initial and annual notice filings experienced by persons claiming Proposed Regulation 4.13(a)(4) would likely be lessened because of that experience and any existing processes and procedures they may already have in place, and ultimately, would be small. Furthermore, the Commission preliminarily finds that such costs are necessary to integrate Proposed Regulation 4.13(a)(4) into its existing CPO exemption framework and to facilitate the Commission's monitoring of how frequently and by whom the RIA-QEP Exemption is used.

The Proposal would also result in some compliance costs arising from other provisions of Regulation 4.13, including, *e.g.*, paragraphs (a)(7), (c)(1), and (e)(2), though the Commission notes that such costs would be substantially smaller than the costs arising from similar requirements applicable to

registered CPOs and their pools. With respect to recordkeeping, the proposed amendments to Regulation 4.13 would require persons claiming the RIA-QEP Exemption, like all other exemptions available in Regulation 4.13, to make and keep books and records with respect to the exempt CPO and its pool activities, to make them available to the Commission (among other agencies), and to submit to special calls by the Commission to demonstrate eligibility for the claimed exemption.¹⁰¹ Persons seeking to claim the RIA-QEP Exemption would be further required to notify prospective participants of the pool's exempt status and operational features, and in some instances, provide existing participants with a right of redemption at the time the pool converts to exempt status under Regulation 4.13.

The Commission preliminarily expects that, as a result of the requirements outlined above, RIA-CPOs claiming Proposed Regulation 4.13(a)(4) would experience some operational and administrative costs. The Commission preliminarily believes, however, that such costs are necessary to ensure that pools exempt under Proposed Regulation 4.13(a)(4) are treated and overseen in a manner equal to other pools operating pursuant to exemptions in Regulation 4.13. Moreover, such costs would likely be mitigated by potential claimants' experience and familiarity in complying with existing, similar requirements applicable to exempt and registered CPOs.

Additionally, with respect to CPOs relying on Letter 25–50 for certain pools, the Commission preliminarily believes that the requirements of Regulation 4.13(e)(2) should not apply when such pools transition to instead claiming the exemption in Proposed Regulation 4.13(a)(4). The Commission preliminarily believes that this approach would ease this transition to formally exempt status for such RIA-CPOs and their pools, limiting disruption in their on-going operations, and would lessen the costs they experience arising from the generally applicable compliance requirements in Regulation 4.13. Moreover, because these requirements mirror many conditions already present in Letter 25–50, the Commission preliminarily expects these costs of compliance and transition to a Regulation 4.13 exemption to be modest; the Commission recognizes, however, that some additional costs may be incurred as a result of minor variations between Letter 25–50 and the Proposal. With

respect to registered CPOs claiming Proposed Regulation 4.13(a)(4) for pools without prior reliance on Letter 25–50, the Commission believes it appropriate for such CPOs and pools to fully comply with the other requirements of 17 CFR 4.13, including 17 CFR 4.13(e)(2). Ultimately, the Commission preliminarily concludes that costs incurred by persons claiming Proposed Regulation 4.13(a)(4) arising from Regulation 4.13's broader compliance requirements are necessary to establish consistent, minimal oversight of all exempt pools and to provide transparency and similar levels of protection to existing pool participants when a pool transitions from regulated to an exempt status.

With respect to another conforming amendment, the proposed amendment to Regulation 4.14(a)(8), the baseline is the existing exemption for investment advisers that currently does not recognize the CPOs of pools exempt under Proposed Regulation 4.13(a)(4) as permitted advisory clients. If the proposed amendment is finalized, investment advisers who qualify and advise, among other clients listed therein, CPOs of pools that would be exempt under Proposed Regulation 4.13(a)(4) would incur costs associated with the notice filing required by this CTA exemption. These investment advisers may already be claiming the CTA exemption in Regulation 4.14(a)(8) with respect to advisory clients currently permitted thereunder, in which case any filing costs arising directly from this Proposal would be further minimized.

Finally, the Commission recognizes that persons seeking to claim Proposed Regulation 4.13(a)(4) would incur legal, operational, and administrative costs arising from the proposed requirement that a person file Form PF with the SEC, to the extent SEC regulations require such a filing with respect to the Eligible Pool. Additionally, in forming a pool qualifying for Proposed Regulation 4.13(a)(4), there may be costs arising from establishing a securities offering exempt under the Securities Act and subject to the proposed marketing limitations. However, because these costs associated with formation and Form PF reporting, as required, arise from existing SEC regulations, the Commission preliminarily believes that these aspects of Proposed Regulation 4.13(a)(4) would not create any additional costs than those that would already be experienced by such persons in forming and operating their private funds.

With respect to the Small Pool Exemption, the baseline is the

exemption found at Regulation 4.13(a)(2) with the existing requirements, including the gross capital contributions limitation of \$400,000. The Commission expects that CPOs who qualify for the Small Pool Exemption as a result of the proposed increase of that threshold to \$800,000 would experience costs arising from the initial and annual notice filings and general compliance requirements found in Regulation 4.13. Given that such CPOs able to qualify for the expanded Small Pool Exemption would be permitted to deregister and become exempt from CPO registration, the Commission expects the costs associated with Regulation 4.13 notices and compliance to be modest in comparison to the costs of full registration and compliance with all CPO regulations in 17 CFR part 4.

Further, because this Proposal will solely provide optional alternatives to registration with the Commission as a CPO or CTA, which alternative no CPO or CTA is required to elect, the Commission believes that this Proposal will not impose any additional costs on such persons. In fact, the Commission believes that it is reasonable to expect that those CPOs and CTAs that elect to rely on the proposed exemptions from registration would generally only do so to the extent that they believe they will save costs in the aggregate by virtue of such reliance.

3. Costs and Benefits of the Commission's Proposal as Compared to Alternatives

The Commission considered several alternatives to the Proposal. First, for analytical completeness, the Commission considered retaining the regulatory status quo and determining not to promulgate regulations establishing a CPO exemption available to RIAs operating pools limited to sophisticated investors, which would have caused Letter 25–50 to expire. However, the Commission preliminarily believes that, when compared to the Proposal, this approach would lead to significant costs to market participants, who would be required to comply with two separate, but simultaneously applicable, regulatory regimes administered by the SEC and the Commission with limited regulatory or public interest benefit. This would result in substantial costs to RIA-CPOs, especially to those who have already filed a claim pursuant to Letter 25–50 and withdrawn from CPO registration in reliance thereon. Additionally, these entities would be precluded from achieving or maintaining significant benefits discussed above arising from

¹⁰¹ 17 CFR 4.13(c)(1).

the substantial reduction of duplicative and overlapping regulatory regimes governing their investment management activities, and in fact, would experience significant costs related to reapplying for CPO registration and resuming their part 4 compliance with respect to qualifying pools under Letter 25–50 and the Proposal. Finally, this approach would deprive market participants of the regulatory clarity and certainty provided by Proposed Regulation 4.13(a)(4), leaving them to rely upon the no-action positions that are subject to modification or withdrawal by the issuing Commission division and lack the permanence and predictability of a regulatory amendment.

Second, the Commission considered proposing a new exemption based upon substantially different eligibility criteria than the conditions contained in Letter 25–50 by including additional reporting or operational conditions. As compared to the Proposal, establishing different eligibility criteria for this CPO exemption would result in some costs, especially to those market participants who qualify for the no-action positions in Letter 25–50, but would not qualify under a CPO exemption with more or different requirements. Such entities, many of whom have already begun the process of withdrawing from CPO registration after claiming Letter 25–50, may incur significant costs as a result of reapplying for CPO registration and resuming part 4 compliance. The Commission has preliminarily determined that additional restrictions beyond minor adjustments to the conditions of Letter 25–50 would not provide material regulatory or customer protection benefits and would likely significantly limit the utility of the exemption.

With respect to the Small Pool Exemption, the Commission considered leaving the original gross capital contributions threshold in place. As compared to the Proposal, CPOs who would qualify for the increased threshold in Proposed Regulation 4.13(a)(2) would continue to incur costs associated with CPO registration and compliance for their small pools, with limited regulatory benefit to participants, and be prohibited from benefiting from the expanded availability of the Small Pool Exemption. This approach would also limit the overall benefit from the Proposal of modernizing long-standing financial thresholds and maintaining the appropriate scope of the original Small Pool Exemption, in light of changing economic conditions.

Because the Proposal strikes an appropriate balance between

substantially reducing costs to market participants through eliminating duplicative and overlapping regulations, and maintaining sufficient oversight and customer protection in the commodity interest markets, while also integrating and updating the CPO exemption regime in Regulation 4.13, the Commission preliminarily believes that the proposed amendments would be the most appropriate approach for market participants and participants in their offered pools.

4. Section 15(a) Factor Analysis

Section 15(a) of the CEA ¹⁰² requires the Commission to consider the effects of its actions in light of the following five factors discussed below: (a) the protection of market participants and the public; (b) the efficiency, competitiveness, and financial integrity of futures markets; (c) price discovery considerations; (d) sound risk management practices; and (e) other public interest considerations.

i. Protection of Market Participants and the Public

Section 15(a)(2)(A) of the CEA ¹⁰³ requires the Commission to evaluate the costs and benefits of a proposed regulation in light of considerations of the protection of market participants and the public. The Commission preliminarily believes that the proposed amendments would generally maintain the efficacy of protections for market participants and the public provided by the CEA and the Commission's part 4 regulations.

Proposed Regulation 4.13(a)(4) would provide an exemption to CPOs that are RIAs and who offer pools solely to Eligible Participants, *i.e.*, certain QEPs and accredited investors, focusing on reducing regulatory and compliance burden for those CPOs who are subject to comprehensive regulation and oversight by the SEC. The Commission preliminarily believes that it can provide this exemption, while retaining meaningful investor protection safeguards provided by 17 CFR part 4 to the investing public engaging with registered CPOs and CTAs. Importantly, participation in the would-be exempt pools is limited to investors with the financial sophistication, resources, and experience necessary to evaluate complex investment risks, and who the Commission has previously determined are less in need of the substantial protections provided by its part 4 regulations. The Commission preliminarily believes that the Proposal

strikes an appropriate regulatory balance, especially in the context of otherwise regulated intermediaries and sophisticated investors, the former of which bear significant costs for CPO registration and compliance in addition to SEC regulatory costs, and the latter who receive incremental or modest benefits as a result of those costs. The Commission preliminarily believes that the Proposed RIA–QEP Exemption efficiently leverages existing oversight of RIAs, which applies investor protection requirements like fiduciary obligations, periodic financial reporting, examinations, and enforcement authority.

The Proposal would also expand the availability of the Small Pool Exemption by increasing its gross capital contributions threshold to account for inflation and current economic conditions. The Commission preliminarily believes it is prudent and appropriate to periodically review its regulations and update them as necessary to ensure that policies like registration exemptions remain fit to their original purpose and scope and continue to function as intended in the commodity interest markets. Overall, the Proposal if adopted, would allow market participants to experience better targeted, more efficient application of CFTC regulations and requirements to registered intermediaries, by reducing duplicative regulatory regimes and focusing CFTC resources on customer protection and compliance to members of the investing public with fewer resources and less experience, who may be more vulnerable and benefit the most from that protection.

ii. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

Section 15(a)(2)(B) of the CEA requires the Commission to evaluate the costs and benefits of a proposed regulation in light of “efficiency, competitiveness, and financial integrity of futures markets.” ¹⁰⁴ The Commission preliminarily believes that the Proposal would generally improve efficiency, competitiveness, and financial integrity of futures markets. The Proposal would reduce duplicative and overlapping regulations applicable to intermediaries in these markets, and it is intended to facilitate efficiency and competitiveness by applying the “minimum effective dose” of regulation to these markets and their participants. As a result, the Proposal, if adopted, would reduce regulatory costs for RIA–CPOs qualifying for the RIA–QEP Exemption, and could potentially encourage more

¹⁰² 7 U.S.C. 19(a).

¹⁰³ 7 U.S.C. 19(a)(2)(A).

¹⁰⁴ 7 U.S.C. 19(a)(2)(B).

qualifying entities to participate in commodity interest markets due to lowering regulatory and compliance costs. Consequently, the markets may experience an increase in participation of RIA-CPOs operating and advising qualifying investment vehicles, and that, in turn, may result in increased liquidity and competition in these markets. As a result of reducing duplicative regulatory regimes and costs and increasing the participation of experienced intermediaries and sophisticated investors, the Commission preliminarily believes that the Proposal will have a positive impact on the efficiency, competitiveness, and financial integrity of futures markets.

iii. Price Discovery

Section 15(a)(2)(C) of the CEA requires the Commission to evaluate the costs and benefits of a proposed regulation in light of price discovery considerations.¹⁰⁵ The Proposal is not expected to have a significant direct effect on price discovery. To the extent that the RIA-QEP Exemption results in greater participation by experienced RIAs and their sophisticated clients, the Proposal may indirectly support more robust market participation, and thus, contribute positively to price formation and discovery processes.

iv. Sound Risk Management Practices

Section 15(a)(2)(D) of the CEA requires the Commission to evaluate the costs and benefits of a proposed regulation in light of sound risk management practices.¹⁰⁶ The Proposal maintains key structural protections by relying on the SEC's risk management framework for RIAs and, where applicable, Form PF reporting to monitor systemic risk. For Eligible Pools, the Proposal does not significantly reduce protections applicable to retail participants, as such pools involve only Eligible Participants. Further, to the extent RIA-CPOs repurpose their resources currently spent on CPO registration and compliance requirements by claiming the Proposed RIA-QEP Exemption, RIA-CPOs may choose to use such resources in further developing sound risk management practices.

v. Other Public Interest Considerations

Section 15(a)(2)(E) of the CEA requires the Commission to evaluate the costs and benefits of a proposed regulation in light of other public interest considerations.¹⁰⁷ Replacing the

no-action positions in Letter 25-50 with formally adopted regulations provides transparency, stability, and predictability to market participants. The Proposal also advances long-standing Commission goals of avoiding unnecessary regulatory burdens, harmonizing requirements with other federal regulators, and calibrating compliance obligations to the sophistication and financial resilience of market participants.

Additionally, the Commission preliminarily believes that, by leveraging the existing SEC oversight of RIAs and private fund-commodity pools eligible for the Proposed RIA-QEP Exemption, the Commission would be better able to direct its limited resources to registered intermediaries, commodity pools, pool participants, and advisory clients in an effective and targeted manner. Specifically, the Commission intends to focus its intermediary regulations on CPOs and CTAs engaging with pool participants and advisory clients more in need of direct intervention and protection, including those persons who are new investors in the commodity interest markets, or who possess fewer resources to assess the risks of an investment opportunity. Further, the Commission preliminarily believes that, by virtue of claiming Proposed Regulation 4.13(a)(4), eligible RIA-CPOs may also be able to reallocate their internal compliance resources currently devoted to CFTC obligations toward other aspects of their operations, like risk management functions and investor-facing activities. With respect to the Small Pool Exemption, the Commission preliminarily believes the public interest is served when it regularly evaluates and updates financial thresholds in its regulations to ensure such thresholds maintain their original intended scope and relevance in the context of current economic conditions.

The Commission requests comment on all aspects of its consideration of the costs and benefits of the Proposal, including any available quantifiable data and analysis.

D. Antitrust Considerations

Section 15(b) of the CEA 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 purposes of the CEA in issuing any order or adopting any Commission rule or regulation.¹⁰⁸ The Commission believes that the public interest to be protected by the antitrust

laws is generally to protect competition. The Commission requests comment on whether the Proposal implicates any other specific public interest to be protected by the antitrust laws.

The Commission has considered the proposed amendments in this Proposal to determine whether they are anticompetitive and has preliminarily identified no anticompetitive effects. The Commission requests comment on whether the Proposal is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has preliminarily determined that the Proposal is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the CEA that would otherwise be served by adopting the amendments proposed in this Proposal.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 ("E.O. 12866")¹⁰⁹ and 13563¹¹⁰ 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 E.O. 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.

OMB has determined that this action is not a significant regulatory action as defined in E.O. 12866, as amended, and

¹⁰⁵ 7 U.S.C. 19(a)(2)(C).

¹⁰⁶ 7 U.S.C. 19(a)(2)(D).

¹⁰⁷ 7 U.S.C. 19(a)(2)(E).

¹⁰⁸ 7 U.S.C. 19(b).

¹⁰⁹ Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993).

¹¹⁰ Executive Order 13563, Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011).

therefore it was not subject to E.O. 12866 review.

This Proposal, if finalized as proposed, is expected to be a deregulatory action under Executive Order 14192.¹¹¹

List of Subjects in 17 CFR Part 4

Commodity pool operators, Commodity trading advisors, Investment advisers, Reporting and recordkeeping requirements, Securities, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 4, as follows:

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

- 1. The authority citation for part 4 shall continue to read as follows:

Authority: 7 U.S.C. 1a, 2, 6(c), 6b, 6c, 6l, 6m, 6n, 6o, 12a, and 23.

- 2. Amend § 4.13 by:

- a. Revising paragraph (a)(2)(ii);
 ■ b. Revising paragraph (a)(4);
 ■ c. Revising paragraphs (b)(1)(ii) and (e)(2), to read as follows:

§ 4.13 Exemption from registration as a commodity pool operator.

* * * * *

(a) * * *

(2) * * *

(ii) The total gross capital contributions it receives for units of participation in all of the pools it operates or that it intends to operate do not in the aggregate exceed \$800,000.

* * * * *

(4) With respect to each pool for which the person claims exemption under this paragraph (a)(4):

(i) Interests in the pool are exempt from registration under the Securities Act of 1933, and such interests are offered and sold without marketing to the public in the United States, provided that this prohibition on marketing shall not apply to a pool that is also offered pursuant to § 230.506(c) of this title;

(ii) The person is registered with the Securities and Exchange Commission as an investment adviser under the Investment Advisers Act of 1940;

(iii) The person reasonably believes, at the time of investment (or, in the case of an existing pool, at the time of conversion to a pool meeting the criteria of paragraph (a)(4) of this section), that:

(A) Each natural person participant (including such person's self-directed

employee benefit plan, if any) is a natural person listed in paragraph (i) of the definition of "qualified eligible person" in § 4.7(a)(6) of this part; and

(B) Each non-natural person participant is a "qualified eligible person," as that term is defined in § 4.7(a)(6) of this part, or an "accredited investor," as that term is defined in §§ 230.501(a)(1)–(3), (a)(7), or (a)(8), of this title;

(iv) The person files Form PF, if it is required to do so by Form PF and/or related securities regulations;

(v) Nothing in paragraph (a)(4) of this section will prohibit the person from claiming an exemption under this section, if it additionally operates one or more pools that meet the criteria of paragraph (a)(3) of this section.

* * * * *

(b) * * *

(1) * * *

(ii) Specify the paragraph number pursuant to which the person is filing the notice (*i.e.*, § 4.13(a)(1), (2), (3), (4) or (5)) and represent that the pool will be operated in accordance with the criteria of that paragraph;

* * * * *

(e) * * *

(2) If a person operates one or more commodity pools described in paragraph (a)(3) or (a)(4) of this section, and one or more pools for which it must be, and is, registered as a commodity pool operator, the person is exempt from the requirements applicable to a registered commodity pool operator with respect to the pool or pools described in paragraph (a)(3) or (a)(4) of this section; *Provided*, that the person:

(i) Furnishes in written communication physically delivered or delivered through electronic transmission to each prospective participant in a pool described in paragraph (a)(3) or (a)(4) of this section that it operates:

(A) A statement that it will operate the pool as if the person was exempt from registration as a commodity pool operator;

(B) A description of the criteria pursuant to which it will so operate the pool;

(ii) Complies with paragraph (c) of this section; and

(iii) Provides each existing participant in a pool that the person elects to operate as described in paragraphs (a)(3) or (a)(4) of this section a right to redeem the participant's interest in the pool, and informs each such participant of that right no later than the time the person commences to operate the pool as described in paragraphs (a)(3) or (a)(4) of this section.

* * * * *

- 3. Revise § 4.14(a)(8)(i)(D), to read as follows:

§ 4.14 Exemption from registration as a commodity trading advisor.

* * * * *

(a) * * *

(8) * * *

(i) * * *

(D) A commodity pool operator who has claimed an exemption from registration under § 4.13(a)(3) or 4.13(a)(4), or, if registered as a commodity pool operator, who may treat each pool it operates that meets the criteria of § 4.13(a)(3) or 4.13(a)(4) as if it were not so registered; and

* * * * *

Issued in Washington, DC, on August 18, 2026, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Commodity Pool Operators and Commodity Trading Advisors: Reduction of Duplicative Regulation Through Intermediary Registration Exemptions; Expansion of the Exemption for Small Commodity Pools—Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–17079 Filed 8–20–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CC–00349938–26]

RIN 1545–BS14

Guidance on Eligible Investments for Trump Accounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to Trump accounts. The proposed regulations would provide guidance regarding eligible investments, which are the only assets in which Trump account funds may be invested before the first day of the calendar year in which the account beneficiary attains age 18. The proposed regulations would affect account beneficiaries and trustees of Trump accounts.

¹¹¹ See Executive Order 14192, Unleashing Prosperity Through Deregulation, 90 FR 9065 (Jan. 31, 2025).

DATES: Written or electronic comments and requests for a public hearing must be received by October 20, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and CC-00349938-26) by following the online instructions for submitting comments. In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule is also available on the Federal eRulemaking Portal. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS’s public docket. Send paper submissions to: CC:PA:01:PR (CC-00349938-26), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Justin R. Karlin at (202) 317-6842; concerning submissions of comments or a public hearing, the Publications and Regulations Section at (202) 317-6091 (not toll-free numbers) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed regulations under section 530A of the Internal Revenue Code (Code) that would amend the Income Tax Regulations (26 CFR part 1). The proposed regulations are issued under the express delegation of authority provided in section 530A(b)(3)(A)(iv), which authorizes the Secretary of the Treasury or the Secretary’s delegate (Secretary) to specify criteria (in addition to those listed in section 530A(b)(3)(A)) that a mutual fund or exchange traded fund must meet to be an eligible investment. The proposed regulations are also issued under the express delegation of authority under section 530A(g)(3), which provides that in selecting the trustee of a Trump account created or organized by the Secretary, the Secretary shall take into account the costs imposed by the trustee on the account or the account beneficiary. Finally, the proposed regulations are issued under the express delegation of authority under section 7805(a) of the Code, which authorizes the Secretary to “prescribe all needful

rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background

I. Statutory Provisions

Section 70204 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly referred to as the One, Big, Beautiful Bill Act, added new sections 530A, 128, and 6434 to the Code. Section 530A provides for the establishment of a Trump account for an eligible individual. Section 128 provides rules for employer contributions to a Trump account. Section 6434 provides rules for a one-time \$1,000 pilot program contribution by the Secretary to the Trump account of an eligible child with respect to whom an election is made under section 6434.

A Trump account is an individual retirement account (as defined in section 408(a)) (IRA) not designated as a Roth IRA that is established for the exclusive benefit of an eligible individual (as defined in section 530A(b)(2)) or such eligible individual’s beneficiaries under section 530A. Special rules apply to the Trump account during the period that begins when an initial Trump account is first established for an account beneficiary (as defined in section 530A(b)(4)) and ends on December 31 of the calendar year in which the account beneficiary reaches the age of 17 (the growth period). The special rules concern contributions, investments, distributions, and reporting. After the growth period, most of the special rules no longer apply, and the rules under section 408 governing traditional IRAs generally apply.

The definition of a Trump account in section 530A(b)(1)(C)(iii) provides that the written governing instrument creating the Trump account must meet several requirements, one of which is that no part of the account funds will be invested in any asset other than an eligible investment during the growth period.

Section 530A(b)(3)(A) provides that the term *eligible investment* means any mutual fund or exchange traded fund that tracks the returns of a qualified index, does not use leverage, does not have annual fees and expenses of more than 0.1 percent of the balance of the investment in the fund, and meets such other criteria as the Secretary determines appropriate for purposes of section 530A.

Section 530A(b)(3)(B) provides that the term *qualified index* means the

Standard and Poor’s 500 stock market index, or any other index that is comprised of equity investments in primarily United States (U.S.) companies, and for which regulated futures contracts (as defined in section 1256(g)(1)) are traded on a qualified board or exchange (as defined in section 1256(g)(7)). Section 530A(b)(3)(B) provides that such term shall not include any industry or sector-specific index, but may include an index based on market capitalization.

II. Published Guidance

Notice 2025-68, 2025-52 IRB 856, informed taxpayers that the Treasury Department and the IRS intend to propose regulations on Trump accounts. The notice described guidance expected to be included in the proposed regulations in the form of answers to specific questions, including questions about eligible investments. Notice 2025-68 requested comments, with a comment period that ended February 20, 2026, and comments received in response to the notice are discussed below.

On March 9, 2026, the Treasury Department and the IRS published a notice of proposed rulemaking (REG-117270-25) in the **Federal Register** (91 FR 11194) on the general requirements for Trump accounts, certain definitions relating to Trump accounts, rules regarding the election to open an initial Trump account, and rules regarding the responsible party for the initial Trump account. On the same day, the Treasury Department and the IRS also published a notice of proposed rulemaking (REG-117002-25) in the **Federal Register** (91 FR 11203) on making an election under section 6434 for the Trump account of an eligible child to receive a \$1,000 pilot program contribution. This document proposes rules regarding eligible investments that implement section 530A(b)(1)(C)(iii) and (b)(3). The Treasury Department and the IRS anticipate proposing other rules under section 530A at a future date.

Explanation of Provisions

Proposed § 1.530A-3 would provide guidance relating to eligible investments for Trump accounts. The guidance includes proposed definitions related to eligible investments, rules for determining whether an investment is an eligible investment, and rules on how a trustee ¹ of a Trump account ensures that a Trump account meets

¹ A reference to a trustee includes a custodian of an IRA that is a section 408(h) custodial account.

requirements concerning eligible investments.

I. Determining Whether an Investment Is an Eligible Investment

Proposed § 1.530A-3(b) would provide definitions of terms for purposes of section 530A(b)(1)(C)(iii) and (b)(3). The definitions of eligible investment in proposed § 1.530A-3(b)(1) and qualified index in proposed § 1.530A-3(b)(5) restate the definitions in section 530A(b)(3)(A) and (B).

A. Form of Entity

Under section 530A(b)(3)(A), an eligible investment must be either a mutual fund or an exchange traded fund (ETF). Neither *mutual fund* nor *ETF* is defined in the Code. Notice 2025-68, in question and answer (Q&A) D-1, contained definitions of both terms intended to be consistent with their ordinary meanings.

One stakeholder recommended that the definition of ETF be revised so that it would include ETF share classes of mutual funds. The Treasury Department and the IRS agree with the recommendation because ETF share classes are within the category of investments ordinarily referred to as ETFs.

Under proposed § 1.530A-3(b)(2), an ETF would be defined as a domestic corporation (including a regulated investment company (RIC)) that is registered under the Investment Company Act of 1940, Public Law 76-768, 54 Stat. 789 (the 1940 Act), as amended, and that is either (i) an “exchange-traded fund” as defined for purposes of the 1940 Act in 17 CFR 270.6c-11(a)(1) or (ii) an entity that operates in substantially the same manner as an exchange-traded fund but that is not described in 17 CFR 270.6c-11(a)(1), such as a unit investment trust or ETF share class of a mutual fund operating as an ETF under exemptive relief granted by the Securities and Exchange Commission.

Like Notice 2025-68, proposed § 1.530A-3(b)(4) would provide that the term *mutual fund* means a domestic corporation (including a RIC) that is registered under the 1940 Act as an open-end company (as defined in 15 U.S.C. 80a-5(a)(1)) and that is not an ETF. Proposed § 1.530A-3(b)(3) would define the term *investment fund* to mean a mutual fund or an ETF.

B. Tracks the Returns of a Qualified Index

Section 530A(b)(3)(A)(i) provides that, to be an eligible investment, a mutual fund or ETF must track the returns of a qualified index. Notice 2025-68 (Q&A

D-2) stated that a mutual fund or ETF tracks the returns of an index if its investment objective is to provide investment results that, before fees and expenses, replicate the performance of the index, and the fund holds investments that are reasonably expected to accomplish that objective (by, for example, holding shares of all of the stocks that are constituents of the index in proportion to their weightings).

A stakeholder recommended that guidance emphasize that the standard is a requirement to seek to replicate index returns, rather than to eliminate all deviations of fund performance from index performance. The Treasury Department and the IRS confirm that the reference to the fund’s objective is intended to require a fund to seek to replicate the returns of an index.

The stakeholder also recommended clarifying that an investment fund intending to replicate the returns of an index is not always required to hold all the underlying stocks included in its chosen index. An investment fund may hold less than all of the components of an index and still closely track the index’s returns. The Treasury Department and the IRS agree that tracking the returns of an index does not require holding each component of the index. The example in the notice was illustrative and not an additional requirement, and proposed § 1.530A-3(c)(1) would acknowledge the possibility of tracking the returns of an index by holding less than all of its components.

Notice 2025-68 (Q&A D-2) also described investment objectives and strategies that are not consistent with tracking the returns of an index: an objective to provide investment results inverse to the performance of the index or a strategy to outperform or perform differently from the index. As examples of the latter, the notice described funds that increase or decrease exposure to some index constituents based on the judgment of advisors, or that hold assets in some or all market conditions intended to decrease or increase the volatility, risk, or current income associated with the index.

Stakeholders have asked whether actively managed investment funds pursuing a strategy other than seeking to replicate the performance of a particular index can be eligible investments. Investing Trump account funds in an investment fund that does not track the returns of an index would be directly contrary to section 530A(b)(3)(A)(i). These proposed regulations would follow section 530A(b)(3)(A)(i), under which an investment fund that is

actively managed is not an eligible investment.

One stakeholder expressed concern that the discretion exercised by managers or advisors of typical index funds would prevent those funds from being eligible investments under the standards described in the notice. Managers or advisors exercise discretion in pursuing their objective to replicate the returns of an index, including determining which index components to hold and when to execute trades. The stakeholder suggested that the language of the notice describing increased or decreased exposure to index constituents based on the judgment of advisors might be read as disqualifying an investment based on these or similar exercises of discretion. The Treasury Department and the IRS acknowledge this concern. Accordingly, proposed § 1.530A-3(c)(2) would exclude the reference to the discretion of advisors, so that advisors can make necessary decisions in pursuit of a fund’s objective to replicate the performance of an index.

The stakeholder also suggested that the reference to strategies used to “outperform” an index be eliminated as unnecessary in light of the more general reference to strategies used to “perform differently” from the index. The word “outperform” is intended to clarify that an objective to perform differently from an index includes an objective to outperform the index. Therefore, the proposed regulations do not reflect this suggestion.

One stakeholder asked for clarification regarding whether an investment fund may engage in securities lending to generate additional income while still being considered to track the returns of an index. Income from securities lending may be viewed as inconsistent with the general principle in proposed § 1.530A-3(c)(2) that an eligible investment may not use a strategy to perform differently from the relevant index, because securities lending generally increases the current income of the fund. Securities lending, however, appears to be consistent with the language and purposes of section 530A(b)(3). The statute does not mention securities lending, but securities lending by investment funds is common.

Moreover, an investment fund may engage in securities lending in a way that allows the fund to retain all of the economic benefits and burdens associated with the affected security. Section 1058(b) describes conditions under which a securities lending transaction is treated as a nonrecognition transaction to the lender. An investment fund that engages

in securities lending continues to provide investors with passive participation in the performance of the index, so long as the fund retains its economic exposure to the securities lent. Therefore, proposed § 1.530A–3(c)(3) would provide, as an exception to the general rule in proposed § 1.530A–3(c)(2), that an investment fund does not fail to track the returns of an index because the investment fund engages in securities lending transactions so long as the fund retains full economic exposure to the securities lent.

Stakeholders requested clarification regarding whether a fund of funds may be an eligible investment. A fund of funds is an investment fund that invests in other investment funds (acquired funds). One stakeholder recommended that a fund of funds tracking multiple indices through its acquired funds be treated as tracking the returns of a qualified index. Section 530A(b)(3)(A)(i) requires an eligible investment to track the returns of “a qualified index” (emphasis added). A fund of funds that tracks multiple indices is not described in section 530A(b)(3)(A)(i). Providing rules to allow an eligible investment to track multiple indices would also add unnecessary complexity. Therefore, these proposed regulations would not treat any fund, including a fund of funds, that replicates the returns of multiple indices as an eligible investment. However, nothing in these proposed regulations would preclude a fund of funds from being an eligible investment if it tracks a single index and meets all of the other requirements in section 530A(b)(3).

C. Does Not Use Leverage

Section 530A(b)(3)(A)(ii) provides that, to be an eligible investment, a mutual fund or ETF must not use leverage. Notice 2025–68 (Q&A D–3) stated that a mutual fund or ETF is considered to use leverage if, as a result of the fund’s use of borrowings, derivatives, or other strategies that are economically equivalent to borrowings, a percentage change in the level of an index tends to cause a materially greater percentage change in the value of the fund’s portfolio.

A stakeholder suggested that the leverage standard is unnecessary, because any fund using leverage as described in Q&A D–3 would also be failing to track the returns of an index under Q&A D–2. The stakeholder also explained that investment funds may use borrowing or their equivalents to gain efficient exposure to only a portion of the underlying index and that this practice, if assessed in isolation, may

lead to material variations in the portfolio as compared to the performance of the underlying index. The stakeholder suggested that leverage should disqualify an investment fund only if the fund’s borrowings or economic equivalents in their totality is inconsistent with the fund’s investment objective of seeking to track the returns of a qualified index.

The Treasury Department and the IRS recognize that the requirements in section 530A(b)(3)(A) to track the returns of an index and not to use leverage are closely related, and that in Notice 2025–68, the standard for leverage (Q&A D–3) substantially overlaps with the standard for tracking the returns of an index (Q&A D–2). The alternative standard proposed by the stakeholder, however, would deprive the leverage provision of any significance because any fund excluded for use of leverage under that alternative standard would also be excluded for not tracking the returns of a qualified index. The Treasury Department and the IRS, however, agree with the stakeholder that the statutory exclusion of funds using leverage should not be read to restrict the transactions that regular index funds (those not seeking to multiply or magnify index changes) typically use to gain efficient exposure to an index. The statutory exclusion of investment funds that use leverage should be read to exclude the higher-risk leveraged funds that are less suitable for many Trump account beneficiaries. Therefore, these proposed regulations would define leverage by reference to increased risk.

Proposed § 1.530A–3(d)(1) would provide that an investment fund is considered to use leverage if the fund uses borrowings, derivatives, or other strategies that are economically equivalent to borrowings in a way that materially increases the risk of loss associated with an investment in the investment fund. Under this standard, as under Notice 2025–68, an investment fund uses leverage if, as a result of borrowings or derivatives or another economic equivalent, a change in the level of the index the returns of which the fund seeks to replicate tends to cause a materially greater proportional change in the net value of the fund’s portfolio. Consistent with the stakeholder’s recommendation, this standard requires an inquiry into risk associated with the fund as a whole and not one transaction in isolation.

Notice 2025–68 explained that borrowings and derivatives not entered into to multiply or magnify index returns generally would not be treated as leverage. The notice included as examples borrowings to provide

liquidity for redemptions or for purchases of portfolio securities in connection with investment flows into the fund, and entering into derivatives as part of a fund’s strategy to replicate the performance of an index.

Like Notice 2025–68, these proposed regulations would describe uses of borrowings and derivatives that would not be expected to constitute the use of leverage for purposes of section 530A(b)(3)(A)(ii). Under the proposed regulations, however, whether any use of borrowings or derivatives constitutes the use of leverage would depend on whether it materially increases risk of loss. Proposed § 1.530A–3(d)(2) would provide that an investment fund is not considered to use leverage merely because it borrows or uses derivatives as part of its strategy to replicate the performance of an index, so long as the borrowings or derivatives do not materially increase the risk of loss associated with an investment in the investment fund. Thus, an investment fund is not considered to use leverage merely because the fund incurs short-term borrowings to provide liquidity for redemptions or to purchase portfolio securities in connection with investment flows into the fund or because the fund uses derivatives to gain synthetic exposure to certain index components. For an investment fund that engages in securities lending, proposed § 1.530A–3(d)(2) would provide that the investment fund’s obligation to return collateral to the borrower of the securities is not treated as leverage so long as the investment fund takes appropriate steps to limit the risk of loss with respect to the collateral. To limit the risk of loss with respect to cash collateral, the investment fund must hold the collateral in cash or highly liquid, conservative positions (like money market funds). To limit the risk of loss with respect to non-cash collateral, the investment fund must not sell the collateral or otherwise use the collateral (for example, by pledging it) to increase the fund’s exposure to other assets.

D. Qualified Index

Section 530A(b)(3)(B) provides that a qualified index is the Standard and Poor’s 500 stock market index, or any other index that is comprised of equity investments in primarily U.S. companies and for which regulated futures contracts (as defined in section 1256(g)(1)) are traded on a qualified board or exchange (as defined in section 1256(g)(7)). Section 530A(b)(3)(B) also provides that a qualified index does not include any industry or sector-specific

index but may include an index based on market capitalization.

Q&A D-5 in Notice 2025-68 stated that an index is considered to be comprised of equity investments if the index is comprised entirely of stocks and similar ownership interests in the form of partnership or membership interests.

Several stakeholders requested guidance that would allow an index with debt instruments as components to be a qualified index. Section 530A(b)(3)(B)(ii)(I) requires a qualified index to be “comprised of equity investments in primarily [U.S.] companies.” It is consistent with that statutory language for a qualified index to include some equity investments in non-U.S. companies, but not for a qualified index to include components other than equity investments. Accordingly, proposed § 1.530A-3(e)(5) would contain the same all-equity requirement as the notice.

One stakeholder recommended that a qualified index include a total-market index. While the term *total-market* may have different meanings, an index that represents an equity market broadly, including large-cap, mid-cap, and small-cap companies, may be a qualified index if the index meets the requirements in proposed § 1.530A-3(e). (For example, a regulated futures contract on the index must be traded on a qualified board or exchange and the index must be comprised of equity investments in primarily U.S. companies.)

Q&A D-5 stated that a company is a U.S. company if it is domestic under section 7701(a)(4). It also included a safe harbor under which an index would be treated as comprised of equity investments in primarily U.S. companies if U.S. companies represent at least 90 percent of the index based on their weightings in the index.

Stakeholders suggested that the 90-percent standard in the safe harbor was a higher threshold than what the statutory language suggests. The Treasury Department and the IRS note that a variety of provisions in the Code use “primarily” without providing a numerical threshold. A safe harbor provides certainty for some indices, so that the Standard and Poor’s 500 stock market index is not the only index assured of meeting the standard. Thus, proposed § 1.530A-3(e)(7) would retain the 90-percent safe harbor approach of the notice.

Q&A D-6 in Notice 2025-68 stated that an index is industry-specific or sector-specific if the inclusion of a company depends on the kind of

business or industry in which the company is engaged.

Stakeholders did not comment on that aspect of the qualified index requirement, and proposed § 1.530A-3(e)(2) would provide substantially the same rule. Under proposed § 1.530A-3(e)(1), whether an index is industry-specific or sector-specific would be determined by reference to the index methodology for the index. Proposed § 1.530A-3(e)(1) would require a qualified index to have a publicly available index methodology that describes the criteria for inclusion in the index and the construction of the index.

Q&A D-6 also provided that environmental, social, and governance (ESG) indices are sector-specific. A stakeholder recommended that an index that has criteria for inclusion based on ESG factors not be described as a sector-specific index. The stakeholder explained that describing an ESG index as a sector-specific index may generate confusion about the meaning of the term as it is used in other contexts.

The Treasury Department and the IRS acknowledge that describing an ESG index as a sector-specific index could generate confusion about the meaning of the term. Accordingly, proposed § 1.530A-3(e)(3) would not describe an ESG index as a sector-specific index. Nevertheless, the Treasury Department and the IRS have determined that it is appropriate to exclude investment funds that track ESG indices because they limit exposure to companies in a way that makes them similar to sector-specific funds. Accordingly, under the authority provided in section 530A(b)(3)(A)(iv), proposed § 1.530A-3(e)(3) would provide that any investment fund that tracks the returns of an ESG index is not an eligible investment. Proposed § 1.530A-3(e)(3) would further provide that an ESG index includes any index that has, or is marketed as having, a focus on environmental, social, or governance factors.

Q&A D-6 also defined an index based on market capitalization, the substance of which would remain unchanged in the proposed regulations. Proposed § 1.530A-3(e)(4) would provide that an index is based on market capitalization if the inclusion of a company in the index depends on the company having a market capitalization within a specified range or over or under a specified threshold, or that meets specified ranking criteria.

E. Limit on Annual Fees and Expenses

Section 530A(b)(3)(A)(iii) provides that, to be an eligible investment, a mutual fund or ETF must not have

annual fees and expenses of more than 0.1 percent of the balance of the investment in the fund.

Q&A D-4 in Notice 2025-68 stated that an investment fund would meet the requirements of section 530A(b)(3)(A)(iii) if the sum of its annual fees and its annual expenses is not more than 0.1 percent of the value of the fund’s net assets. Q&A D-4 in Notice 2025-68 described a fund’s annual fees as including any annual or recurring fees charged by the fund directly to the investor, as disclosed in a fund’s prospectus. The notice requested comments on the appropriate treatment of fees charged for transactions.

A stakeholder recommended that all amounts that are not part of an investment fund’s expense ratio, including transactional fees such as sales charges, loads, and redemption fees, be excluded from a fund’s fees and expenses for purposes of section 530A(b)(3)(A)(iii). Excluding all fees is inconsistent with the language in section 530A(b)(3)(A)(iii), which limits “fees and expenses.” Both fees and expenses reduce the real returns to investors. Excluding transactional fees appears to be similarly inconsistent with the language and purposes of section 530A(b)(3)(A)(iii), because an investment fund’s fees may be entirely transactional fees and such fees reduce real returns to investors. Moreover, investment funds can structure their fees in a variety of ways. A rule that excludes some fees from the limit in section 530A(b)(3)(A)(iii) based on the form of the fees would create an incentive for investment funds to charge or increase that form of fee. Therefore, the limit on fees and expenses should apply to recurring fees (as under the notice) and other fees (on which the notice requested comments).

Proposed § 1.530A-3(f)(1) would provide that an investment fund is not an eligible investment if the sum of its annual fees and annual expenses is more than 0.1 percent of the net value of its assets. Amounts charged by investment funds directly to investment fund holders are referred to as fees and addressed in proposed § 1.530A-3(f)(2). Amounts borne by investment fund holders indirectly in the form of costs incurred by investment funds are referred to as expenses and addressed in proposed § 1.530A-3(f)(3).

Proposed § 1.530A-3(f)(2)(ii) would provide that an investment fund’s fees include all amounts that the fund charges its investment fund holders directly, without regard to how such amounts are computed, when they are imposed, or how such amounts are

referred to in securities filings or marketing materials. Under proposed § 1.530A–3(f)(2)(i), the amount of an investment fund’s annual fees would generally be the aggregate amount of fees imposed by the investment fund during the most recent fiscal year (for purposes of the fund’s securities filings) that has appeared in the fund’s prospectus, expressed as a percentage of the investment fund’s average net asset value for that fiscal year. If an investment fund’s prospectus discloses changes to the fund’s fee structure that would increase the annual fee amount, the computation must take into account the change to the fee structure.

Q&A D–4 in Notice 2025–68 indicated that annual fees and annual expenses will not include any amount that is paid to a broker or intermediary and that is not specified or imposed by or on behalf of the fund.

Stakeholders recommended that guidance clarify the treatment of charges not imposed by an investment fund, including custodial fees or fees to cover the administrative and reporting costs associated with a Trump account. One stakeholder pointed out that mutual fund account fees would be treated as fees of the mutual fund, resulting in differing treatment for mutual funds and ETFs. Another stakeholder requested clarification that amounts paid for advice or planning services are not subject to the 0.1 percent limit.

The 0.1 percent limit in section 530A(b)(3)(A)(iii) is part of the definition of an eligible investment. The limit does not apply to trustee fees. Therefore, custodial fees or similar charges that are associated with a Trump account itself rather than with any particular investment fund are analyzed as trustee fees, which are discussed later in this preamble. If an account beneficiary pays an amount to an advisor for advice on whether to open a Trump account or what investment to select, and the advice and the amount are entirely independent of any investment fund, then the amount is not within the scope of the annual fees of an investment fund. Given the definition of annual fees, a rule specifically excluding an amount having no connection to any fund appears to be unnecessary and more likely to confuse than clarify the definition. A sales load, however, is part of a mutual fund’s annual fees, even though the amount charged may ultimately benefit a financial intermediary, because it is a cost of investing in a particular investment fund.

Proposed § 1.530A–3(f)(2)(iii) would provide that amounts charged to an account beneficiary by a trustee for

providing an account are not treated as part of any investment fund’s annual fees but as trustee fees. A fee charged by a Trump account trustee or financial intermediary for a service, such as carrying out a purchase or sale of an investment fund is not considered a part of the investment fund’s fees if the fee is not charged on behalf of or at the direction of the investment fund, is not paid (directly or indirectly) to the investment fund, and is not attributable to any cost of offering the investment fund. See part IV of this Explanation of Provisions regarding fees and expenses charged by a Trump account trustee.

Q&A D–4 in Notice 2025–68 described a fund’s annual expenses as the amount set forth in its prospectus as total annual operating expenses. Investment funds are already required to compute and report these amounts. A fund’s total annual operating expenses is also used to compute the fund’s expense ratio, which is a metric that is commonly published and referred to in comparing investment funds. No comments were received regarding the approach to annual expenses in the notice, and proposed § 1.530A–3(f)(3) would provide substantially the same rule.

Proposed § 1.530A–3(f)(3) would provide certain additional clarifications to aid in the computation of a fund’s total annual operating expenses. These include that if an investment fund’s prospectus lists total operating expenses reduced by fee waivers or expense reimbursements, the reduced amount applies for purposes of section 530A(b)(3)(A)(iii). In addition, proposed § 1.530A–3(f)(3) would provide that if an investment fund has multiple share classes, annual expenses are computed separately for each class, based on the expenses and assets allocable to each class.

II. Trustee Procedures Regarding Eligible Investments

Section 530A(b)(1)(C)(iii) provides that the written governing instrument creating a Trump account must meet the requirement that no part of the account funds will be invested in any asset other than an eligible investment during the growth period.

Q&A D–7 of Notice 2025–68 stated that a trustee must have procedures in place to monitor and enforce the requirements of section 530A(b)(1)(C)(iii). The Q&A stated that it is not sufficient merely for a written governing instrument of a Trump account to state the prohibition of section 530A(b)(1)(C)(iii); the trustee must comply with the prohibition. The Q&A stated that the procedures may, but

are not required to, be in the written governing instrument.

A stakeholder questioned whether there is authority for requiring operational compliance with the eligible investment requirements for Trump accounts. Section 530A(b)(1)(C) imposes limits by reference to the written governing instrument of a Trump account, which cannot be enforced by the IRS. Therefore, the stakeholder suggests any failure by a trustee to follow the written governing instrument is a contractual violation enforceable by the account beneficiary.

The Treasury Department and the IRS interpret the language of section 530A(b)(1)(C) as requiring not just specific language to be contained in the written governing instrument but also as requiring operational compliance with the language set forth in the written governing instrument. The trustee is in the best position to ensure that an account meets requirements of section 530A(b)(1)(C), which concern contributions, distributions, and investments. Thus, the trustee must structure its operations to ensure the account meets the requirements. Without such an operational compliance requirement, the written instrument is not, in fact, the written governing instrument.

This approach of requiring operational compliance with Code requirements in the written governing instrument is consistent with how the Treasury Department and the IRS have interpreted statutory rules for section 401(a) plans that, on their face, could be read to suggest only a requirement that needs to be set forth in a plan document. For example, section 401(a)(9) provides that “[a] trust shall not constitute a qualified trust under this subsection *unless the plan provides* that the entire interest of each employee” will be distributed in accordance with section 401(a)(9)(A) (emphasis added). The Treasury Department and the IRS have interpreted this language as requiring operational compliance in order to maintain qualified plan status under section 401(a).

Proposed § 1.530A–3(g) would provide procedures for a trustee to follow to ensure that Trump account funds are invested in accordance with section 530A(b)(1)(C)(iii), including for selection of eligible investments and default eligible investments, situations in which funds temporarily need not be invested in an eligible investment, and monitoring of investment funds. Many of these procedures involve an account beneficiary, who generally will have

another person acting on their behalf while they are a minor.

Proposed § 1.530A–3(g)(2) would provide that the written governing instrument must include the procedures described in proposed § 1.530A–3(g)(4), (5), and (7). Proposed § 1.530A–3(g)(3) would clarify that if an account does not comply with section 530A(b)(1)(C)(iii), taking into account the flexibility added by proposed § 1.530A–3(g), the account will cease to be a Trump account and cease to be an IRA.

Q&A D–7 of Notice 2025–68 also stated that these procedures with respect to the growth period must include at least that the trustee must offer only eligible investments as investment options for a Trump account, and the trustee must select a default eligible investment and must promptly invest any uninvested funds in the default eligible investment, unless directed by or on behalf of the account beneficiary to invest the funds in a different eligible investment.

Stakeholders sought clarification regarding default eligible investments, including whether a trustee may have only one default eligible investment, whether any eligible investment may be the default eligible investment, and whether an account beneficiary may specify another eligible investment as the designated eligible investment for that particular account beneficiary.

Proposed § 1.530A–3(g)(4)(i) would provide that a trustee must limit investments available for Trump account investments to investment funds that the trustee has determined are eligible investments.

Proposed § 1.530A–3(g)(4)(ii) would provide that a trustee must establish for each Trump account under the trustee's administration a default eligible investment in which all contributions, proceeds from sales or other dispositions, and any other amounts for investment (other than amounts addressed by proposed § 1.530A–3(g)(4)(iii)) will be invested unless the account beneficiary specifies that the Trump account be invested in a different eligible investment for the contribution or other amount. Proposed § 1.530A–3(g)(4)(ii) also would provide that the default eligible investment can be a single eligible investment or a combination of eligible investments in specified proportions, and that the default eligible investment(s) must be clearly disclosed to account beneficiaries. Proposed § 1.530A–3(g)(4)(ii) would provide that the requirement to establish a default eligible investment does not preclude arrangements between a trustee and the account beneficiary that give effect to

different preferences on an ongoing basis.

Proposed § 1.530A–3(g)(4)(iii) would provide that the trustee of a Trump account must disclose to the account beneficiary how amounts received as dividends or other distributions from eligible investments will be invested unless the account beneficiary gives different instructions regarding the dividends and distributions. For example, amounts received as dividends and distributions might be reinvested in the same eligible investments that paid the dividends or other distributions or invested in the Trump account's default eligible investment. Proposed § 1.530A–3(g)(4)(iii) would also provide that the trustee may give effect to directions from the account beneficiary that a specific distribution, or distributions generally, be invested in a different way that complies with section 530A(b)(1)(C)(iii).

Q&A D–8 of Notice 2025–68 stated that, during the growth period, the trustee's procedures may not permit funds in a Trump account to be invested in a money market fund but may permit an amount received as a contribution, a dividend or other distribution from an eligible investment, or an amount received as a result of a disposition (such as sale) of an eligible investment, to be held in cash for the time reasonably necessary to complete the investment of the amount in an eligible investment.

Stakeholders recommended that amounts should be permitted to be held in cash for the time reasonably necessary to complete a distribution, rollover, or payment of fees. Proposed § 1.530A–3(g)(5)(i) would provide that a trustee may permit an amount received in a Trump account as cash, such as an amount received as a contribution, proceeds of a sale or other disposition, or a distribution, to be held in cash for the time reasonably necessary to complete an investment, reinvestment, distribution, rollover, payment of fees, or other transaction permitted under section 530A.

Q&A D–9 of Notice 2025–68 stated that, during the growth period, the trustee's procedures must require reasonable ongoing monitoring by the trustee regarding whether a fund held by a Trump account continues to be an eligible investment. This Q&A also stated that in the event that a fund held by a Trump account ceases to be an eligible investment during the growth period, the Trump account will no longer be permitted to be invested in such fund.

Stakeholders made a variety of recommendations and sought

clarification with respect to the trustee's obligation to monitor the status of its existing investments as eligible investments. These recommendations include providing a safe harbor regarding when a trustee would be treated as satisfying its obligations relating to monitoring investment funds. For example, one stakeholder recommended that trustee monitoring be based on periodic review and reliance on public disclosures. Stakeholders also recommended a 120-day grace period for a fund to regain eligible investment status (by, for example, adjusting its fees and expenses) or for the trustee to dispose of shares in the fund and reinvest the proceeds in an eligible investment.

The Treasury Department and the IRS recognize that day-to-day monitoring by a trustee regarding whether an investment fund continues to be an eligible investment raises significant practical concerns. The Treasury Department and the IRS agree with stakeholders that a safe harbor requiring trustees to make periodic determinations regarding eligible investment status would be more administrable for trustees.

Proposed § 1.530A–3(g)(6) would require that the trustee's procedures provide for monitoring of investment funds in which the trustee's Trump accounts are invested, with an initial determination whether the investment fund is an eligible investment when the trustee first offers the investment fund to any Trump account for which it is the trustee and then subsequent periodic determinations that the investment fund continues to be an eligible investment. Proposed § 1.530A–3(g)(6) would provide that the trustee may rely on an investment fund's prospectus and other public documents required by Federal securities laws in making determinations of eligible investment status. Proposed § 1.530A–3(g)(6) would also provide that a trustee is treated as monitoring investment funds in which the trustee's Trump accounts are invested if the trustee's periodic determinations occur at least once every 12 months.

Proposed § 1.530A–3(g)(5)(ii) would provide that in the event an investment fund ceases to be an eligible investment, the trustee's procedures must require the prompt sale or disposition of shares in the investment fund and the reinvestment of the proceeds in an eligible investment. Specifically, proposed § 1.530A–3(g)(5)(ii)(A) would provide that a trustee must sell or dispose of shares in the investment fund and reinvest the proceeds within 30 days of when the investment fund

ceases to be an eligible investment. Proposed § 1.530A-3(g)(5)(ii)(B) would provide that the time when an investment fund is treated as ceasing to be an eligible investment is determined based on whether the trustee is in compliance with the monitoring and periodic determination requirements in proposed § 1.530A-3(g)(6). If the trustee is not in compliance with the monitoring and periodic determination requirements in proposed § 1.530A-3(g)(6), the investment fund is treated as ceasing to be an eligible investment on the first day that the investment fund does not meet the requirements to be an eligible investment. If the trustee is in compliance with the monitoring and periodic determination requirements of proposed § 1.530A-3(g)(6), the time of the trustee's next periodic determination in accordance with proposed § 1.530A-3(g)(6) or, if earlier, the time that the trustee acquires actual knowledge that the investment is no longer an eligible investment, is treated as the time the investment fund ceases to be an eligible investment. This provision is intended to address concerns regarding the timing of identifying and then disposing of shares in an investment fund expressed in stakeholders' requests for specific time thresholds for dispositions.

Stakeholders discussed what notice a trustee should be required to provide to an account beneficiary when an investment fund in which the account beneficiary's funds are invested ceases to be an eligible investment. One stakeholder contemplated notice to an account beneficiary before the trustee reinvests the proceeds from the sale of the fund that ceases to be an eligible investment. The Treasury Department and the IRS believe that requiring notice before reinvestment unnecessarily slows down reinvestment. Proposed § 1.530A-3(g)(5)(ii) would not require notice to account beneficiaries before selling or disposing of shares in the investment fund but would require notice to account beneficiaries after reinvestment of the proceeds about how the proceeds are reinvested.

Proposed § 1.530A-3(g)(7) would provide that if a trustee has adopted the required procedures but a portion of the assets in a Trump account is not invested in an eligible investment due to an administrative error by the trustee (for example, due to an oversight or mistake in applying the procedures), the trustee must sell or dispose of the assets that are not invested in an eligible investment and reinvest the proceeds in an eligible investment within 30 calendar days from the first day that portion was not invested in an eligible

investment. Furthermore, the trustee must disclose to the account beneficiary the duration of the error, the assets that were held during the error period, and the amount reinvested in an eligible investment at the end of the error period.

Regarding the proposed correction of administrative errors, the Treasury Department and the IRS are considering providing a rule that would allow a trustee, in the case of its administrative error, to replace, to the extent needed, earnings in the account that the account would have had if the account had been properly invested in an eligible investment. Such replaced earnings would not be considered contributions subject to the contribution limitation under section 530A(c)(2). Comments are requested regarding such a rule.

The Treasury Department and the IRS recognize the importance of helping account beneficiaries receive the benefits of a Trump account, particularly because account beneficiaries are minors. Therefore, in addition to the proposed correction procedures included in these proposed regulations, the Treasury Department and the IRS request comments regarding other failures under section 530A(b)(1)(C) that may be appropriate for correction and proposed corrections for such failures (taking into account that trustees must have procedures in place to prevent most such failures). The Treasury Department and the IRS intend to provide additional correction procedures for trustees, as needed, to correct certain Trump account failures. Comments are additionally requested regarding whether potential Trump account corrections should be included as part of the IRA correction procedure authorized under section 305(c) of Public Law 117-328, 136 Stat. 4459 (December 29, 2022), commonly referred to as the SECURE 2.0 Act.

Q&A D-10 of Notice 2025-68 stated that a trustee may permit funds in a Trump account to be invested in multiple eligible investments. The Treasury Department and the IRS confirm that a Trump account may be invested in any number of eligible investments, and proposed § 1.530A-3(g)(1) would provide that Trump account funds may be invested in one or more eligible investments.

III. Request for Comments Regarding Stock Contributions as Part of a Philanthropic Contribution

The Treasury Department and the IRS intend to exercise regulatory authority conferred by section 530A(a) to issue regulations that would allow contributions of readily tradable public

company stock to be made to Trump accounts as part of a philanthropic contribution. The regulations would require that the stock transferred to the Treasury Department for this purpose must satisfy certain criteria and other requirements to be treated as a charitable contribution. All other contributions to Trump accounts would continue to have to be made in cash pursuant to section 408(a)(1), and such funds would continue to be subject to the requirement in section 530A(b)(1)(C)(iii) that they cannot be invested in any asset other than an eligible investment during the growth period.

IV. Request for Comments Regarding Trustee Fees

Section 530A is intended to promote long-term investing for the benefit of children. Section 530A contains provisions designed to maintain a low cost for these accounts. In particular, section 530A(b)(3)(A)(iii) limits eligible investments to those with low annual fees and expenses and section 530A(g) permits the Secretary to take into account costs imposed by the trustee on the account or the account beneficiary when selecting the trustee. Additionally, commenters and other stakeholders have expressed concerns with the potential for fees and expenses to diminish the account balances over time (especially given the small initial balances and long expected holding periods). One commenter raised the concept of expressly prohibiting additional fees because such fees are not contemplated in the statutory language.

The Treasury Department and the IRS are considering ways to keep costs down for these accounts, and request comments on alternative ways in which this might be achieved, including the possibility of prohibiting trustees from charging any fees with respect to the account beneficiary or the eligible investments held by the account beneficiary.

Proposed Applicability Dates

The regulations are proposed to apply to taxable years beginning on or after January 1, 2026, except for paragraph (g) of the regulations, which is proposed to apply to taxable years beginning on or after the date of publication of the Treasury decision adopting these rules as final regulations in the **Federal Register** (finalization date). In accordance with section 7805(b)(2) of the Code, the Treasury Department and the IRS intend to publish final regulations within 18 months of the date of enactment of section 530A. A taxpayer or a trustee may rely on the

proposed regulations for taxable years beginning before the finalization date if the taxpayer or trustee, respectively, follows these proposed regulations in their entirety and in a consistent manner.

Special Analyses

I. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

The proposed regulations have been designated by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the OMB regarding review of tax regulations. OIRA has determined that the proposed rulemaking is significant under section 3(f) of Executive Order 12866 and subject to review under Executive Order 12866 and section 1(b) of the MOA. Accordingly, the proposed regulations have been reviewed by OMB. This proposed rule is not expected to be considered a regulatory action under Executive Order 14192 because it does not impose any more than de minimis regulatory costs.

Need for Regulation

The proposed regulations would provide guidance relating to eligible investments for Trump accounts under section 530A. The proposed regulations would define terms related to eligible investments, provide rules for determining whether an investment fund is an eligible investment, and provide procedures for a trustee of a Trump account to ensure that a Trump account meets requirements concerning eligible investments.

The Statute and the Proposed Regulations

Public Law 119–21, commonly referred to as the One, Big, Beautiful Bill Act, added new sections 530A, 128, and 6434 to the Code. Section 530A describes Trump accounts, section 128 describes certain employer

contributions to Trump accounts, and section 6434 describes the Trump accounts contribution pilot program. The proposed regulations provide guidance on eligible investments in a Trump account under section 530A(b)(3).

Section 530A defines a Trump account as an IRA with some special rules. Most special rules that distinguish Trump accounts from other IRAs apply only during the growth period. The first day of the growth period is the day the account is established, and the final day of the growth period is December 31 of the calendar year in which the account beneficiary attains age 17. The rules for traditional IRAs generally apply after the growth period. A Trump account may be established for the benefit of a child prior to the calendar year in which the child attains age 18 if the child has been issued a social security number.

In general, distributions from Trump accounts are not permitted during the growth period. The entire balance of a Trump account may be rolled over in a direct trustee-to-trustee transfer to a new Trump account of the account beneficiary. The entire balance of a Trump account may be rolled over in a direct trustee-to-trustee transfer to an ABL account of the account beneficiary in the calendar year the account beneficiary attains age 17.

Funds in a Trump account may only be invested in eligible investments during the growth period. An eligible investment generally is a mutual fund or ETF that tracks an equity index of primarily U.S. companies, such as the S&P 500 index, does not use leverage, and has annual fees and expenses of no more than 0.1 percent of the balance of the investment in the fund.

Trump accounts may receive contributions from nonprofits, governments, employers, and individuals. In general, contributions to a Trump account are subject to an annual limit of \$5,000, adjusted for inflation.

Governments and nonprofits may make qualified general contributions through the Treasury Department, and such contributions must be allocated in equal amounts to the Trump accounts of every account beneficiary in a qualified class. Qualified general contributions from governments and nonprofits through the Treasury Department do not count towards the \$5,000 annual contribution limit.

Section 128 sets rules for certain employer contributions to Trump accounts. Employers may contribute to the Trump account of an employee or an employee's dependent. Section 128 employer contributions to a Trump

account are excluded from the employee's income, up to an annual limit of \$2,500, adjusted for inflation. Section 128 employer contributions count towards the \$5,000 annual contribution limit.

Section 6434 describes the Trump accounts contribution pilot program. In the pilot program, the Secretary will pay \$1,000 to the Trump accounts of eligible children. A U.S. citizen born in 2025, 2026, 2027, or 2028 who has been issued a social security number and for whom no request for a pilot program contribution has previously been processed is eligible for a pilot program contribution. Pilot program contributions do not count towards the \$5,000 annual contribution limit.

All other contributions to a Trump account, including contributions from friends or family members, are non-deductible contributions (they create investment in the contract) and count towards the \$5,000 annual contribution limit.

The proposed regulations (§ 1.530A–3) are just one piece of the implementation of section 530A; prior guidance addressed the election to open an initial Trump account (§ 1.530A–1), and future guidance will address other issues (§§ 1.530A–2, 1.530A–4, 1.530A–5, and 1.530A–6). The proposed regulations would define the following terms for the purposes of implementing section 530A: ETF, mutual fund, and investment fund. For implementing section 530A, the definition of ETF is taken from 17 CFR 270.6c 11(a)(1), modified to include entities that operate in substantially the same manner. For implementing section 530A, the definition of mutual fund is taken from 15 U.S.C. 80a–5(a)(1), modified to exclude ETFs. An investment fund is an ETF or a mutual fund.

The proposed regulations would provide rules for determining whether an investment fund is an eligible investment. The rules would clarify that an investment fund (1) tracks the returns of an index if it seeks to provide investment results that replicate the performance of the index and the fund holds investments that are reasonably expected to accomplish that objective, (2) uses leverage if it uses borrowings, derivatives, or other strategies that are economically equivalent to borrowings in a way that materially increases the risk of loss associated with an investment in the fund, and (3) is not an eligible investment if it charges annual fees and annual expenses of more than 0.1% of the net value of its assets. The rules would clarify that an investment fund is not an eligible investment if it corresponds to the returns of an ESG

index. The rules would clarify that, to be a qualified index, an index (1) must have a publicly available index methodology, (2) must not include a stock or similar ownership interest based on the industry of the issuing company, and (3) must be comprised of stocks and interests in companies that are primarily domestic under section 7701(a)(4). The rules would provide a safe harbor that an index with at least 90 percent U.S. companies by index weight is considered to be primarily U.S. companies.

The proposed regulations would provide procedures for a trustee of a Trump account to ensure that funds are invested in an eligible investment. A trustee would be required to ensure that investment funds available for a Trump account are eligible investments and that contributions to a Trump account are invested in an eligible investment by default. A trustee would generally be required to ensure that an investment fund held by a Trump account that ceases to be an eligible investment is disposed and the proceeds reinvested in an eligible investment within 30 days of ceasing to be an eligible investment. However, if a trustee makes periodic determinations of whether an investment fund is an eligible investment based on public documents at least once every 12 months, then the trustee would generally be permitted to rely on the periodic determinations, and the trustee would be required to ensure that an investment fund that ceases to be an eligible investment is disposed and the proceeds reinvested within 30 days of the periodic determination.

Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of these proposed regulations.

Affected Entities and Taxpayers

The proposed regulations are expected to affect 85 million children in 44 million families.

Economic Effects of the Proposed Regulations

Share of U.S. Equities

The proposed regulations would clarify how to apply the statutory requirement that investment funds held by Trump accounts track the returns of an index of equities in “primarily” U.S. companies. The proposed regulations would provide a safe harbor that an index with at least 90 percent U.S. companies by index weight is

considered to be “primarily” U.S. companies. Alternatives would be to provide a safe harbor with a different percentage or no safe harbor. The 90 percent threshold is low enough to accommodate temporary changes in indexes that are generally designed to track the returns of U.S. companies and high enough to clearly align with the statutory language. A safe harbor gives trustees the legal certainty they need to provide appropriate investment fund alternatives in Trump accounts.

The statute explicitly allows investment funds to track the Standard & Poor’s 500 (S&P 500) stock market index. The companies in the S&P 500 ended 2025 with a market capitalization of \$58 trillion. There are many other indexes that satisfy the safe harbor. For example, the Center for Research in Security Prices (CRSP) U.S. total market index, which includes companies that ended 2025 with a market capitalization of \$65 trillion, and the Nasdaq Composite index, which includes companies that ended 2025 with a market capitalization of \$35 trillion. Trustees are likely to act cautiously by choosing indexes that do not approach the safe harbor, so the impact of the safe harbor relative to a slightly different percentage or no safe harbor is likely small.

Assessment Frequency

The proposed regulations would clarify how often a trustee must determine whether an investment fund held by Trump accounts is an eligible investment. The proposed regulations would allow a trustee to rely on periodic determinations of whether an investment fund is an eligible investment based on public documents if the trustee makes the periodic determinations at least once every 12 months. Alternatives would be to require assessment more frequently, such as quarterly, or to require continuous monitoring. An annual determination is frequent enough to identify changes in fund or index eligibility, while avoiding a continuous-monitoring requirement that could discourage trustees from offering otherwise appropriate investment fund alternatives. A safe harbor gives trustees the legal certainty they need to administer Trump accounts without unnecessary compliance costs.

Annual assessment is consistent with other significant financial reporting cycles. Public companies generally file one annual report on Form 10-K each year. Public companies also generally file quarterly reports on Form 10-Q for the first three fiscal quarters. Requiring trustees to reassess fund eligibility more

often than annually could impose recurring review obligations that exceed what is necessary to confirm that funds remain aligned with statutory requirements. Trustees are likely to act cautiously by selecting funds and indexes that clearly satisfy the requirements, so the impact of allowing annual determinations relative to a more frequent requirement is likely small.

Disposal of Ineligible Investments

The proposed regulations would clarify how quickly a trustee must ensure disposal of an investment fund held by Trump accounts after the fund no longer satisfies the statutory requirements (or after a periodic determination to that effect). The proposed regulations would allow a Trump account not to lose its status as a Trump account if the disposal occurs within 30 days. Alternatives would be to allow shorter or longer remediation periods or not to allow any remediation. A 30-day period is short enough to ensure that Trump accounts are not maintained in ineligible investments for an extended period and long enough to permit orderly trading and operational processing. A reasonable remediation period gives trustees the legal certainty they need to correct eligibility issues without forcing rushed transactions that may be impractical or disadvantageous.

Correction periods in other retirement and tax contexts commonly allow time for orderly correction rather than requiring immediate action. For example, under IRS self-correction rules, many significant retirement plan operational failures may be corrected before the end of the third plan year after the year of the failure. The excise tax rules for prohibited transactions also distinguish between an initial tax of 15 percent of the amount involved and an additional 100 percent tax if the transaction is not corrected within the taxable period. Compared with these longer correction frameworks, a 30-day disposal period is relatively prompt. Trustees are likely to act cautiously by selecting funds that clearly satisfy the requirements and by disposing of ineligible investments soon after an issue is identified, so the impact of the 30-day remediation period is likely small.

Prohibition on ESG Criteria

The proposed regulations would specify that an investment fund is not an eligible investment for Trump accounts if it corresponds to the returns of an ESG index. An alternative would be to permit funds that track ESG indexes. Whether funds that track ESG indexes are available or not in Trump

accounts has very little economic impact. A meta-analysis of ESG studies found that “ESG investing returns were generally indistinguishable from conventional investing returns”.² Demand for ESG indexes is a small share of the market for passively managed funds. At the end of 2025, U.S. passively managed mutual funds and ETFs held \$19.4 trillion in net assets while sustainable funds, including funds that track ESG indexes, held \$368 billion in net assets, according to Morningstar.^{3 4} Given the small percentage of assets invested in funds that track ESG indexes, it is reasonable to believe that most adults managing Trump accounts on behalf of children would not have chosen investment funds that track ESG indexes even if they were available.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) generally requires that a Federal agency obtain the

approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in these proposed regulations contain third-party disclosure and recordkeeping requirements that are necessary to ensure that no part of the account funds will be invested in any asset other than an eligible investment during the growth period as required under section 530A(b)(1)(C)(iii). These collections of information generally would be used by the IRS for tax compliance purposes and by account beneficiaries and trustees to ensure the account qualifies as a Trump account.

This proposed regulation provides that beneficiaries can direct trustees

how to allocate funds among eligible investments. Clients being able to allocate funds within their accounts is a usual and customary business practice. Usual and customary business records are incurred as a normal course of business activities and are excluded from the definition of burden under 5 CFR 1320.3(b)(2).

The proposed regulation includes third-party disclosures and associated recordkeeping requirements from trustees to account beneficiaries (or “legally responsible parties”). IRS is soliciting feedback on these collection requirements and their associated burdens. IRS anticipates that the likely respondents are businesses and for-profit organizations. Table 1 provides a high-level description of the collection requirements and the regulatory section that include additional details. Table 2 provides the estimated burden placed on trustees for each collection requirement.

TABLE 1—DESCRIPTION OF COLLECTIONS

OMB control No.	Collection type	New or revised collection	Description	Regulatory section with additional details
1545–NEW ..	Third-party Disclosure and Record-keeping.	New	Written governing instruments	26 CFR 1.530A–3(g)(2).
1545–NEW ..	Third-party Disclosure and Record-keeping.	New	Disclosure of a default eligible investment.	26 CFR 1.530A–3(g)(4)(ii).
1545–NEW ..	Third-party Disclosure and Record-keeping.	New	Disclosure of how dividends are invested.	26 CFR 1.530A–3(g)(4)(iii).
1545–NEW ..	Third-party Disclosure and Record-keeping.	New	Disclosure of a reinvestment due to investment ineligibility.	26 CFR 1.530A–3(g)(5)(ii).
1545–NEW ..	Third-party Disclosure and Record-keeping.	New	Disclosure of a reinvestment due to administrative error.	26 CFR 1.530A–3(g)(7).
1545–NEW ..	Recordkeeping	New	Periodic determinations of account eligibility.	26 CFR 1.530A–3(g)(6).

² Whelan, Tensie, et al. *ESG and Financial Performance: Uncovering the Relationship by Aggregating Evidence from 1,000 Plus Studies Published between 2015–2020*. NYU Stern Center for Sustainable Business and Rockefeller Asset Management, 2021. <https://www.stern.nyu.edu/>

<sites/default/files/assets/documents/ESG%20Paper%20Aug%202021.pdf>.

³ Carter, David, and Jack Bullard. *U.S. Fund Flows: December 2025*. Morningstar, 2026. https://assets.contentstack.io/v3/assets/blt9415ea4cc4157833/bltb441ce3c78f39445/2025_US_Fund_Flows.pdf.

⁴ Bioy, Hortense, et al. *Global Sustainable Fund Flows: Q4 and Full-Year 2025 in Review*. Morningstar Sustainalytics, 2026. https://assets.contentstack.io/v3/assets/blt9415ea4cc4157833/blt1d54e64f88b82b3b/Global_ESG_Flows_Q4_2025_Report.pdf.

TABLE 2—ESTIMATED BURDEN

Collection	Estimated number of respondents	Estimated frequency of responses	Estimated average annual burden per response	Estimated total annual burden hours
26 CFR 1.530A–3(g)(2), (g)(4)(ii), (g)(4)(iii)— <i>Draft the written governing instruments and related disclosures</i> (start-up/one time burden).	4,600	1	40 hours	184,000
26 CFR 1.530A–3(g)(2)— <i>Obtaining consent on written governing instruments</i> .	4,600	27,717	1 minute	2,124,970
26 CFR 1.530A–3(g)(6)— <i>Periodic determination of eligible investments</i> .	4,600	3	8 hours	110,400
26 CFR 1.530A–3(g)(4)(ii)— <i>Sending disclosure notice</i>	4,600	27,717	1 minute	2,124,970
26 CFR 1.530A–3(g)(4)(iii)— <i>Sending disclosure notice</i>	4,600	27,717	1 minute	2,124,970
26 CFR 1.530A–3(g)(5)(ii)— <i>Sending disclosure notice</i> ⁵	1	27,717	1 minute	462
26 CFR 1.530A–3(g)(7)— <i>Sending disclosure notice</i> ⁵	1	27,717	1 minute	462

The collections contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act under OMB Control Number 1545–NEW. Commenters are strongly encouraged to submit public comments electronically. Written comments and recommendations for the proposed information collection should be sent to www.reginfo.gov/public/do/PRAMain, with copies to the Internal Revenue Service. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” then by using the search function. Submit electronic submissions for the proposed information collection to the IRS via email at pra.comments@irs.gov (indicate CC–00349938–26 on the Subject line). Comments on the collection of information should be received by October 20, 2026.

Comments are specifically requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility; (b) the accuracy of the estimated burden associated with the proposed collection of information; (c) how the quality, utility, and clarity of the information to be collected may be enhanced; (d) how the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation,

maintenance, and purchase of services to provide information.

III. Regulatory Flexibility Act

The Secretary hereby certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The proposed rules would not impose a significant economic impact on any regulated entities because the regulation’s economic impact on entities is generally limited to requiring procedures to be set up by the trustee to ensure compliance with the statute and the regulation, language in the written governing instrument, requiring disclosure of the default eligible investment and how dividends will be invested (or any changes thereto), making periodic (likely annual) determinations that investments are still eligible investments, and rare disclosures if a reinvestment has occurred because of an ineligible investment. Because these requirements are either one-time, rare, or limited to internal determinations, any economic impact is expected not to be significant. Additionally, the proposed regulations affect only trustees of Trump accounts, which generally should not include small entities and therefore should not affect a substantial number of small entities. Therefore, a Regulatory Flexibility Act analysis is not required.

Notwithstanding this certification, the Treasury Department and the IRS invite comments on the impacts these proposed regulations may have on small entities.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may

result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VI. Small Business Administration

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any comments submitted will be made available at <https://www.regulations.gov> or upon

⁵ Disclosure events for ineligible investments are expected to occur extremely infrequently. In any given year, it’s anticipated that less than 1% of trustees will need to issue a particular disclosure. Sending the disclosures is anticipated to be done electronically and be minimal burden on the trustee.

request. A public hearing will be scheduled if requested in writing by any person who submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

IRS Revenue Rulings, Revenue Procedures, Notices, and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal author of these proposed regulations is Justin R. Karlin of the Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the Treasury Department and the IRS also participated in its development. For further information about these proposed regulations, contact Mr. Karlin at (202) 317-6842 (not a toll-free number).

Lists of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry for § 1.530A-3 in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.530A-3 also issued under 26 U.S.C. 530A(b)(3)(A)(iv) and (g)(3).

■ **Par. 2.** Section 1.530A-3 is added to read as follows:

§ 1.530A-3 Trump accounts—Eligible investments.

(a) *Overview.* Under section 530A(b)(1)(C)(iii), for an account to qualify as a Trump account, the written governing instrument creating the account may not permit any part of the account funds to be invested in any asset other than an eligible investment during the period that begins when the

initial Trump account is established and ends on December 31 of the calendar year in which the account beneficiary attains age 17 (the growth period). Paragraph (b) of this section provides definitions related to eligible investments. Paragraph (c) of this section provides rules regarding whether an investment fund tracks the returns of an index. Paragraph (d) of this section provides rules regarding whether an investment fund uses leverage. Paragraph (e) of this section provides rules related to qualified indices. Paragraph (f) of this section provides rules for determining whether an investment fund has annual fees and expenses within the 0.1 percent limit. Paragraph (g) of this section provides procedures for a trustee of a Trump account (trustee) to ensure that no part of the account funds will be invested in any asset other than an eligible investment. Paragraph (h) of this section provides the applicability date of this section.

(b) *Definitions.* The following definitions apply for purposes of section 530A and this section:

(1) *Eligible investment.* The term *eligible investment* means any mutual fund or exchange traded fund that tracks the returns of a qualified index, does not use leverage, does not have annual fees and expenses of more than 0.1 percent of the balance of the investment in the fund, and meets such other criteria as the Secretary of the Treasury or the Secretary's delegate (Secretary) determines appropriate for purposes of section 530A.

(2) *Exchange traded fund (ETF).* The term *exchange traded fund (ETF)* means a domestic corporation (including a regulated investment company (RIC)) that is registered under the Investment Company Act of 1940, Public Law 76-768, 54 Stat. 789 (the 1940 Act), as amended, and that is either—

(i) An “exchange-traded fund” as defined for purposes of the 1940 Act in 17 CFR 270.6c-11(a)(1); or

(ii) An entity that operates in substantially the same manner as an exchange-traded fund but that is not described in 17 CFR 270.6c-11(a)(1), such as a unit investment trust or ETF share class of a mutual fund operating as an ETF under exemptive relief granted by the Securities and Exchange Commission.

(3) *Investment fund.* The term *investment fund* means a mutual fund or an ETF.

(4) *Mutual fund.* The term *mutual fund* means a domestic corporation (including a RIC) that is registered under the 1940 Act as an open-end

company (as defined in 15 U.S.C. 80a-5(a)(1)) and that is not an ETF.

(5) *Qualified index.* The term *qualified index* means the Standard and Poor's 500 stock market index, or any other index that is comprised of equity investments in primarily United States companies and for which regulated futures contracts (as defined in section 1256(g)(1)) are traded on a qualified board or exchange (as defined in section 1256(g)(7)). A qualified index does not include any industry or sector-specific index but may include an index based on market capitalization. Paragraph (e) of this section provides rules for determining whether an index is a qualified index.

(6) *Regulated investment company (RIC).* The term *regulated investment company (RIC)* means a regulated investment company within the meaning of section 851(a).

(c) *Tracking the returns of an index—*
(1) *In general.* For purposes of section 530A(b)(3)(A)(i) and this section, an investment fund tracks the returns of an index if the fund's investment objective is to seek to provide investment results that, before fees and expenses, replicate the performance of the index, and the fund holds investments that are reasonably expected to accomplish that objective. For example, a fund may track the returns of an index by holding shares of most or all of the stocks that are constituents of the index in proportion to the stocks' weightings in the index. An investment fund does not fail to track the returns of an index merely because the returns from the fund are affected by fees, expenses, trading costs, variations arising from buying and selling securities when the index changes, and similar variations incidental to operating a fund that seeks to replicate the performance of an index.

(2) *Investment funds that do not track the returns of an index.* Except as provided in paragraph (c)(3) of this section, an investment fund does not track the returns of an index if the fund uses one or more strategies to outperform or otherwise perform differently from the index. Thus, an investment fund that, in some or all market conditions, uses any strategy to decrease or increase the volatility, risk, or current income associated with the index does not track the returns of the index. For example, an investment fund that owns shares of each stock that is a component of an index and sells covered calls on some or all of those shares does not track the returns of the index, because the fund's strategy diminishes the fund's participation in the potential appreciation in the shares and increases the fund's current income.

An investment fund that seeks to provide investment results consistent with the return on several different indices does not track the returns of an index.

(3) *Securities lending.* An investment fund does not fail to track the returns of an index because the investment fund engages in securities lending transactions so long as the investment fund retains full economic exposure to the securities.

(d) *Does not use leverage*—(1) *In general.* For purposes of section 530A(b)(3)(A)(iii) and this section, an investment fund that references an index is considered to use leverage if the fund uses borrowings, derivatives, or other strategies that are economically equivalent to borrowings in a way that materially increases the risk of loss associated with an investment in the investment fund (as compared to an investment in a fund that holds the index components physically and that does not borrow or use derivatives). Thus, an investment fund uses leverage if, as a result of borrowings or derivatives or another economic equivalent, a change in the level of the index the returns of which the fund seeks to replicate tends to cause a materially greater proportional change in the net value of the fund's portfolio. For example, an investment fund is considered to use leverage if the fund provides investment results that correspond to the performance of an index multiplied by a number greater than one (regardless of whether the fund uses borrowings, derivatives, or another economic equivalent to provide such results).

(2) *Permitted borrowings and derivatives.* An investment fund is not considered to use leverage merely because it borrows or uses derivatives as part of its strategy to replicate the performance of an index, so long as the borrowings or derivatives do not materially increase the risk of loss associated with an investment in the investment fund. Thus, an investment fund is not considered to use leverage merely because the fund incurs short-term borrowings to provide liquidity for redemptions or to purchase portfolio securities in connection with investment flows into the fund or because the fund uses derivatives to gain synthetic exposure to certain index components. An investment fund's obligation to return collateral received for securities lending transactions described in paragraph (c)(3) of this section is not treated as leverage so long as the investment fund takes appropriate steps to limit the risk of loss with respect to the collateral. To limit

the risk of loss with respect to cash collateral, the investment fund must hold the collateral in cash or in highly liquid, conservative positions (like money market funds). To limit the risk of loss with respect to non-cash collateral, the investment fund must not sell the collateral or otherwise use the collateral (for example, by pledging it as collateral in another transaction) to increase the fund's exposure to the index or other assets.

(e) *Qualified index*—(1) *In general.* This paragraph (e) provides rules to determine whether an index is a qualified index within the meaning of section 530A(b)(3)(B) and paragraph (b)(5) of this section. To be a qualified index, an index must have a publicly available index methodology that describes the criteria for inclusion in the index and the construction of the index. Whether an index meets the requirements in this paragraph (e) is generally determined by reference to the index methodology for the index.

(2) *Industry-specific and sector-specific indices.* For purposes of section 530A(b)(3)(B) and paragraph (b)(5) of this section, an index is industry-specific or sector-specific if inclusion of a stock or interest in the index depends on the business or industry in which the issuing company is engaged. Thus, any index that depends on industry classification codes for inclusion of a company in the index is an industry-specific or sector-specific index. Similarly, an index that includes stocks of companies operating in several related industries or sectors (such as hotels, air travel, and outdoor recreation) is an industry-specific or sector-specific index.

(3) *Other index-related criteria for eligible investments.* Any investment fund that corresponds to the returns of an environmental, social, and governance (ESG) index is not an eligible investment. An ESG index includes any index that has, or is marketed as having, a focus on environmental, social, or governance factors. Any investment fund that is marketed or sold as having an investment objective to track an ESG index is not an eligible investment.

(4) *Market capitalization.* For purposes of section 530A(b)(3)(B) and paragraph (b)(5) of this section, an index is based on market capitalization if a condition for the inclusion of a company's stock (or other ownership interests) in the index is that the company has a market capitalization that is within a specified range or over or under a specified threshold, or that meets specified ranking criteria. Therefore, an index that meets the

requirements to be a qualified index in section 530A(b)(3)(B) and this paragraph (e) does not fail to be a qualified index as a result of such a condition for inclusion.

(5) *Equity investments.* For purposes of section 530A(b)(3)(B) and paragraph (b)(5) of this section, an index is considered to be comprised of equity investments if the index is comprised entirely of stocks and similar ownership interests in the form of partnership or membership interests. An index is not comprised of equity investments if it includes debt instruments, derivatives, or any other asset that is not an ownership interest in a company.

(6) *United States companies.* For purposes of section 530A(b)(3)(B) and paragraph (b)(5) of this section, United States companies (U.S. companies) are companies that are domestic under section 7701(a)(4).

(7) *Safe harbor for indices that include interests in foreign companies.* For purposes of section 530A(b)(3)(B) and paragraph (b)(5) of this section, an index is comprised primarily of U.S. companies if U.S. companies represent at least 90 percent of the index based on their weightings in the index.

(f) *Limit on annual fees and expenses*—(1) *In general.* For purposes of section 530A(b)(3)(A)(iii) and this section, an investment fund is not an eligible investment if the sum of its annual fees (as described in paragraph (f)(2) of this section) and annual expenses (as described in paragraph (f)(3) of this section) is more than 0.1 percent of the net value of its assets.

(2) *Annual fees*—(i) *In general.* Except as provided in the following sentence, the amount of an investment fund's annual fees for purposes of section 530A(b)(3)(A)(iii) and this section is the aggregate amount of fees of the investment fund (as described in paragraph (f)(2)(ii) of this section) imposed during the most recent fiscal year (within the meaning of 17 CFR 210.1–02(k)) of the investment fund the financial data from which has appeared in the investment fund's prospectus, expressed as a percentage of the investment fund's average net asset value during that fiscal year (or a reasonable estimate). If an investment fund's most recent prospectus discloses a change in the investment fund's fee structure that increases the investment fund's aggregate annual fees, the computation described in the preceding sentence must take into account the effect of such increase (or a reasonable estimate). If an investment fund has multiple share classes, annual fees are computed separately for each class,

based on the fees that apply to that class and the assets allocable to that class.

(ii) *Fees of an investment fund.* For purposes of section 530A(b)(3)(A)(iii) and this section, an investment fund's fees are all of the amounts that the fund charges its investment fund holders directly, without regard to how such amounts are computed, when they are imposed, or how such amounts are referred to in securities filings or marketing materials. Thus, fees include annual, periodic, transactional, and other recurring amounts charged by an investment fund. Fees also include amounts charged by an investment fund a single time, such as upon a purchase or redemption of interests in the investment fund. Fees include amounts expressed as a fixed dollar amount, as a percentage of the amount invested, or on another basis. An investment fund's fees are disclosed in the fund's prospectus, often under the heading "Shareholder Fees" or "Unitholder Fees" in a fee table.

(iii) *Fees not associated with an investment fund.* The 0.1 percent limit on fees and expenses in section 530A(b)(3)(A)(iii) is a requirement for an eligible investment and not for a Trump account. Fees charged by a trustee for providing an account are not treated as part of any investment fund's annual fees but as trustee fees. A fee charged by a financial intermediary for a service, such as carrying out a purchase or sale of an investment fund is not considered a part of the investment fund's fees if the fee is not charged on behalf of or at the direction of the investment fund, is not paid (directly or indirectly) to the investment fund, and is not attributable to any cost of offering the investment fund. A fee charged by a trustee for such a service would also not be considered a part of the investment fund's fees under this paragraph.

(3) *Annual expenses.* For purposes of section 530A(b)(3)(A)(iii) and this section, the amount of an investment fund's annual expenses is the amount set forth as the investment fund's total annual operating expenses in its prospectus. The amount may be stated as a percentage of the value of the investment fund holder's investment, or as a percentage of the net value of the fund's net assets. If an investment fund's prospectus lists total operating expenses reduced by fee waivers or expense reimbursements, the reduced amount applies for purposes of section 530A(b)(3)(A)(iii) and this section. If an investment fund has multiple share classes, annual expenses are computed separately for each class, based on the expenses and assets allocable to each class.

(g) *Trustee's procedures regarding eligible investments—(1) In general.* To meet the requirement of section 530A(b)(1)(C)(iii), a trustee must ensure that Trump account funds are invested only in one or more eligible investments during the growth period. The trustee satisfies that requirement by following the procedures provided in this paragraph (g).

(2) *Written governing instrument.* The written governing instrument creating a Trump account must include the procedures provided in paragraphs (g)(4), (5), and (7) of this section.

(3) *Consequences of failure.* Except as otherwise provided in this paragraph (g), if any funds of an account are invested in an asset other than an eligible investment (ineligible investment) during the growth period, then the account will cease to be a Trump account (and thus will also cease to be an individual retirement account (IRA) under section 408(a)) as of the first day the account holds the ineligible investment. However, if any funds of an account are invested in an asset that is an eligible investment at the time the asset is acquired but that becomes an ineligible asset during the growth period, then the account will cease to be a Trump account (and an IRA) as of the 30th day after the day that the asset ceased to be an eligible investment (taking into account paragraph (g)(5)(ii) of this section). If this paragraph (g)(3) applies to cause an account to cease to be a Trump account (and an IRA), then the account will be treated as if there were a distribution on that day of an amount equal to the fair market value of all of the assets in the account on that day. The preceding sentence applies even if part of the fair market value of the account as of that day is attributable to excess contributions that may otherwise be returned tax-free under section 530A(d)(5).

(4) *Selection of eligible investment and default eligible investment—(i) Selection of eligible investments.* A trustee must limit the investment or investments available for a Trump account during the growth period to investment funds that the trustee has determined are eligible investments.

(ii) *Default eligible investment.* The trustee must establish for each Trump account under the trustee's administration a default eligible investment in which, during the growth period, all contributions, proceeds from sales or other dispositions, and any other amounts for investment (other than amounts addressed by paragraph (g)(4)(iii) of this section) will be invested unless the account beneficiary (as defined in section 530A(b)(4)) (or

any person authorized to act on behalf of the account beneficiary under the Trump account's written governing instrument (the responsible party)) specifies a different eligible investment for the contribution or other amount. The default eligible investment for a Trump account can be a single eligible investment or a combination of eligible investments in specified proportions and may be changed by the trustee from time to time. The trustee must clearly disclose to each account beneficiary the default eligible investment in effect upon the establishment of the account and upon any subsequent change to the default eligible investment. The requirement to establish a default eligible investment does not preclude arrangements between the trustee and the account beneficiary that give effect to different instructions on an ongoing basis. For example, the trustee may follow instructions of an account beneficiary (or responsible party) to invest all contributions or other amounts for investment in that account beneficiary's account (or all such amounts for which another instruction is not provided) in a specified eligible investment other than the trustee's default eligible investment.

(iii) *Dividends and other investment fund distributions.* The trustee of a Trump account must disclose to the account beneficiary how amounts received as dividends or other distributions from eligible investments will be invested unless the account beneficiary (or responsible party) gives different instructions regarding the dividends and distributions. For example, amounts received as dividends and distributions might be reinvested in the same eligible investments that paid the dividends or other distributions or invested in the Trump account's default eligible investment. The trustee may give effect to directions from the account beneficiary (or responsible party) that a specific distribution, or distributions generally, be invested in a different way that complies with section 530A(b)(1)(C)(iii).

(5) *Situations in which funds need not be invested in an eligible investment—(i) Certain cash holdings.* During the growth period, the trustee may permit an amount received in a Trump account as cash, such as an amount received as a contribution, proceeds of a sale or other disposition, or a distribution, to be held in cash for the time reasonably necessary to complete a transaction permitted under section 530A, including an investment, reinvestment, distribution of excess contribution, qualified rollover contribution, or qualified ABLE rollover contribution.

(ii) *Ceasing to be an eligible investment*—(A) *In general.* In the event an investment fund that was an eligible investment (as determined by the trustee as of the trustee's last determination date described in paragraph (g)(6) of this section) then ceases to be an eligible investment during the growth period, in order for the account to remain a Trump account, the trustee must ensure the prompt sale or disposition of shares in the investment fund and the reinvestment of the proceeds consistent with paragraph (g)(4)(ii) of this section and disclose how the proceeds were reinvested to the account beneficiary. A sale or disposition of shares in the investment fund and the reinvestment of the proceeds will be considered prompt if the sale or disposition and reinvestment of the proceeds occur within 30 calendar days of the investment fund ceasing to be an eligible investment.

(B) *Time when a fund is treated as ceasing to be an eligible investment.* For purposes of this paragraph (g)(5)(ii), the time when the investment fund is treated as ceasing to be an eligible investment is determined based on whether the trustee is in compliance with the monitoring and periodic determination requirements in paragraph (g)(6) of this section.

(1) If the trustee is not in compliance with the monitoring and periodic determination requirements of paragraph (g)(6) of this section, the investment fund ceases to be an eligible

investment on the first day that the investment fund does not meet the requirements to be an eligible investment;

(2) If the trustee is in compliance with the monitoring and periodic determination requirements of paragraph (g)(6) of this section, the investment fund is treated as ceasing to be an eligible investment on the earlier of the date of the next periodic determination conducted by the trustee or the date on which the trustee acquires actual knowledge that the investment is no longer an eligible investment.

(6) *Trustee monitoring of investment funds.* During the growth period, the trustee must monitor each investment fund that the trustee makes available to Trump account beneficiaries. After making an initial determination that an investment fund is an eligible investment at the time the trustee first offers the investment fund to any Trump account for which it is the trustee, the trustee must then make subsequent periodic determinations at least once every 12 months whether the investment fund continues to be an eligible investment. These determinations must include verifying that the annual fees and expenses of the investment fund continue to meet the requirements of section 530A(b)(3)(A)(iii) and paragraph (f) of this section. The trustee may rely on an investment fund's prospectus and other public documents required by Federal securities laws in making

determinations pursuant to this paragraph (g)(6).

(7) *Correction of administrative error.* If a trustee has procedures in place in accordance with this paragraph (g) but a portion of the assets of a Trump account are not invested in an eligible investment during the growth period due to an administrative error by the trustee (for example, due to an oversight or mistake in applying the procedures), the account will not cease to be a Trump account under paragraph (g)(3) of this section if the trustee sells or disposes of the assets that are not invested in an eligible investment and reinvests the proceeds in an eligible investment consistent with paragraph (g)(4)(ii) of this section within 30 calendar days from the first day that the portion was not invested in an eligible investment. Furthermore, the trustee must disclose to the account beneficiary the duration of the error, the assets that were held during the error period, and the amount reinvested in an eligible investment at the end of the error period.

(h) *Applicability dates.* This section applies to taxable years beginning on or after January 1, 2026, except for paragraph (g) of this section, which applies for taxable years beginning on or after [DATE OF PUBLICATION OF FINAL RULE].

Frank J. Bisignano,
Chief Executive Officer.

[FR Doc. 2026–17123 Filed 8–20–26; 8:45 am]

BILLING CODE 4831–GV–P

Notices

Federal Register

Vol. 91, No. 161

Friday, August 21, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Administration

Agency Information Collection Activities, Proposed Collection: Request for Comments on Understanding Participant Experiences in SNAP E&T

AGENCY: Food and Nutrition Administration (FNA), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection for the *Understanding Participant Experiences in Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T)* study. This is a new information collection request. The purpose of this collection is to gather information about how SNAP participants experience SNAP work requirements and the SNAP E&T program, and to identify recommendations to help programs improve their customer service and efficiently connect participants with training and services that meet their needs.

DATES: Written comments must be received on or before October 20, 2026.

ADDRESSES: Comments may be mailed to Kristen Corey, Food and Nutrition Administration, U.S. Department of Agriculture, 1320 Braddock Place, 5th floor, Alexandria, VA 22314 or submitted via email to kristen.corey@usda.gov. Comments will also be accepted through the Federal eRulemaking Portal; go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget

approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of this information collection should be directed to Kristen Corey at 703-305-2517.

SUPPLEMENTARY INFORMATION: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Understanding Participant Experiences in SNAP E&T.

Form Number: N/A.

OMB Number: 0584-NEW.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The Supplemental Nutrition Assistance Program (SNAP) offers a vital lifeline to low-income Americans, preventing hunger during difficult times. When determining SNAP eligibility, States must identify anyone in the household that is (1) subject to general work requirements, (2) subject to a time limit on benefits if they are not meeting work requirements, and (3) required to participate in the State's SNAP Employment and Training (E&T) program. States vary considerably in how they determine eligibility, share information about work requirements and employment and training opportunities, and make referrals to SNAP E&T programs. The *Understanding Participant Experiences in SNAP E&T* study will help the U.S. Department of Agriculture (USDA), Food and Nutrition Administration (FNA) understand how SNAP participants experience SNAP work requirements and the SNAP E&T program. The findings will be used to identify recommendations to help programs improve SNAP and SNAP

E&T customer service and efficiently connect participants with training and services that meet their needs.

We expect four States to participate in the project, including two States that operate mandatory SNAP E&T programs and two States that operate voluntary SNAP E&T programs. The project aims to (1) explore SNAP work registrants' understanding of work requirements when certifying or recertifying for SNAP eligibility; (2) describe SNAP work registrants' experiences accessing SNAP E&T services and finding training opportunities that meet their needs; (3) assess the experiences of individuals as they participate in SNAP E&T; and (4) develop recommendations that States can use to support program participants in navigating work requirements and SNAP E&T.

To achieve the research objectives, the project will document and describe the experiences of SNAP participants in the four States through two qualitative research methods: photovoice and in-depth interviews. Photovoice engages participants in structured activities where they use photos they have taken to guide interviews with researchers. The interviews will focus on and highlight themes and issues most significant to participants about SNAP E&T. In-depth interviews will provide rich, detailed accounts of participants' thoughts, behaviors, and experiences with work requirements and in SNAP E&T programs. Finally, the project will include video interviews with SNAP E&T participants and staff that provide E&T services to create a multimedia deliverable that tells a complete story of navigating work requirements and engaging with SNAP E&T. The study team will work with FNA to select and recruit State agencies and SNAP E&T providers that offer direct services to SNAP participants to support the recruitment for photovoice and in-depth interviews.

Affected public. Members of the public affected by the data collection include individuals and households, State and local government workers from SNAP agencies in four States, and staff at not-for-profit and for-profit organizations that provide services to SNAP E&T participants. Respondent groups will include: (1) SNAP E&T program participants; (2) directors and managers from State and local government agencies supporting SNAP

E&T programs; and (3) staff at providers that offer direct services to SNAP E&T participants.

Estimated number of respondents. SNAP E&T participants will be asked to participate in either a photovoice interview or an in-depth interview (which include several possible notifications), as well as a possible video interview for the multimedia deliverable. State and local government staff and staff that provide SNAP E&T services will respond to study recruitment efforts (which include several possible notifications), and an administrative data request. The total estimated number of unique respondents—which includes everyone contacted for data collection regardless of whether they participate—is 1,825. This includes up to 1,756 individuals/households, 23 State and local government staff, and 46 staff that provide E&T services. The study team will contact 1,825 individuals/households; 779 will be respondents and 977 will be non-respondents. Of the 779 respondents, 20 will participate in photovoice interviews, 160 will participate in an in-depth interview, and 11 will participate in pre-testing the photovoice and in-depth interview instruments.

Among individuals participating in the photovoice and in-depth interviews, 15 will also be contacted again to participate in video interviews for the multimedia deliverable; of these, 10 will be respondents and 5 will be non-respondents.

Before the start of data collection in one non-study State, the study team will pretest all photovoice activities (including the consent form, the kickoff session, the photo submission form, and the interview discussion guide) with three SNAP E&T participants. We will also pretest the in-depth interview guide with eight SNAP E&T participants in two non-study States.

To begin recruiting participants, the study team will contact 23 State SNAP agency staff, which includes State program staff and State data systems staff; 14 will be respondents and 9 will be non-respondents. All four of the State data systems staff will provide administrative data which will be used to recruit SNAP E&T participants. The study team will contact 32 staff from not-for-profit and eight staff at for-profit organizations that serve as SNAP E&T providers to support the recruitment effort for the photovoice interviews and in-depth interviews. Among staff that provide E&T services participating in the recruitment effort, eight individuals will also be contacted again to

participate in interviews for the multimedia deliverable.

Estimated number of responses per respondent. Across all 1,825 unique respondents (839 respondents and 986 non-respondents) and 3,235 annual responses, the average number of responses is 1.77.

Estimated total annual responses. 3,235.

Estimated time per response. The estimated time per response ranges from 0.033 hours for activities related to reading flyers for photovoice and in-depth interview recruitment to 8 hours for State data systems staff to provide administrative data. The response time will vary depending on the respondent group, with an average estimated time of 11.74 minutes (0.20 hours).

Estimated total annual burden on respondents. The total estimated annual burden on respondents is 37,971.62 minutes (632.86 hours).

Eve Stoodly,

Deputy Administrator, Nutrition Research and Regulations.

[FR Doc. 2026–17086 Filed 8–20–26; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–102–2026]

Foreign-Trade Zone (FTZ) 129, Notification of Proposed Production Activity; Corvus Energy USA Ltd.; (Energy Storage Systems); Bellingham, Washington

Corvus Energy USA Ltd., submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Bellingham, Washington within Subzone 129C. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on August 17, 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 material(s)/ component(s) would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed foreign-status materials/components include: stainless steel snap rings; steel compression springs; aluminum end plates; aluminum enclosure weldments; and, printed circuit boards (duty rate ranges from duty-free to 2.5%).

The request indicates that certain materials/components are subject to duties under section 232 of the Trade Expansion Act of 1962 (section 232), and section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 232 and section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41). The request also indicates that aluminum end plates and aluminum enclosure weldments are subject to an antidumping/ countervailing duty (AD/CVD) order/ investigation if imported from China. The Board's regulations (15 CFR 400.13(c)(2)) require that merchandise subject to AD/CVD orders, or items which would be otherwise subject to suspension of liquidation under AD/CVD procedures if they entered U.S. customs territory, be admitted to the zone in privileged foreign status.

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 September 30, 2026.

A copy of the notification will be available for public inspection in the "Online FTZ Information System" section of the Board's website.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: August 19, 2026.

Elizabeth Whiteman,
Executive Secretary.

[FR Doc. 2026–17124 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–869]

Fresh Winter Strawberries From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily

determines that fresh winter strawberries (winter strawberries) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is November 1, 2024, through March 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla or Anjali Mehindiratta, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956 or (202) 482–9127, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on February 13, 2026.¹ On June 25, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now August 18, 2026.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary 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, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The products covered by this investigation are winter strawberries from Mexico. For a complete description of the scope of this investigation, *see* Appendix I.

¹ *See Fresh Winter Strawberries from Mexico: Initiation of Less-Than-Fair-Value Investigation*, 91 FR 6822 (February 13, 2026) (*Initiation Notice*).

² *See Fresh Winter Strawberries from Mexico: Postponement of Preliminary Determinations of Less-Than-Fair-Value Investigation*, 91 FR 38397 (June 25, 2026).

³ *See* Memorandum, “Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Fresh Winter Strawberries from Mexico,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the *Preamble* to Commerce’s regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.⁶ Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* by removing “harvested or” from the first paragraph. In the Preliminary Scope Decision Memorandum, Commerce established the deadline for parties to submit scope case and rebuttal briefs.⁷ Commerce intends to issue a final scope decision with the final determination of the LTFV investigation of winter strawberries from Mexico. *See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated constructed export prices in accordance with section 772(b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All Others’ Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*.

⁶ *See* Memorandum, “Less-Than-Fair-Value Investigation of Fresh Winter Strawberries from Mexico: Preliminary Scope Decision Memorandum,” dated concurrently with this preliminary determination (Preliminary Scope Decision Memorandum).

⁷ *Id.*

In this investigation, Commerce calculated estimated weighted-average dumping margins for Driscoll’s Operaciones S.A. de C.V. (Driscoll’s) and Mainland Farms S.A. de C.V. (Mainland Farms) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company’s publicly-ranged values for the merchandise under consideration.⁸

Preliminary Determination

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

Exporter/producer	Estimated weighted-average dumping margin (percent)
Driscoll’s Operaciones S.A. de C.V.	5.28
Mainland Farms S.A. de C.V.	3.37
All Others	4.83

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average

⁸ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company’s publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, “All-Others Rate Calculation Memorandum,” dated concurrently with this **Federal Register** notice.

dumping margin or the estimated all-others rate, as follows: (1) the cash-deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash-deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash-deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

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

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Non-scope case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁹ Interested parties who submit case briefs or

rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants, whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by

exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 17, 2026, pursuant to 19 CFR 351.210(e), Driscoll's requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹³ In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: August 18, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is all fresh and chilled winter strawberries (winter strawberries) from Mexico entered during the period November 1 through March 31.

Winter strawberries may be stemmed or destemmed, whole or sliced, imported in bulk or loose form, or may be imported in

⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2).

¹¹ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹² See *APO and Service Procedures*.

¹³ See Driscoll's Letter, "Request for Postponement of Final Determination and Extension of Provisional Measures," dated August 17, 2026.

individual containers packaged for retail sale. The scope of this investigation includes all winter strawberries, whether or not organic, regardless of production method, and irrespective of color, grade, shape, size, or packaging. Subject merchandise may be cleaned, coated (including chocolate covered or other coated confectionary items), washed, waxed, inspected, subjected to metal detection, and/or vacuum cooled prior to importation, including winter strawberries that undergo further processing in a third country.

Winter strawberries covered by this investigation are classified under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) and may enter under: 0810.10.4020; 0810.10.4040; 0810.10.4060; 0810.10.4080; and prior to 2024, 0810.10.4010 and 0810.10.4090. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Discussion of the Methodology
- V. Particular Market Situation
- VI. Currency Conversion
- VII. Recommendation

[FR Doc. 2026–17121 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–939]

Oleoresin Paprika From India: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination, in Part

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of oleoresin paprika from India. The period of investigation is April 1, 2024, through March 31, 2025.

DATES: Applicable August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Charles Doss or Kate Fracke, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4474 or (202) 482–3299, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 2026, Commerce published its *Preliminary Determination* in the **Federal Register**.¹ In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final determination of this countervailing duty (CVD) investigation with the final determination in the companion antidumping duty investigation of oleoresin paprika from India.²

For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS, which 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>.

Scope of the Investigation

The product covered by this investigation is oleoresin paprika from India. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation from that published in the *Preliminary Determination* for the final determination.

Verification

As provided in section 782(i) of the Act, in April 2026, Commerce conducted verification of the subsidy information reported by Mane Kancor Ingredients Private Limited (Mane Kancor) and Synthite Industries Pvt. Ltd (Synthite).⁴ We conducted the

¹ See *Oleoresin Paprika from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination with Final Antidumping Duty Determination*, 91 FR 5427 (February 6, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² *Id.*, 91 FR at 5428.

³ See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Oleoresin Paprika from India,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memoranda, “Verification of the Questionnaire Responses of Synthite Industries Pvt. Ltd.,” dated June 29, 2026; and “Verification of the

verifications using standard verification procedures, including an examination of relevant sales and accounting records, and original source documents.

Final Affirmative Determination of Critical Circumstances, in Part

In the *Preliminary Determination*, in accordance with section 703(e) of the Act, Commerce found that critical circumstances do not exist for Mane Kancor and all other producers or exporters of oleoresin paprika from India, except for Synthite, for which Commerce found that critical circumstances exist. In this final determination, Commerce has continued to find that critical circumstances do not exist for Mane Kancor and all other producers or exporters of oleoresin paprika from India, except for Synthite, for which critical circumstances exist, pursuant to section 705(a)(3) of the Act and 19 CFR 351.206. For a discussion of Commerce’s critical circumstances analysis, see the Issues and Decision Memorandum.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs that were submitted by interested parties in this investigation are addressed in the Issues and Decision Memorandum. For the list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, see Appendix II to this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁵ For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the information received during verification and comments received from parties, for this final determination, we made certain changes

Questionnaire Responses of Mane Kancor Ingredients Private Limited,” dated June 29, 2026.

⁵ See sections 771(5)(B) and (D) of the Act regarding financial contribution; see also section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

to the countervailable subsidy rate calculations for Mane Kancor and Synthite, and for all other producers/exporters. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated an individual estimated countervailable subsidy rate for the two mandatory respondents, Mane Kancor and Synthite. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, Commerce will determine an all-others rate equal to the weighted-average countervailable subsidy rates established for exporters and/or producers individually investigated, excluding any zero and *de minimis* countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In this investigation, we continue to calculate individual estimated countervailable subsidy rates for Mane Kancor and Synthite that are not zero, *de minimis*, or based entirely on facts otherwise available. We, therefore, continue to calculate the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents (Mane Kancor and Synthite) using each company's publicly-ranged sales value for their exports to the United States of subject merchandise,⁶ in accordance with section 705(c)(5)(A)(i) of the Act.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist for the period April 1, 2024, through March 31, 2025:

Company	Subsidy rate (percent <i>ad valorem</i>)
Mane Kancor Ingredients Private Limited	18.67
Synthite Industries Pvt. Ltd	25.42
All Others	21.90

⁶ Pursuant to 19 CFR 351.109(f)(2)(ii), with two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See* Memorandum, "Calculation of Subsidy Rate for All Others," dated concurrently with this notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

The provisional measures in this investigation expired on June 6, 2026. Because Commerce has reached an affirmative final determination, suspension of liquidation will continue with respect to all applicable entries of subject merchandise, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 6, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**, through June 5, 2026. Because Commerce found that critical circumstances exist with respect to Synthite, pursuant to section 735(c)(4)(B) of the Act, suspension of liquidation will continue with respect to all applicable entries of subject merchandise from Synthite, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 8, 2025, which is 90 days before the date of publication of the *Preliminary Determination* in the **Federal Register**, through June 5, 2026.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for entries of oleoresin paprika in the amounts indicated above. Pursuant to section 705(c)(2) of the Act, if the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of oleoresin paprika from India. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days after this

final determination, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of import of oleoresin paprika from India. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that is entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Suspension of Liquidation" section.

Administrative Protective Order

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

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: August 17, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the scope of this investigation is the coloring additive oleoresin paprika. Oleoresin paprika is a viscous, highly colored liquid in various shades of red or orange made from the extract of Capsicum peppers. Covered merchandise

includes all oleoresin paprika, regardless of pepper variety, with an American Spice Trade Association (ASTA) value of at least 500 or a color unit (CU) value of at least 20,000 as determined by spectrophotometric measurement. The Chemical Abstracts Service (CAS) Registry numbers for oleoresin paprika are 68917–78–2 and 84625–29–6; the Center for Food Safety and Applied Nutrition (CFSAN) number is 977006–45–3; the Flavoring Extract Manufacturers' Association (FEMA) number is 2834; and the E number is E160c. Subject oleoresin paprika may also be referred to by other product names, including, but not limited to, paprika oleoresin, oleoresin of paprika, paprika extract, extract of paprika, paprika oil, or paprika essential oil.

Subject oleoresin paprika may be blended with oil or water prior to importation or may be imported in its crude or unstandardized form. Subject oleoresin paprika may also be blended with emulsifiers or preservatives. The scope includes all oleoresin paprika meeting the specifications above regardless of whether or not blended with or soluble in oil or water, and regardless of weight, pungency, quality, solvent content, or additives. Further, the scope includes crude or unstandardized oleoresin paprika that has been blended, finished, packaged, or otherwise processed in a third country, if the blending, finishing, packaging, or processing performed would not otherwise remove the merchandise from the scope. Oleoresin paprika that is otherwise subject to this investigation is not excluded when commingled with oleoresin paprika from sources not subject to this investigation, or when commingled with other oleoresins. Only the subject component of such commingled products is covered by the scope of this investigation.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3203.00.8000 and 3301.90.1010. Subject merchandise may also enter under HTSUS subheading 1301.90.9190, 1302.19.9140, and 3205.00.0500. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Final Affirmative Determination of Critical Circumstances, in Part
- IV. Subsidies Valuation
- V. Changes Since the *Preliminary Determination*
- VI. Analysis of Programs

VII. Discussion of the Issues

- Comment 1: Whether to Tie the Advanced Authorization Program (AAP) Import Duty Exemptions to all Oleoresin Paprika Blends Regardless of Origin
- Comment 2: Whether to Tie the Export-Oriented Units (EOU) Program to Total Export Sales
- Comment 3: Whether to Change the Time Frame Used for the Critical Circumstances Massive Import Analysis
- Comment 4: Whether to Correct a Ministerial Error in the Calculation of Mane Kancor's Total Net Countervailable Subsidy Rate
- Comment 5: Whether to Refer Information to U.S. Customs and Border Protection (CBP) and Establish a Certification Process
- Comment 6: Whether the Remission of Duties and Taxes on Export Products Scheme (RoDTEP) Is Countervailable
- Comment 7: Whether the Export Promotion of Capital Goods Scheme (EPCGS) Is Countervailable
- Comment 8: Whether the Manufacture and Other Operations in Warehouse Regulations (MOOWR) Is Countervailable
- Comment 9: Whether the Export Oriented Unit (EOU) Program Is Countervailable
- Comment 10: Whether the AAP Is Countervailable

VIII. Recommendation

[FR Doc. 2026–17048 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–938]

Oleoresin Paprika From India: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that oleoresin paprika from India is being, or likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2024, through March 31, 2025.

DATES: Applicable August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Matthew Palmer or Elizabeth Talbot Russ, AD/CVD Operations, Office III, Enforcement and Compliance,

International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1678 or (202) 482–5516, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2026, Commerce published in the **Federal Register** its *Preliminary Determination* in the LTFV investigation of oleoresin paprika from India.¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.² 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, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The product covered by this investigation is oleoresin paprika from India. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

We received no comments from interested parties on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, we made no changes to the scope of the investigation from that published in the *Preliminary Determination* for the final determination.

¹ See *Oleoresin Paprika from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 16636 (April 2, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Oleoresin Paprika from India,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in April through June 2026, we conducted verifications of the sales and cost information submitted by the mandatory respondents, Synthite Industries Pvt. Ltd. (Synthite) and Mane Kancor Ingredients Private Ltd. (Mane Kancor), for use in the final determination.³ We conducted the verifications using standard verification procedures, which included an examination of relevant sales and accounting records, and original source documents provided by Synthite and Mane Kancor.

Analysis of Comments Received

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

Changes Since the Preliminary Determination

We made certain changes to the *Preliminary Determination*. For a discussion of these changes, see the Issues and Decision Memorandum.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Export price is calculated in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act.

All-Others Rate

Section 735(c)(5)(A) of the Act provide that Commerce shall determine an estimated weighted-average dumping margin for all exporters and producers not individually examined, *i.e.*, the all-others rate.⁴ This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins, and margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated weighted-average dumping margins for Synthite and Mane Kancor that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, Commerce calculated the all-others rate using a weighted average of the weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁵

Final Negative Determination of Critical Circumstances

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce determines that critical circumstances do not exist for Mane Kancor, Synthite, and all other producers/exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, see the Issues and Decision Memorandum.

Final Determination

Commerce determines that the following estimated weighted-average dumping margins exist for the POI, April 1, 2024, through March 31, 2025:

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
Synthite Industries Pvt. Ltd	5.78	0.00
Mane Kancor Ingredients Private Ltd	4.24	0.00
All Others	5.08	0.00

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will direct U.S. Customs and Border

Protection (CBP) to continue to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after April 2, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the

respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

³ See Memoranda, "Sales Verification Report for Synthite Industries Pvt. Ltd.," dated June 23, 2026; "Sales Verification Report for Mane Kancor Ingredients Private Limited," dated June 23, 2026; "Verification of the Cost Response of Synthite Industries Private Limited," dated July 6, 2026; and "Verification of the Cost Responses of Mane Kancor Ingredients Private Limited," dated July 6, 2026.

⁴ See 19 CFR 351.109(f).

⁵ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping

margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany,*

Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1. As complete publicly-ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see Memorandum, "All-Others Rate Calculation," dated concurrently with this notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) investigation. Accordingly, because Commerce made an affirmative final determination for countervailable export subsidies,⁶ Commerce has offset the estimated weighted-average dumping margin by the appropriate export subsidy rate. Any such adjusted cash deposit rate may be found in the “Final Determination” section above. However, suspension of liquidation of provisional measures in the companion CVD case has been discontinued;⁷ therefore, we are not instructing CBP to collect cash deposits based upon the adjusted estimated weighted-average dumping margin for those export subsidies at this time. These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

Notification of the U.S. International Trade Commission (ITC)

In accordance with section 735(d) of the Act, Commerce will notify the ITC of its final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of oleoresin paprika from India no later than 45 days after this final determination. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

⁶ See *Oleoresin Paprika from India: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, In Part, and Alignment of Final Determination With Final Antidumping Duty Determination*, 91 FR 5427 (February 6, 2026) (*Oleoresin Paprika from India CVD Prelim*).

⁷ See *Oleoresin Paprika from India CVD Prelim*; see also section 703(d) of the Act, which states that the provisional measures may not be in effect for more than four months, which in the companion CVD case is 120 days after the publication of the preliminary determination, or June 5, 2026 (*i.e.*, the last day provisional measures are in effect).

If the ITC determines that such injury does not exist, this proceeding will be terminated, all cash deposits posted will be refunded, and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed in the “Continuation of Suspension of Liquidation” section above.

Administrative Protective Order

This notice 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), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This final determination and notice are issued and published in accordance with sections 735(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: August 17, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the scope of this investigation is the coloring additive oleoresin paprika. Oleoresin paprika is a viscous, highly colored liquid in various shades of red or orange made from the extract of Capsicum peppers. Covered merchandise includes all oleoresin paprika, regardless of pepper variety, with an American Spice Trade Association (ASTA) value of at least 500 or a color unit (CU) value of at least 20,000 as determined by spectrophotometric measurement. The Chemical Abstracts Service (CAS) Registry numbers for oleoresin paprika are 68917–78–2 and 84625–29–6; the Center for Food Safety and Applied Nutrition (CFSAN) number is 977006–45–3; the Flavoring Extract Manufacturers’ Association (FEMA) number is 2834; and the E number is E160c. Subject oleoresin paprika may also be referred to by other product names, including, but not limited to, paprika oleoresin, oleoresin of paprika, paprika

extract, extract of paprika, paprika oil, or paprika essential oil.

Subject oleoresin paprika may be blended with oil or water prior to importation or may be imported in its crude or unstandardized form. Subject oleoresin paprika may also be blended with emulsifiers or preservatives. The scope includes all oleoresin paprika meeting the specifications above regardless of whether or not blended with or soluble in oil or water, and regardless of weight, pungency, quality, solvent content, or additives. Further, the scope includes crude or unstandardized oleoresin paprika that has been blended, finished, packaged, or otherwise processed in a third country, if the blending, finishing, packaging, or processing performed would not otherwise remove the merchandise from the scope. Oleoresin paprika that is otherwise subject to this investigation is not excluded when commingled with oleoresin paprika from sources not subject to this investigation, or when commingled with other oleoresins. Only the subject component of such commingled products is covered by the scope of this investigation.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3203.00.8000 and 3301.90.1010. Subject merchandise may also enter under HTSUS subheading 1301.90.9190, 1302.19.9140, and 3205.00.0500. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes Since the *Preliminary Determination*
- IV. Final Negative Determination of Critical Circumstances
- V. Application of Adverse Facts Available
- VI. Discussion of the Issues
 - Comment 1: Whether to Allocate Respondents’ Joint Production Costs to Co-Products Based on Weight
 - Comment 2: Whether to Apply Facts Available with an Adverse Inference for Errors and Omissions Identified During the Cost Verifications
 - Comment 3: Whether to Refer Information to U.S. Customs and Border Protection (CBP) and Establish a Certification Process
 - Comment 4: Whether to Apply Partial Facts Available with an Adverse Inference to Synthite’s Unreported Marine Insurance Expenses
 - Comment 5: Whether Commerce Should Revise its Calculation Regarding Certain Selling Expenses
 - Comment 6: Whether to Make an Affirmative Critical Circumstances Finding
- VII. Recommendation

[FR Doc. 2026–17047 Filed 8–20–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration****[C–602–814, C–403–807]****Silicon Metal From Australia and Norway: Countervailing Duty Orders**

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing countervailing duty (CVD) orders on silicon metal from Australia and Norway.

DATES: Applicable August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane at (202) 482–5449 (Australia) or Stefan Smith at (202) 482–4342 (Norway), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:**Background**

In accordance with sections 705(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on June 30, 2026, Commerce published in the **Federal Register** its affirmative final determinations in the CVD investigations of silicon metal from Australia and Norway.¹ On August 14, 2026, the ITC notified Commerce of its final affirmative determinations, pursuant to sections 705(b)(1)(A)(i) and 705(d) of the Act, that an industry in the United States is materially injured by reason of subsidized imports of silicon metal from Australia and Norway.²

Scope of the Orders

The product covered by these orders is silicon metal from Australia and Norway. For a complete description of the scope of these orders, *see* the appendix to this notice.

CVD Orders

Based on the above-referenced affirmative final determinations by the ITC that an industry in the United States is materially injured by reason of subsidized imports of silicon metal from Australia and Norway,³ and in

accordance with sections 705(c)(2) and 706 of the Act, Commerce is issuing these CVD orders. Because the ITC determined that imports of silicon metal from Australia and Norway are materially injuring a U.S. industry, unliquidated entries of such merchandise from Australia and Norway entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of silicon metal from Australia and Norway. With the exception of entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final affirmative injury determinations, as further described below, countervailing duties will be assessed on unliquidated entries of silicon metal from Australia and Norway entered, or withdrawn from warehouse, for consumption on or after September 26, 2025, the date of publication of the *Preliminary Determinations* in the **Federal Register**.⁴

Suspension of Liquidation and Cash Deposits

In accordance with section 706 of the Act, Commerce will direct CBP to reinstitute the suspension of liquidation of silicon metal from Australia and Norway, effective on the date of publication of the ITC's notice of final determinations in the **Federal Register**, and to assess, upon further instruction by Commerce pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. On or after the date of publication of the ITC's final injury determinations in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the rates noted below. These instructions suspending liquidation will remain in effect until further notice.

Estimated Countervailable Subsidy Rates

The estimated countervailable subsidy rates are as follows, the all-others rate applies to all producers or exporters not specifically listed below.

Company	Subsidy rate (percent <i>ad valorem</i>)
Australia	
Simcoa Operations Pty, Ltd ⁵	32.57
All Others	32.57
Norway	
Elkem ASA ⁶	17.27
All Others	17.27

Provisional Measures

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on September 26, 2025.⁷ Therefore, entries of silicon metal from Australia and Norway made on or after January 24, 2026, and prior to the date of publication of the ITC's final determinations in the **Federal Register**, are not subject to the assessment of countervailing duties due to Commerce's discontinuation of the suspension of liquidation.

In accordance with section 703(d) of the Act, Commerce instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, certain unliquidated entries of silicon metal from Australia and Norway entered, or withdrawn from warehouse, for consumption on or after January 24, 2026, the date on which the provisional CVD measures expired, until and through the day preceding the date of publication of the ITC's final injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC final injury determinations in the **Federal Register**.

⁵ Commerce found the following companies to be cross-owned with Simcoa: Silicon Metal Company of Australia Pty Ltd.; Simcoa Mines Pty Ltd.; and Microsilica Pty Ltd.

⁶ Commerce found the following companies to be cross-owned with Elkem: Elkem Carbon AS; Elkem International AS; and Elkem Silicon Product Development AS.

⁷ *See Preliminary Determinations.*

¹ *See Silicon Metal from Australia: Final Affirmative Countervailing Duty Determination*, 91 FR 39598 (June 30, 2026); *see also Silicon Metal from Norway: Final Affirmative Countervailing Duty Determination*, 91 FR 39601 (June 30, 2026).

² *See ITC's Letter, "Notification of ITC Final Determinations,"* dated August 14, 2026.

³ *Id.*

⁴ *See Silicon Metal from Australia: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 46390 (September 26, 2025); and *Silicon Metal from Norway: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 90 FR 46386 (September 26, 2025) (collectively, *Preliminary Determinations*).

Establishment of the Annual Inquiry Service List

On September 20, 2021, Commerce published the *Final Rule* in the **Federal Register**.⁸ On September 27, 2021, Commerce also published the *Procedural Guidance* in the **Federal Register**.⁹ 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.¹⁰

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called "AISL-Annual Inquiry Service List."¹¹

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual

inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*, the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for 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."¹² Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list. 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 constitutes the CVD orders with respect to silicon metal from Australia and Norway, pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <https://www.trade.gov/data-visualization/adcvd-proceedings>.

These CVD orders are published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: August 17, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The scope of these orders cover all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these orders.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2026-17049 Filed 8-20-26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-602-813, A-403-806]

Silicon Metal From Australia and Norway: Antidumping Duty Orders

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

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) orders on silicon metal from Australia and Norway.

DATES: Applicable August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Jacob Waddell (Australia), Office VI, telephone: (202) 482-1369; Brittany Bauer (Norway), Office V, telephone: (202) 482-3860; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act), on June 30, 2026, Commerce published its affirmative final determinations in the less than fair value (LTFV) investigations of silicon

⁸ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

⁹ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹⁰ *Id.*

¹¹ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register** also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as "AISL-January Anniversary." Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹² See *Final Rule*, 86 FR at 52335.

metal from Australia and Norway.¹ On August 14, 2026, the ITC notified Commerce of its affirmative final determination, pursuant to section 735(d) of the Act, that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of silicon metal from Australia and Norway.²

Scope of the Orders

The product covered by these orders is silicon metal from Australia and Norway. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

As noted above, on August 14, 2026, in accordance with 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of silicon metal from Australia and Norway that are sold in the United States at LTFV.³ Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing these AD orders. Because the ITC determined that imports of silicon metal are materially injuring a U.S. industry, unliquidated entries of such merchandise from Australia and Norway, entered or withdrawn from warehouse for consumption, on or after February 9, 2026, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of silicon metal from Australia and Norway. Antidumping duties will be assessed on unliquidated entries of silicon metal entered, or withdrawn from warehouse, for consumption on or after February 9, 2026, the date of the publication of the *Preliminary Determinations*, but will not include entries occurring after the expiration of the provisional measures period and before the publication of the

ITC's final injury determination under section 735(b) of the Act, as further described in the "Provisional Measures" section of this notice.⁴

Suspension of Liquidation and Cash Deposits

In accordance with section 736 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of silicon metal from Australia and Norway, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**. Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins listed in the *Final Determinations*. The all-others rate applies to all producers or exporters not specifically listed. These cash deposit requirements will remain in effect until further notice.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin (percent)
Australia	
Simcoa Operations Pty Ltd	6.16
All Others	6.16
Norway	
Elkem ASA	2.47
All Others	2.47

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extends the four-month period to no more than six months. At the request of exporters that account for a significant proportion of exports of silicon metal from Australia and Norway, Commerce extended the four-month period to six months in these investigations.

Commerce published the *Preliminary Determinations* on February 9, 2026.⁵ The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations*, ended on August 7, 2026. Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of silicon metal from Australia and Norway entered, or withdrawn from warehouse, for consumption on or after August 8, 2026, the first day provisional measures were no longer in effect, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final injury determination in the **Federal Register**.

Establishment of the Annual Inquiry Service Lists

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**.⁶ On September 27, 2021, Commerce also published the notice titled "*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*" in the **Federal Register**.⁷ 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.⁸

In accordance with the *Procedural Guidance*, for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty

¹ See *Silicon Metal from Australia: Final Affirmative Determination of Sales at Less Than Fair Value*, 91 FR 39593 (June 30, 2026); and *Silicon Metal from Norway: Final Affirmative Determination of Sales at Less Than Fair Value*, 91 FR 39597 (June 30, 2026) (collectively, *Final Determinations*).

² See ITC's Letter, "Notification of Final Determination," dated August 14, 2026.

³ *Id.*

⁴ See *Silicon Metal from Australia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 5711 (February 9, 2026); and *Silicon Metal from Norway: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 91 FR 5706 (February 9, 2026) (collectively, *Preliminary Determinations*).

⁵ See *Preliminary Determinations*.

⁶ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

⁷ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

⁸ *Id.*

Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called “AISL-Annual Inquiry Service List.”⁹

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*, the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties’ amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website.

Special Instructions for the Petitioners and Foreign Governments

In the *Final Rule*, Commerce stated that, “after an initial request and placement on the annual inquiry service list, both the petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.”¹⁰ Accordingly, as stated above, the petitioners and the Governments of Australia and Norway should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for these orders. Pursuant to

19 CFR 351.225(n)(3), the petitioners and the Governments of Australia and Norway 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 the Governments of Australia and Norway 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.

Notifications to Interested Parties

This notice constitutes the AD orders with respect to silicon metal from Australia and Norway, pursuant to section 736(a) of the Act. Interested parties can find a list of AD and countervailing duty orders currently in effect at <https://enforcement.trade.gov/stats/iastats1.html>.

These AD orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 17, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The scope of these orders covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of the orders.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2026–17050 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Procedures for Submissions by Certain Steel and Aluminum Producers Committing to New U.S. Steel or Aluminum Production To Obtain Tariff Adjustments Under Proclamation 10984

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. Public comments were previously requested via the **Federal Register** on June 18, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Commerce.

Title: Procedures for Submissions by Certain Steel and Aluminum Producers Committing to New U.S. Steel or Aluminum Production to Obtain Tariff Adjustments Under Proclamation 10984.

OMB Control Number: 0625–0285.

Form Number(s): None.

Type of Request: Regular submission, extension of a current information collection.

Number of Respondents: 60.

Average Hours per Response: 60 hours.

Burden Hours: 3,600 hours.

Needs and Uses: On October 17, 2025, the President issued Proclamation 10984 (Adjusting Imports of Medium- and Heavy-Duty Vehicles, Medium- and Heavy-Duty Vehicle Parts, and Buses Into the United States) (90 FR 48451), finding that imports of medium- and heavy-duty vehicles (MHDVs), medium- and heavy-duty vehicle parts (MHDVPs), and buses threaten to impair the national security of the United States, and determining that it is necessary and appropriate to impose specified tariffs to adjust imports of MHDVs, MHDVPs, and buses so that such imports will not threaten to impair national security pursuant to section 232 of the Trade Expansion Act of 1962,

⁹ This segment will be combined with the ACCESS Segment Specific Information (SSI) field, which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as “AISL-January Anniversary.” Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

¹⁰ See *Final Rule*, 86 FR at 52335.

as amended (19 U.S.C. 1862). In addition, Proclamation 10984 acknowledged the close connections and overlap between part suppliers for the automobile industry and determined that it is necessary and appropriate to conform certain aspects of the tariff system imposed in Proclamation 10908 of March 26, 2025 (Adjusting Imports of Automobiles and Automobile Parts Into the United States) (90 FR 14705), as amended, with the tariff system imposed in Proclamation 10984 for MHDVs, certain MHDVPs, and buses. Finally, the President found it necessary and appropriate to allow modification of tariffs imposed under Proclamation 9704 of March 8, 2018 (Adjusting Imports of Aluminum Into the United States) (83 FR 11619), as amended, and Proclamation 9705 of March 8, 2018 (Adjusting Imports of Steel Into the United States) (83 FR 11625), as amended, based on commitments to increase production of steel or aluminum products that support U.S. production capacity of key products, including U.S. motor vehicles.

To enhance the supply chain security and domestic production of U.S. MHDVs and automobiles, Proclamation 10984 authorized the Secretary to reduce tariffs owed under Proclamations 9704 and 9705 by up to half the otherwise applicable rate for aluminum or steel producers that operate production facilities in Canada or Mexico and supply U.S. motor vehicle manufacturers. Such adjustments are to be limited to quantities of aluminum or steel equal to newly committed U.S. production capacity, as determined by the Secretary.

Proclamation 10984 provides that the adjusted tariff rate under Proclamations 9704 and 9705 may be no less than 25 percent, and that the adjusted tariff rate is only available for imports of aluminum and steel that qualify for preferential tariff treatment under the U.S.-Mexico-Canada Agreement (USMCA) and that were respectively smelted and cast or melted and poured in Canada or Mexico.

Proclamation 10984 directed the Secretary to administer this program in a manner consistent with the need to address the national security threats the President found in Proclamation 9704, Proclamation 9705, Proclamation 9888 of May 17, 2019 (Adjusting Imports of Automobiles and Automobile Parts into the United States) (84 FR 23433), and Proclamation 10984. The Secretary has determined that it is necessary to establish a process for firms that operate production facilities in Canada and Mexico to apply for the adjusted tariffs, as authorized in Proclamation 10984,

based on the quantities of aluminum or steel equal to newly committed U.S. production capacity. The Secretary has determined that only increased commitments to produce primary steel and primary aluminum should be eligible because these commitments address key bottlenecks and will increase the supply of U.S. steel and aluminum for downstream producers of automobiles and MDHVs. For purposes of these procedures, “primary steel” means any semi-finished or finished steel product that was first produced in a liquid state in a steel making furnace and “primary aluminum” means new aluminum metal that is produced from alumina (or aluminum oxide) by the electrolytic Hall-Heroult process.

The Secretary has also determined that, for purposes of these procedures, commitments to increase production capacity of primary steel and primary aluminum that supports U.S. production capacity of key products is limited to commitments to increase capacity of primary steel and primary aluminum that supports U.S. production capacity for automobiles, MHDVs, automobile parts, and MHDV parts (MHDVPs). Proclamation 10984 identifies automobiles and MHDVs as examples of key products. As automobile parts and MHDVPs are critical inputs to MHDVs and automobiles, and as much of the steel and aluminum contained in automobiles and MHDVs is first incorporated into automobile parts and MHDVPs, the Secretary determined that automobile parts and MHDVPs are also “key products” under these procedures, consistent with the purpose of Proclamation 10984.

Affected Public: Business or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

Legal Authority: 19 U.S.C. 1862 Trade Expansion Act of 1962.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and

entering either the title of the collection or the OMB Control Number 0625–0285.

Sheleen Dumas,

Departmental PRA Compliance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2026–17155 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF961]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. The EFP would allow federally permitted fishing vessels to fish outside fishery regulations in support of exempted fishing activities proposed by the Maine Department of Marine Resources (ME DMR). Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before September 8, 2026.

ADDRESSES: You may submit written comments by email: nmfs.gar.efp@noaa.gov. Include in the subject line “ME DMR Dynamic Management EFP.” All comments received are a part of the public record and may be posted for public viewing without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “anonymous” as the signature if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christine Ford, Fishery Management Specialist, christine.ford@noaa.gov, 978–281–9185.

SUPPLEMENTARY INFORMATION: The applicant submitted a complete application for an EFP to conduct

commercial fishing activities that the regulations would otherwise restrict. This EFP would exempt the

participating vessels from the following Federal regulations:

TABLE 1—REQUESTED EXEMPTIONS

CFR citation	Regulation	Need for exemption
50 CFR 697.21(b)(2)	Gear marking requirements	To allow for the use of trap/pot gear with no more than one surface marking on trawls of more than three traps.

TABLE 2—PROJECT SUMMARY

Project title	Testing the applicability of dynamic management in Maine’s lobster fishery during potential future North Atlantic Right Whale (NARW) aggregations near Jeffrey’s Ledge.
Project start	11/01/2026.
Project end	03/31/2027.
Project objectives	To assess the feasibility of dynamic management for the Maine lobster fishery to allow for continued access to fishing grounds while also reducing the risk associated with vertical lines in real-time when endangered NARW are found to be present in the Gulf of Maine.
Project location	Lobster Management Area 1: Maine Lobster Conservation Zones F, F/G, and G around Jeffrey’s Ledge.
Number of vessels	Up to 50.
Number of trips, duration, total days.	See Project Narrative.
Gear type(s)	Lobster traps.
Number and duration of tows or sets.	See Project Narrative.

Project Narrative

In January 2025, an aggregation of upwards of 90 individual NARWs were spotted on Jeffrey’s Ledge and persisted for over 3 weeks. During that time, vessels from Maine, New Hampshire, and Massachusetts were actively fishing lobster gear, creating an area of potentially high NARW entanglement risk. Using vessel tracking data and sightings information, ME DMR identified the area of greatest overlap between recently set lobster gear from Maine vessels and NARW sightings. Maine vessels took voluntary action to reduce the entanglement risk by removing an endline from gear that was actively being fished in the area, delaying the setting of gear into deeper waters, and/or delaying setting gear at all. The 2025 NARW aggregation highlighted the potential to execute dynamic management, of which ME DMR is interested in investigating further.

This EFP would not allow for any changes to regular commercial lobster fishing activities regarding trap limits, soak times, catch, *etc.* This EFP would only allow participating vessels to temporarily remove, or drop and secure to the bottom, one endline from their trawls upon notification from ME DMR that a NARW aggregation is in the Jeffrey’s Ledge area. Which endline would be dropped would be decided if an aggregation occurred. The dropped endline would be consistent for all participants and ME DMR would communicate the information out for

awareness. The trigger for a dynamic management response would be based on the details of the situation (*e.g.*, where/when/how many whales aggregate, if they were in an area of dense fishing gear, if a mom/calf pair was present).

If ME DMR triggered a dynamic management response, data would be collected on how many whales were present, for how long, and the size of the area where participating vessels removed/dropped an endline. For each participating vessel, data would also be collected on the time between initial whale detections and any removed/dropped endlines, how many endlines were removed/dropped, and how long endlines were removed/dropped. Additional information regarding delaying the setting of gear, setting gear in a different area, or trawling up would also be collected. Data would help provide feedback to managers on the feasibility of implementing a dynamic management program in the future.

ME DMR has requested to exempt participants from EFP trip reporting requirements, stating that this requirement is a barrier to recruiting fishermen for this project and is duplicative of the required electronic vessel trip reporting. EFP trip reporting requirements assist NMFS in monitoring trips taken under an EFP, and to help identify vessels that are operating in ways that would otherwise not be allowed. There are no sensitivities related to catch that NMFS needs to document at the trip level. NOAA’s

Office of Law Enforcement has indicated that there are other means by which it could monitor, perform outreach on, and enforce regulations on vessels participating in this EFP. For these reasons, NMFS recommends waiving the EFP trip reporting requirements for vessels operating under this EFP. This would be consistent with other EFP’s where NMFS has waived the trip reporting requirements. NMFS may reevaluate this waiver should it become evident that EFP trip-level reporting is warranted or needed.

All vessels participating in the EFP would adhere to current approach regulations—a 500-yard (457-meter) buffer zone created by a surfacing right whale—and must depart immediately at a safe and slow speed, in accordance with current regulations. Hauling any lobster gear would immediately cease (by removal) to accommodate the regulation and be reinitiated only after it was reasonable to assume the whale had left the area.

ME DMR proposed the following best practices and risk reduction measures:

- All vessels would operate within a 10-knot (18.5 kilometers per hour) speed limit when whales were observed;
- All vessels would report all right whale sightings to NMFS via ne.rw.survey@noaa.gov or NOAA (866–755–6622) or the U.S. Coast Guard (Channel 16) and record sightings on data sheets;
- All vessels would provide mandatory, weekly gear loss reports to ME DMR; and

• Upon aggregation dispersal, ME DMR would work with participating vessels to return their gear to its required configuration within 30 days.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 19, 2026.

Shannon Bettridge,

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

[FR Doc. 2026–17126 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF902]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that permits have been issued under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to NMFS.Pr1Comments@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Sara Young (File Nos. 29313 and 29621) and Amy Hapeman (File No. 29749); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (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), as applicable. Notices were published in the **Federal Register** on the dates listed below that requests had been submitted. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to <https://www.federalregister.gov> and search for the file number provided in table 1 below.

TABLE 1—ISSUED PERMITS

File No.	RTID	Applicant	Previous Federal Register notice	Issuance date
29313	0648–XF554 ..	Michelle Shero, Ph.D., Woods Hole Oceanographic Institution, 266 Woods Hole Road, Woods Hole, MA 02543.	91 FR 13294, March 19, 2026.	July 1, 2026.
29621	0648–XF774 ..	NMFS Marine Mammal Laboratory, 7600 Sand Point Way NE, Seattle, WA 98118 (Responsible Party: Nancy Friday, Ph.D.).	91 FR 29118, May 19, 2026.	July 9, 2026.
29749	0648–XF823 ..	BBC Natural History Unit and Factual Productions Limited, 1 Television Centre, 101 Wood Lane, London, W12 7FA, United Kingdom (Responsible Party: Victoria Webb).	91 FR 32009, May 29, 2026.	July 10, 2026.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: August 19, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–17150 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF960]

Marine Mammals; File No. 26329

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Brandon Southall, Ph.D., Southall Environmental Associates, Inc., 9099 Soquel Drive, Suite 8, Aptos, CA 95076, has applied for an amendment to scientific research Permit No. 26329.

DATES: Written comments must be received on or before September 21, 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 (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 26329 mod #4 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. 26329–01 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: Amy Hapeman or Sara Young, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 26329 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of

1973, as amended (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), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 26329, issued on October 21, 2022 (87 FR 68133, November 14, 2022), authorizes the permit holder to study behavioral responses of 17 cetacean species in California waters. Researchers seek to identify key characteristics of species-typical calling, diving, feeding, social, and movement behavior in cetaceans, and under what conditions and contexts these behaviors are affected by human noise disturbance. Researchers may approach cetaceans by vessel for observations, suction-cup tagging, collection of sloughed skin, acoustic playbacks, prey mapping, photo-identification, and unintentional harassment. Five pinniped species may be unintentionally harassed during fieldwork. The permit holder requests to amend the permit to consolidate and improve the management and reporting of fieldwork that currently occurs with collaborating scientists under several research permits as follows: (1) add suction-cup tagging and sloughed skin collection as procedures for six authorized odontocete species; (2) allow deployment of suction-cup tags by uncrewed aircraft system (UAS) in addition to attachment by pole; (3) authorize the use of a suction-cup tag unit that has a built-in echosounder; (3) authorize active acoustics for prey mapping for all authorized species; (4) authorize biopsy sampling for all cetacean species that could be tagged; (5) increase take numbers for multiple cetacean species for currently authorized methods in addition to new requested methods including: invasive (dab/barb or deep-implant) tagging and UAS surveys for counts, observations, photo-ID, photography/videography, and photogrammetry; and (6) update the personnel list and their roles. See the application's take table for details on take numbers and methods for each species. The permit would be valid until March 31, 2028.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal

Commission and its Committee of Scientific Advisors.

Dated: August 19, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–17153 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF954]

Marine Mammals; File No. 29892

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Edward Charles, Open Plant Studios, 27A Regent Street, Clifton, Bristol, BS8 4HG, United Kingdom, has applied in due form for a permit to conduct commercial or educational photography on marine mammals.

DATES: Written comments must be received on or before September 21, 2026.

ADDRESSES: The application and related documents are available for review 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. 29892 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 Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a 5-month permit to film humpback whales (*Megaptera novaeangliae*) in Hawaii for a documentary featuring Dr. Sylvia Earle. Up to 210 humpback whales may be filmed and observed by a vessel and unmanned aircraft system. Up to 105 bottlenose (*Tursiops truncatus*) and 700 spinner (*Stenella longirostris*) dolphins

may be unintentionally harassed, observed, and opportunistically filmed during these activities.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 19, 2026.

Larissa Plants,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–17107 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF962]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Joint Hawaii Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP) and Bottomfish Advisory Review Board (BARB), American Samoa FEP AP, Fishing Industry Advisory Committee (FIAC), Mariana Archipelago FEP Commonwealth of the Northern Mariana Islands (CNMI) AP, and Social Science Planning Committee (SSPC) to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The meetings will be held between August 28 through September 3, 2026. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The Council will hold its Joint Hawaii Archipelago FEP AP and BARB, American Samoa FEP AP, FIAC, Mariana Archipelago FEP CNMI AP, SSPC meetings in a hybrid format with in-person and remote participation (Webex) options available for the members and the public. In-person attendance for the Joint Hawaii Archipelago FEP AP and BARB, FIAC

and SSPC and public will be hosted at Council Office, 1164 Bishop St Suite 1400, Honolulu, HI, 96813. In-person attendance for the American Samoa Archipelago FEP AP and public will be hosted at the Tedi of Samoa Suite 208B, P8C6+V2F, Fagatogo Village, AS, 96799. In-person attendance for the Mariana Archipelago FEP AP and public will be hosted at the BRI Building Suite 205, Kopa Di Oru St., Garapan, Saipan, 96950. Instructions for connecting to the web conference and providing oral public comments will be posted on the Council website at www.wpcouncil.org. For assistance with the web conference connection, contact the Council office at (808) 522-8220.

FOR FURTHER INFORMATION CONTACT:

Contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522-8220.

SUPPLEMENTARY INFORMATION: The Joint Hawaii Archipelago FEP AP and BARB will be held between 9 a.m. and 4 p.m. (Hawaii Standard Time [HST]) on Friday, August 28, 2026. The American Samoa FEP AP will be held between 6 p.m. and 8 p.m. (Samoa Standard Time [SST]) on Tuesday, September 1, 2026. The FIAC will be held between 2 p.m. and 5 p.m. (HST) on Wednesday, September 2, 2026. The Mariana Archipelago FEP CNMI AP will be held between 6 p.m. and 8 p.m. (Chamorro Standard Time [ChST]) on Thursday, September 3, 2026. The SSPC meeting will be held between 12 p.m. and 4 p.m. (HST) on Thursday, September 3, 2026.

Public Comment periods will be provided in the agendas. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the Joint Hawaii Archipelago FEP AP and BARB Meeting

Friday, August 28, 2026, 9 a.m. to 4 p.m. (HST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Council Fisheries Issues
 - A. Options for Amending Fishing Regulations in the Northwestern Hawaiian Islands (NWHI)
 - B. Options for Revising the Hawaii Shallow-Set Longline Fishery Sea Turtle Measure
 - C. Hawaii Deep-Set Longline Swordfish Retention
 - D. Social, Economic, Ecological and Management (SEEM) Process Review

4. Council Inflation Reduction Act (IRA) Community Consultation Project Update
 - A. Scenario Planning
 - B. Protected Species
 - C. Disaster Resilience Workshop
 - D. Hawaii Shark Regulatory Alignment and Education Workshop
5. Research Priorities
6. AP Strategic Planning for 2026
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the American Samoa Archipelago FEP AP Meeting

Tuesday, September 1, 2026, 6 p.m. to 8 p.m. (SST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Council Fisheries Issues
 - A. Annual Catch Limit (ACL) Specification for American Samoa Bottomfish Management Unit Species (BMUS) for 2027-2029
 - B. Options for Amending the Large Vessel Prohibited Area (LVPA) in American Samoa
 - C. American Samoa Longline Fishery Sea Turtle Measures
 - D. SEEM Process Review
4. Council IRA Project Discussions
 - A. Scenario Planning
 - B. Protected Species
 - C. Community Consultation
5. Research Priorities
6. AP Strategic Planning for 2026
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the FIAC Meeting

Wednesday, September 2, 2026, 2 p.m. to 5 p.m. (HST)

1. Welcome and Introductions
2. Status Report on Previous FIAC Recommendations
3. Roundtable update on Fishing/Market Issues/Impacts
4. Options for Amending the LVPA in American Samoa
5. Options for Amending Fishing Regulations in the NWHI
6. International Fisheries Updates
7. Seafood Executive Order Priority Actions for Reducing Burdens on Domestic Fishing
 - A. Options for Revising the Hawaii Shallow-set Sea Turtle Measures
 - B. American Samoa Longline Fishery Sea Turtle Measures
 - C. Swordfish Retention Limit in Hawaii Deep-set Fishery
8. Update on Electronic Monitoring Implementation

9. Research Prioritization
10. IRA Project Updates
 - A. Draft Final Report on Longline Scenario Planning
 - B. Protected Species
 - C. Community Consultation
11. Other Issues
12. Public Comment
13. Discussion and Recommendations

Schedule and Agenda for the Mariana Archipelago FEP CNMI AP Meeting

Thursday, September 3, 2026, 6 p.m. to 8 p.m. (ChST)

1. Welcome and Introductions
2. Review of the Last AP Recommendation and Meeting
3. Council Fisheries Issues
 - A. Next Steps for Management of Fishing in waters of the Islands Unit of the Marianas Trench Marine National Monument
 - B. SEEM Process Review
4. Council IRA Project Discussions
 - A. Rota/Tinian Data Collection Workshop
 - B. Northern Islands Community Based Management Plan Workshop
5. Research Priorities
6. Advisory Panel Strategic Planning for 2026
7. Other Business
8. Public Comment
9. Discussion and Recommendations

Schedule and Agenda for the SSPC Meeting

Thursday, September 3, 2026, 12 p.m. to 4 p.m. (HST)

1. Welcome and Introductions
2. Approval of Agenda
3. Developing the SSPC Work Plan
4. SEEM Process Revision Draft Procedural Document
5. Update on the Scientific and Statistical Committee Social Valuation Working Group
6. Socioeconomic Considerations for Council Actions and Issues
 - A. Options for Amending the LVPA in American Samoa
 - B. Options for Amending Fishing Regulations in the NWHI
 - C. ACL Specification for American Samoa BMUS for 2027-2030
 - D. Options for Revising the Hawaii Shallow-set Longline Fishery Sea Turtle Measures
8. Project Updates
9. Other Business
10. Public Comment
11. Discussion and Recommendations

Special Accommodations

These meetings are accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

(Authority: 16 U.S.C. 1801 *et seq.*)

Dated: August 19, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–17127 Filed 8–20–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committee—Reserve Forces Policy Board

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: The DoD (referred to herein as “the Department,” “Department of War” or “DoW”) is publishing this notice to announce that it is renewing the Reserve Forces Policy Board (RFPB) as a non-discretionary Federal advisory committee.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of War, 703–692–5952.

SUPPLEMENTARY INFORMATION: The RFPB is being renewed pursuant 10 United States Code (U.S.C.) 175 and 10301 and in accordance with the provisions of chapter 10 of Title 5, U.S.C. (commonly known as “the Federal Advisory Committee Act” or “FACA”) and 41 Code of Federal Regulation (CFR) 102–3.50(a). The charter and contact information for the RFPB’s Designated Federal Officer (DFO) are found at: <https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation>.

The RFPB provides independent advice and recommendations on the reserve components on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components. The RFPB may act on those matters referred to by the Chair and on any matter raised by a member of the RFPB or the SecWar. All RFPB work, including subcommittee work, will be in response to written terms of reference or taskings approved by the SecWar or the Deputy Secretary War (“the DoW Appointing Authority”), or the Under Secretary of War for Personnel and Readiness unless otherwise provided by statute or Presidential directive.

Pursuant to 10 U.S.C. 10301(c), the RFPB shall be composed of 20 members, appointed, or designated as follows:

a. A civilian appointed by the SecWar from among persons determined by the Secretary to have the knowledge of, and experience in, policy matters relevant to national security and reserve component matters necessary to carry out the duties of the RFPB, who shall serve as chair of the RFPB.

b. Two active or retired reserve officers or enlisted members designated by the SecWar upon recommendation of the Secretary of the Army:

1. One of whom shall be a member of the Army National Guard of the United States or a former member of the Army National Guard of the United States in the Retired Reserve; and

2. One of whom shall be a member or retired member of the Army Reserve.

c. Two active or retired reserve officers or enlisted members designated by the SecWar upon the recommendation of the Secretary of the Navy:

1. One of whom shall be an active or retired officer of the Navy Reserve; and

2. One of whom shall be an active or retired officer of the Marine Corps Reserve.

d. Two active or retired reserve officers or enlisted members designated by the SecWar upon the recommendation of the Secretary of the Air Force:

1. One of whom shall be a member of the Air National Guard of the United States or a former member of the Air National Guard of the United States in the Retired Reserve; and

2. One of whom shall be a member or retired member of the Air Force Reserve.

e. One active or retired reserve officer or enlisted member of the U.S. Coast Guard designated by the Secretary of Homeland Security.

f. Ten persons appointed or designated by the SecWar, each of whom shall be a U.S. citizen having significant knowledge of and experience in policy matters relevant to national security and reserve component matters and shall be one of the following:

1. An individual not employed in any Federal or State department or agency.

2. An individual employed by a Federal or State department or agency.

3. An officer of a regular component of the armed forces on active duty, or an officer of a reserve component of the armed forces in an active status, who:

- Is serving or has served in a senior position on the Joint Staff, the headquarters staff of a Combatant Command, or the headquarters staff of an armed force; and

- Has experience in joint professional military education, joint qualification, and joint operations matters.

g. A reserve officer of the Army, Navy, Air Force, or Marine Corps who is a general or flag officer recommended by the chair and designated by the SecWar, who shall serve without vote, as:

1. Military adviser to the Chair;

2. Military executive officer of the RFPB; and

3. Supervisor of the operations and staff of the RFPB.

h. A senior enlisted member of a reserve component recommended by the chair and designated by the SecWar, who shall serve without vote as enlisted military adviser to the Chair.

Authority to invite or appoint individuals to serve on the RFPB rests solely with the DoW Appointing Authority, and RFPB members will be approved for a term of one-to-four years, with annual renewals, in accordance with DoW policy and procedures. No member, unless approved by the DoW Appointing Authority, may serve more than two consecutive terms of service on the RFPB, to include its subcommittees, or serve on more than two DoW Federal advisory committees at one time.

RFPB members who are not full-time or permanent part-time Federal officers or employees, nor active-duty members of the Uniformed Services, shall be appointed as experts or consultants pursuant to 5 U.S.C. 3109 to serve as special government employee (SGE) members. RFPB members who are full-time or permanent part-time Federal officers or employees, or active-duty members of the Uniformed Services, shall be designated pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members.

All members of the RFPB are appointed to exercise their own best judgment on behalf of the DoW, without representing any particular point of view, and to discuss and deliberate in a manner that is free from conflicts of interest. Except for reimbursement of official RFPB-related travel and per diem, RFPB members serve without compensation.

The public or interested organizations may submit written statements to the RFPB about the RFPB’s mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the RFPB. All written statements shall be submitted to the DFO for the RFPB, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: August 18, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 2026-17065 Filed 8-20-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI or Committee), Office of Postsecondary Education, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda, time, and instructions to access or participate in the September 23 & 24, 2026 meeting of NACIQI and provides information to members of the public regarding the meeting, including requesting to make written or oral comments. Committee members will meet in-person. Agency representatives have the option to meet in-person or virtually, and public attendees will participate virtually. The notice of this meeting is required under 5 U.S.C. Chapter 10 (commonly known as the Federal Advisory Committee Act) and Section 114(d)(1)(B) of the Higher Education Act (HEA) of 1965, as amended.

DATES: The NACIQI meeting will be held on September 23 & 24, 2026, from 9:00 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: U.S. Department of Education, 400 Maryland Avenue SW, Barnard Auditorium, Washington, DC 20202. (Only NACIQI members, accrediting agency representatives, and Department of Education staff will participate in the meeting at this address.)

FOR FURTHER INFORMATION CONTACT:

George Alan Smith, Executive Director/ Designated Federal Official (DFO), NACIQI, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202; telephone: (202) 453-7757; email: George.Alan.Smith@ed.gov.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: NACIQI is established under Section 114 of the HEA (20 U.S.C. 1011c). NACIQI advises the Secretary of Education with respect to:

- the establishment and enforcement of the standards of accrediting agencies or associations under subpart 2, part H, title IV of the HEA, as amended;

- the recognition of specific accrediting agencies or associations;
- the preparation and publication of the list of nationally recognized accrediting agencies and associations;
- the eligibility and certification process for institutions of higher education under title IV of the HEA, together with recommendations for improvement in such process;
- the relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions; and
- any other advisory function relating to accreditation and institutional eligibility that the Secretary of Education may prescribe by regulation.

Meeting Agenda

The purpose of the meeting is to conduct a review of applications for renewal of recognition submitted by six accrediting agencies, as well as a compliance report submitted by one accrediting agency.

Applications for Renewal of Recognition

1. *American Bar Association, Council of the Section of Legal Education and Admissions to the Bar.* Scope of Recognition: The accreditation of programs in legal education that lead to the first professional degree in law, including those offered via distance education, as well as freestanding law schools offering such programs. Geographic Area of Accrediting Activities: The United States.

2. *Accrediting Bureau of Health Education Schools.* Scope of Recognition: The accreditation of private, postsecondary institutions offering predominantly allied health education programs leading to a certificate, diploma, and degree at the level of the Associate of Applied Science, Associate of Occupational Science, Academic Associate, Baccalaureate, and Master's, including those offered via distance education and the programmatic accreditation of medical assisting, medical laboratory technology, and surgical technology programs, through the Associate degree, including those offered via distance education. The scope extends to the Substantive Change Committee, jointly with the Commission for decisions on substantive change. Geographic Area of Accrediting Activities: The United States.

3. *Accreditation Commission for Acupuncture and Herbal Medicine.* Scope of Recognition: The accreditation and pre-accreditation ("Candidacy") of professional non-degree and graduate

degree programs, including professional doctoral programs, in the field of acupuncture and/or herbal medicine, as well as freestanding institutions and colleges of acupuncture and/or herbal medicine that offer such programs, including programs offered via distance education. Geographic Area of Accrediting Activities: The United States.

4. *American Psychological Association, Commission on Accreditation.* Scope of Recognition: The accreditation of doctoral programs in clinical, counseling, school, and combined professional-scientific psychology; doctoral internship programs in health service psychology; and postdoctoral residency programs in health service psychology; as well as the pre-accreditation of doctoral internship programs in health service psychology and postdoctoral residency programs in health service psychology. Geographic Area of Accrediting Activities: The United States. Requested Scope of Recognition: The pre-accreditation and accreditation of master's programs and doctoral programs in clinical, counseling, school psychology (and combinations of two or more of these practice areas); doctoral internship programs in health service psychology; and postdoctoral residency programs in health service psychology, including programs that use distance education and traditional educational methods. Geographic Area of Accrediting Activities: The United States.

5. *Southern Association of Colleges and Schools, Commission on Colleges (SACSCOC).* Scope of Recognition: The accreditation and pre-accreditation ("Candidate for Accreditation") of degree-granting institutions of higher education including the accreditation of educational programs offered via distance and correspondence education, and direct assessment within these institutions. The accreditation status of these institutions and their recognition extends to the SACSCOC Board of Trustees, Executive Council, and the Appeals Committee of the College Delegate Assembly on cases of initial candidacy or initial accreditation and for continued accreditation or candidacy. Geographic Area of Accrediting Activities: Throughout the United States.

6. *Transnational Association of Christian Colleges and Schools, Accreditation Commission.* Scope of Recognition: The accreditation and pre-accreditation ("Candidate" status) of Christian postsecondary institutions in the United States that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including

institutions that offer distance education. Geographic Area of Accrediting Activities: The United States.

Compliance Report

1. Commission on Accreditation in Physical Therapy Education. Scope of Recognition: The accreditation and pre-accreditation (“Candidate for Accreditation”) of physical therapist education programs leading to the first professional degree at the master’s or doctoral level and physical therapist assistant education programs at the associate degree level and for its accreditation of such programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

To ensure sufficient time for all agency reviews, including NACIQI questions and discussion, the Department requests that the agencies limit their opening statements to 10 minutes (total for one or more statements) and that the agencies avoid extended discussions about agency representatives and their backgrounds. Following the brief opening statement, the agency’s presentation should focus on the regulatory criteria and, in particular, responses to areas where Department staff has recommended a finding of noncompliance or substantial compliance, or where other concerns have been raised that the agency would like to address. However, the agency should expect that questions from NACIQI members may focus on other areas.

Instructions for Accessing the Meeting

Registration

You may register for the meeting on your computer using the link below. After you register, you will receive a confirmation email containing personalized participation links for the meeting no later than 8:30 a.m. Eastern Time on September 23, 2026.

Registration Link

<https://cvent.me/nNeEgY>.

Public Comment

Submission of requests to make an oral comment regarding a specific accrediting agency under review, or to make an oral comment or written statement regarding other issues within the scope of NACIQI’s authority:

Opportunity to submit a written statement regarding a specific accrediting agency under review was solicited by previous **Federal Register** notices published on April 04, 2025 (90 FR 14815; Document Number 2025–05853) and May 12, 2026 (91 FR 25871;

Document Number 2026–09432). The period for submission of such statements is now closed. *Additional written statements regarding a specific accrediting agency or State approval agency under review will not be accepted at this time.* However, members of the public may submit written statements regarding other issues within the scope of NACIQI’s authority, as outlined under Section 114 of the HEA (20 U.S.C. 1011c).

Members of the public may make oral comments regarding a specific accrediting agency under review and/or other issues within the scope of NACIQI’s authority. Oral comments may not exceed three minutes. Oral comments about an agency’s recognition when a compliance report has been required by the senior Department official or the Secretary must relate to the criteria for recognition cited in the senior Department official’s letter that requested the report, or in the Secretary’s appeal decision, if any. Oral comments about an agency seeking expansion of scope must be directed to the agency’s ability to serve as a recognized accrediting agency with respect to the kinds of institutions or programs requested to be added. Oral comments about the renewal of an agency’s recognition must relate to its compliance with the criteria for the Recognition of Accrediting Agencies, which are available at <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602?toc=1>.

Instructions on Requesting To Make Public Comment

To request to make oral comments of three minutes or less or to submit a written statement to NACIQI concerning its work outside of a specific accrediting agency under review during the September 23 & 24, 2026 meeting, please follow the instructions below.

Submit an email to the ThirdPartyComments@ed.gov mailbox. Please do not send material directly to NACIQI members. To be considered for the current cycle review, written statements and requests to make oral comment must be received by September 16, 2026, and include in the subject line “Oral Comment Request: [agency name],” “Oral Comment Request: [subject]” or “Written Statement: [subject]”; the email must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number, of the person(s) submitting a written statement or requesting to speak. All individuals submitting an advance request in accordance with this notice will be afforded an opportunity to speak.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI website <https://sites.ed.gov/naciqi/archive-of-meetings/> within 90 days after the meeting. In addition, pursuant to 5 U.S.C. 1009, the public may request to inspect records of the meeting at 400 Maryland Avenue SW, Washington, DC 20202, by emailing aslrecordsmanager@ed.gov, or by calling (202) 453–7415 to schedule an appointment. The senior Department official’s (as defined in 34 CFR 602.3 at <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602/subpart-A/section-602.3>) decisions, pursuant to 34 CFR 602.36 (<https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602/subpart-C/subject-group-ECFR21f0283b12d15ca/section-602.36>), associated with all NACIQI meetings can be found at the following website: <https://surveys.ope.ed.gov/erecognition/#/public-documents>.

Reasonable Accommodations: The dial-in information and weblink access to the meeting are accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of the 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 also may 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.

Authority: Section 114 of the HEA of 1964, as amended (20 U.S.C. 1011c).

David Barker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2026–17135 Filed 8–20–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2740]

Agency Information Collection Activities; Comment Request; Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006

AGENCY: Office of Career, Technical, and Adult Education, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 20, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–2740. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the U.S. Department of Education, Office of Career, Technical, and Adult Education, 400 Maryland Ave. SW, LBJ, Room 4A196, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melissa Hartley, 202–987–1153.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the

Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006.

OMB Control Number: 1830–0569.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 54.

Total Estimated Number of Annual Burden Hours: 12,190.

Abstract: This information collection is used by the Department to request Consolidated Annual Reports (CARs) under the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins V). The Department is making the following revisions to the CAR guide via this action: updating Financial Status Report (FSR) instructions and associated forms to reduce reporting burden on States; updating instructions and Performance Reporting forms to reflect the updated National Career Clusters Framework; and technical and non-substantive updates to improve clarity.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17094 Filed 8–20–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2047]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Presidential Cybersecurity Education Award

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a reinstatement without change of a previously approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 21, 2026.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Melissa Hartley, (202) 987–1153.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Presidential Cybersecurity Education Award.
OMB Control Number: 1830–0582.

Type of Review: Reinstatement without change of a previously approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 80.

Total Estimated Number of Annual Burden Hours: 80.

Abstract: The Executive Order on America's Cybersecurity Workforce (Executive Order 13870), signed on May 2, 2019, included a directive for the Secretary of Education, in consultation with the DAPHSC and the National Science Foundation, to develop and implement an annual Presidential Cybersecurity Education Award to be presented to one elementary and one secondary school educator per year who best instill skills, knowledge, and passion with respect to cybersecurity and cybersecurity-related subjects. This information collection request supports this executive order.

This is a reinstatement and there has been no change from the previous ICR.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17158 Filed 8–20–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2707]

Agency Information Collection Activities; Comment Request; Higher Education Act (HEA) Title II Report Cards on State Teacher Credentialing and Preparation

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 20, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2026–SCC–2707. Comments submitted in response to this notice should be submitted electronically through the

Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to U.S. Department of Education, Office of the Chief Data Officer, 400 Maryland Ave. SW, LBJ, Room 4C294, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Ross Santy, ross.santy@ed.gov.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Higher Education Act (HEA) Title II Report Cards on State Teacher Credentialing and Preparation.

OMB Control Number: 1840–0744.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 2,283.

Total Estimated Number of Annual Burden Hours: 185,000.

Abstract: This request is for a revision of the State Report Card and Institution and Program Report Card required by the Higher Education Act of 1965 (HEA), as amended in 2008 by the Higher Education Opportunity Act (HEOA). States must report annually on criteria and assessments required for initial teacher credentials using a State Report Card (SRC), and institutions of higher education (IHEs) with teacher preparation programs (TPP), and TPPs outside of IHEs, must report on key program elements on an Institution and Program Report Card (IPRC). IHEs and TPPs outside of IHEs report annually to their states on program elements, including program numbers, type, enrollment figures, demographics, completion rates, goals and assurances to the state. States, in turn, must report on TPP elements to the Secretary of Education in addition to information on assessment pass rates, state standards, initial credential types and requirements, numbers of credentials issued, TPP classification as at-risk or low-performing. The information from states, institutions, and programs is published annually in The Secretary's Report to Congress on Teacher Quality. This revision request removes several items no longer needed and updates some reporting instructions to reflect current ED organization structure. More information on the report card requirements in Title II of the HEA can be found at http://title2.ed.gov/Public/TA/HEA_2008_Sections%20205_208.pdf.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–17081 Filed 8–20–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Project No. 2030–282]

**Portland General Electric Company;
Confederated Tribes of the Warm
Springs Reservation of Oregon; Notice
of Application for Adult Fish Trap
Replacement Accepted for Filing and
Soliciting Comments, Motions To
Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Non-Capacity Amendment in support of Adult Fish Trap Replacement.

b. *Project No.*: 2030–282.

c. *Date Filed*: June 22, 2026.

d. *Applicant*: Portland General Electric Company and Confederated Tribes of the Warm Springs Reservation of Oregon.

e. *Name of Project*: Pelton Round Butte Hydroelectric Project.

f. *Location*: The project is located on the Deschutes River in Madras County, Oregon.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact*: Megan Hill, Hydro Environmental Manager, Portland General Electric Company, 726 SW Lower Bend Road, Madras, OR 97741; (541) 325–5344, Megan.Hill@pgn.com.

i. *FERC Contact*: Jason Krebill, (202) 502–8268, jason.krebill@ferc.gov.

j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in paragraph k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests*: September 17, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters,

without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–2030–282. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request*: The joint licensees seek to improve the operational efficiency, safety, and reliability of fish passage systems in the Pelton Adult Fish Trap by replacing aging or obsolete infrastructure with modern fish trapping, transport, and rearing facilities, without any change to the authorized installed or hydraulic capabilities of the project. Fish rearing infrastructure previously conducted in sections of the retired fish ladder will be replaced with modern tanks and related infrastructure adjacent to the Fish Handling Facility. Facilities of the Pelton Adult Fish Trap associated with sorting, holding, and transport preparation will be modernized or reconfigured. Removal or replacement of select infrastructure no longer required for fish passage or rearing would occur. Improvements to access roads, site layout and support facilities would occur in order to support construction and long-term operation and maintenance of the new facilities.

m. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number

field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title “COMMENTS”, “PROTEST”, or “MOTION TO INTERVENE” as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. 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: August 18, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–17099 Filed 8–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 349–256]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 349–256.

c. *Date Filed:* April 17, 2026.

d. *Applicants:* Alabama Power Company.

e. *Name of Project:* Martin Dam Hydroelectric Project.

f. *Location:* Tallapoosa County, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Unzell Kelley, Alabama Power Company, (205) 517–0885, ukelley@southernco.com.

i. *FERC Contact:* Shana High, (202) 502–8674, shana.high@ferc.gov.

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k. below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* September 17, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be

addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–349–256. Comments emailed to Commission staff are not part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* Alabama Power Company is requesting Commission authorization to permit White Oak Landing Four, LP to construct five floating community docks, a boat ramp, and seawall to serve a proposed subdivision.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received

on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must: (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. 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: August 18, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–17104 Filed 8–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 1218–052]

Georgia Power Company; Notice of Application for Temporary Variance Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for temporary variance of Article 401.

b. *Project No.:* 1218–052.

c. *Date Filed:* August 5, 2026.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Flint River Hydroelectric Project.

f. *Location:* The project is located on the Flint River, near the City of Albany, in Lee and Dougherty counties, Georgia. The project does not occupy federally owned lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact*: Laurie Munn, Georgia Power, 241 Ralph McGill Boulevard, NE BIN 10193, Atlanta, GA 30308–3374, (404) 506–7275, lsmun@southernco.com.

i. *FERC Contact*: Jeremy Jessup, (202) 502–6779, jeremy.jessup@ferc.gov.

j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Water Quality Certification*: A water quality certificate under section 401 of the Clean Water Act may be required for this proposal from the Georgia Department of Natural Resources. The applicant must file no later than 60 days following the date of issuance of this notice either: (1) a copy of the request for water quality certification submitted to the Georgia Department of Natural Resources; or (2) a copy of the water quality certification or evidence of waiver of water quality certification.

l. *Deadline for filing comments, motions to intervene, and protests*: September 17, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–1218–052. Comments

emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

m. *Description of Request*: The applicant requests a temporary variance from the target water surface elevation requirements of Article 401 of the license to facilitate a scheduled drawdown of the project impoundment, Lake Worth. The purpose of the drawdown is to provide for installation of new shoreline structures and maintenance of existing shoreline structures. Georgia Power would lower Lake Worth approximately 5 feet from the lower limit of the normal target elevation range, 181.3 feet, to an elevation of 176.3 feet. The drawdown is scheduled to begin on September 21, 2026. Georgia Power proposes to utilize a drawdown rate of one half-foot per day, which was a condition requested in previous consultation with the U.S. Fish and Wildlife Service. Georgia Power anticipates reaching the target drawdown elevation of 176.3 feet on September 30, 2026. Lake Worth would remain at the target drawdown elevation for four weeks until refilling begins November 1, 2026. Georgia Power states that the completion of refilling the reservoir would be dependent on precipitation and the releases from the upstream Lake Blackshear Hydroelectric Project No. 659. The applicant would continue to operate to comply with Article 401 run-of-river operations requirement when it reaches the target drawdown elevation of 176.3 feet.

n. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

r. 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: August 18, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026–17101 Filed 8–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7404–011]

Glencoe Mill, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC)

regulations, 18 CFR part 380, Commission staff reviewed the Glencoe Mill, LLC's application to surrender the exemption for the Glencoe Mill Hydroelectric Project No. 7404 and have prepared an Environmental Assessment (EA) for the project.¹ The exemptee is proposing to surrender the project's exemption from licensing but does not propose any additional activities at the project. The project is located on the Haw River in Alamance County, North Carolina. The project does not occupy federal lands.

The EA contains Commission staff's analysis of the potential environmental effects of the proposed surrender, alternatives to the proposed action, and concludes that the proposed surrender of exemption for the Glencoe Mill Hydroelectric Project would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-7404) in the docket number field to access the document. For assistance, contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at 1-866-208-3676, or for TTY, (202) 502-8659.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by September 17, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory

Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-7404-011.

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.

For further information, contact Rebecca Martin at 202-502-6012 or rebecca.martin@ferc.gov.

(Authority: 18 CFR 2.1)

Dated: August 18, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026-17102 Filed 8-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26-1061-000.

Applicants: Northern Natural Gas Company.

Description: Compliance filing: 20260817 NAESB 4.0 Revisions to be effective 1/1/2027.

Filed Date: 8/17/26.

Accession Number: 20260817-5156.

Comment Date: 5 p.m. ET 8/31/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: August 18, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026-17090 Filed 8-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Electric Corporate filings:

Docket Numbers: EC26-140-000.

Applicants: Harquahala Sun 1, LLC, Harquahala Sun 2, LLC, HV Sun SFA Manager 1, LLC, MEC Phase 1, LLC, MEC Phase 2, LLC, Olympus Phase 1, LLC, Olympus Phase 2, LLC, Olympus Phase 3, LLC, Saguaro Bidco Inc. (US).

Description: Supplement to 08/06/2026, Joint Application for Authorization Under Section 203 of the Federal Power Act of Harquahala Sun 1, LLC, et al.

Filed Date: 8/12/26.

Accession Number: 20260812-5180.

Comment Date: 5 p.m. ET 9/21/26.

Docket Numbers: EC26-153-000.

Applicants: AEP Generation Resources Inc., Longview Power, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of AEP Generation Resources Inc., et al.

Filed Date: 8/17/26.

Accession Number: 20260817-5234.

Comment Date: 5 p.m. ET 10/16/26.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL26-98-000.

Applicants: Pennsylvania Public Utility Commission v. PJM Interconnection, LLC.

Description: Complaint of Pennsylvania Public Utility Commission v. PJM Interconnection, LLC under EL26-98.

Filed Date: 8/17/26.

Accession Number: 20260817-5170.

Comment Date: 5 p.m. ET 9/8/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER10-2835-014.

Applicants: Google Energy LLC.

Description: Triennial Market Power Analysis for Northeast Region of Google Energy LLC.

Filed Date: 8/17/26.

¹ The unique identification number for documents relating to this environmental review is EAXX-019-20-000-1775046641.

Accession Number: 20260817–5233.

Comment Date: 5 p.m. ET 10/16/26.

Docket Numbers: ER12–1436–022; ER22–48–007; ER18–280–013; ER18–534–010; ER18–537–010; ER18–536–010; ER21–2317–002; ER18–538–011; ER18–533–009; ER18–535–010.

Applicants: Yankee Street, LLC, Tait Electric Generating Station, LLC, Sidney, LLC, Richland-Stryker Generation LLC, O.H. Hutchings CT, LLC, Monument Generating Station, LLC, Montpelier Generating Station, LLC, Lee County Generating Station, LLC, Gridflex Generation, LLC, Eagle Point Power Generation LLC.

Description: Amendment to 04/01/2024, Notice of Non-Material Change in Status of Eagle Point Power Generation LLC, et al.

Filed Date: 8/6/26.

Accession Number: 20260806–5189.

Comment Date: 5 p.m. ET 8/27/26.

Docket Numbers: ER17–1394–012; ER24–1271–004; ER22–1627–006; ER24–2271–004; ER14–1964–023; ER16–287–017; ER12–161–034; ER20–2028–008; ER17–482–017; ER25–567–002; ER19–1074–022; ER10–1427–015; ER20–1447–013; ER10–2917–031; ER19–1075–022; ER19–529–022; ER19–2429–011; ER23–2481–006; ER24–444–006; ER24–443–007; ER24–2272–002; ER22–192–014; ER24–1272–004; ER24–1449–004; ER10–2922–031; ER11–3377–014; ER13–1139–028; ER24–2273–003; ER12–2313–013; ER22–398–005; ER10–1330–015; ER11–3376–013; ER19–89–004; ER22–1019–005; ER14–2630–021; ER11–2383–028; ER11–3378–014; ER24–2467–003; ER22–1010–012.

Applicants: TerraForm IWG Acquisition Holdings II, LLC, Spanish Peaks Solar LLC, South Hurlburt Wind, LLC, Safe Harbor Water Power Corporation, Regulus Solar, LLC, Powell River Energy Inc., North Rosamond Solar, LLC, North Hurlburt Wind, LLC, North Allegheny Wind, LLC, Mesa Wind Power LLC, Laurel Hill Wind Energy, LLC, Jones Farm Lane Solar, LLC, Imperial Valley Solar 1, LLC, Horseshoe Bend Wind, LLC, Hawks Nest Hydro LLC, Goose Prairie Solar LLC, Foxglove Solar Project, LLC, Evolugen Trading and Marketing LP, Egypt Road Solar, LLC, Deriva Energy Services, LLC, Deriva Energy Beckjord Storage LLC, Crystal Hill Solar, LLC, Brookfield Smoky Mountain Hydropower LP, Brookfield Renewable Trading and Marketing LP, Brookfield Renewable Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Energy Marketing US LLC, Brookfield Energy Marketing LP, Brookfield Energy Marketing Inc., BR Pacific Hydro Power LLC, BREG

Aggregator LLC, Bitter Ridge Wind Farm, LLC, Bishop Hill Energy LLC, BIF III Holtwood LLC, LSP Safe Harbor Holdings, LLC, Aspen Road Solar 1, LLC, AM Wind Repower LLC, Alton Post Office Solar, LLC, 83WI 8me, LLC.

Description: Response to 07/16/2026, Deficiency Letter of 83WI 8me, LLC.

Filed Date: 8/17/26.

Accession Number: 20260817–5230.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER25–3063–001.

Applicants: New Wave Energy, LLC.

Description: Tariff Amendment:

Compliance Filing in Response to July 1, 2026 Letter to be effective 8/1/2025.

Filed Date: 8/18/26.

Accession Number: 20260818–5098.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–1479–002.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing:

Compliance Filing in Response to Order on Reh'g in Docket Nos. EL25–49–002 et al to be effective 10/17/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5195.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–2973–001.

Applicants: Evergy Kansas Central, Inc.

Description: Tariff Amendment:

Amended RS 195 DFPA (KEPCo) to be effective 8/25/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5135.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3545–000.

Applicants: Spring Canyon Energy LLC.

Description: § 205(d) Rate Filing: MBR Tariff Revision to be effective 8/18/2026.

Filed Date: 8/17/26.

Accession Number: 20260817–5196.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3546–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4983 Torchlight Solar GIA to be effective 8/5/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5008.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3547–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing:

Amendment to ISA, Service Agreement No. 6119; Queue No. AE2–285 to be effective 10/18/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5055.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3548–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, SA No. 8048; Queue No. AA1–139 to be effective 10/18/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5066.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3549–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing:

Second Amendment to ISA, SA No. 6904, Queue No. AC2–157 to be effective 10/18/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5082.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3550–000.

Applicants: Midcontinent Independent System Operator, Inc., Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing:

Michigan Electric Transmission Company, LLC submits tariff filing per 35.13(a)(2)(iii): 2026–08–18 SA 4846 METC-Key Capture Energy E&P (J2499) to be effective 8/17/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5093.

Comment Date: 5 p.m. ET 9/8/26.

Docket Numbers: ER26–3551–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing:

2026–08–18 CSU—T–T Const & Intercon Agrmt (T–2022–7)—767—0.0.0 to be effective 8/19/2026.

Filed Date: 8/18/26.

Accession Number: 20260818–5127.

Comment Date: 5 p.m. ET 9/8/26.

Take notice that the Commission received the following Qualifying Facility filings:

Docket Numbers: QF05–184–007; QF05–185–007; QF05–186–007; QF05–187–007; QF05–190–007; QF05–191–007; QF05–217–006; QF05–219–006; QF05–220–006; QF05–221–006; QF05–222–006; QF05–223–007; QF05–224–006; QF05–225–006; QF05–226–006; QF06–232–006.

Applicants: Green Prairie Energy, LLC, Sunset View Wind Farm, LLC, Eagle View Acres Wind Farm, LLC, Elk Lake Wind Farm, LLC, Virgin Lake Wind Farm, LLC, Silver Lake Acres Wind Farm, LLC, Sunrise View Wind Farm, LLC, Palo Alto County Wind Farm, LLC, Highland Township Wind Farm, LLC, Clear View Acres Wind Farm, LLC, Zontos Wind, LLC, Sutton Wind Energy, LLC, CY-Hawk Wind Energy, LLC, Hardin Wind Energy, LLC, Greene Wind Energy, LLC, Wind Family Turbine, LLC.

Description: Refund Report of Wind Family Turbine, LLC, et al.

Filed Date: 8/17/26.

Accession Number: 20260817–5245.

Comment Date: 5 p.m. ET 9/8/26.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or OPP@ferc.gov.

Dated: August 18, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–17089 Filed 8–20–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2194–049]

Brookfield White Pine LLC; Notice of Application for Temporary Variance Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Temporary Variance of Impoundment Elevation Requirement.

b. *Project No:* 2194–049.

c. *Date Filed:* June 22, 2026.

d. *Applicant:* Brookfield White Pine LLC.

e. *Name of Project:* Bar Mills Hydroelectric Project.

f. *Location:* The Project is located on the Saco River in York County, Maine. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jay Seyfried, 460 Civic Center Drive, Augusta, ME 04330, (207) 755–5615, jason.seyfried@brookfieldrenewable.com.

i. *FERC Contact:* Jeremy Jessup, (202) 502–6779, jeremy.jessup@ferc.gov.

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Water Quality Certification:* A water quality certificate under section 401 of the Clean Water Act is required for this proposal from the Maine Department of Environmental Protection. The applicant must file no later than 60 days following the date of issuance of this notice either: (1) a copy of the request for water quality certification submitted to the Maine Department of Environmental Protection; or (2) a copy of the water quality certification or evidence of waiver of water quality certification.

l. *Deadline for filing comments, motions to intervene, and protests:* September 17, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the

docket number P–2194–049. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

m. *Description of Request:* The applicant is in the process of surrendering the license. The applicant is requesting a temporary variance of the impoundment elevation at the project from May 2027 through the commencement of removal activities associated with the surrender. The applicant requests to lower any flashboards that remain in the raised position following next year's spring run off to the spillway crest, 141.75 feet United States Geological Survey datum, on or after May 1, 2027, subject to river conditions and the ability to safely perform the work. The impoundment elevation would remain at the spillway crest elevation and may vary based on inflow conditions. The proposed drawdown rate would be no more than one foot per day when lowering flashboards. The licensee would remain compliant with downstream fish passage and minimum flow requirements, which are provided through the minimum flow bypass gate and spill over the spillway. The proposed variance request would not alter run-of-river operations, and no changes to tailrace conditions are anticipated. There is no ground disturbance associated with the temporary variance request.

n. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

o. Individuals desiring to be included on the Commission's mailing list should

so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Documents*: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

r. 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: August 18, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-17105 Filed 8-20-26; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5982-001]

Seefeld Corporation: Notice of Application for Surrender of Exemption Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Surrender of exemption.

b. *Project No*: P-5982.

c. *Date Filed*: July 27, 2026.

d. *Applicant*: Seefeld Corporation.

e. *Name of Project*: Smith Creek Hydroelectric Project.

f. *Location*: The project is located on the Nooksack River and Smith Creek in Whatcom County, Washington. The project does not occupy federal lands.

g. *Filed Pursuant to*: Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact*: Mr. Thomas M. Hanson, 2406 N Castle Way, Lynwood, WA 98036, (206) 300-9711, tom.hanson@arborinfo.com.

i. *FERC Contact*: Rebecca Martin, (202) 502-6012, or martin.rebecca@ferc.gov.

j. *Cooperating agencies*: With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. See 94 FERC ¶ 61,076 (2001).

k. *Water Quality Certification*: A water quality certificate under section 401 of the Clean Water Act is required for this proposal from the Washington Department of Ecology (Washington DE). The applicant must file no later than 60 days following the date of issuance of this notice either: (1) a copy of the request for water quality certification submitted to the Washington DE; or (2) a copy of the water quality certification or evidence of waiver of water quality certification.

l. *Deadline for filing comments, motions to intervene, and protests*: September 17, 2026, 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you

may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P-5982-001. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

m. *Description of Request*: The exemptee is proposing to surrender its exemption from licensing and decommission the project by removing weir, cutting the intake pipe above the high-water mark and filling it with concrete, demolishing the settling tank, remove the generators, disconnect from electrical grid, and remove the wood portions of the powerhouse. No work is proposed within the streambed.

n. *Locations of the Application*: This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions to Intervene*: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; and (3) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

r. 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: August 18, 2026.

Debbie-Anne A. Reese,
Secretary.

[FR Doc. 2026-17103 Filed 8-20-26; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OPRM-FAD-236]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202-993-3272 or <https://www.epa.gov/nepa>. Weekly receipt of Environmental Impact Statements (EIS)

Filed August 10, 2026 10 a.m. EST

Through August 17, 2026 10 a.m. EST
Pursuant to CEQ Guidance on 42 U.S.C. 4332.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search>.

EIS No. 20260099, Final, BLM, NV,
Bonanza Solar Project Final

Environmental Impact Statement/
Resource Management Plan
Amendments, Review Period Ends:
09/21/2026, Contact: Katy Paiva 775-861-6723.

EIS No. 20260100, Final, BLM, OR,
Louse Canyon Geographic
Management Area, Review Period
Ends: 09/14/2026, Contact: Michele
McDaniel 541-473-3144.

EIS No. 20260101, Final, NASA, USN,
HI, Pacific Missile Range Facility and
Koke'e Park Geophysical Observatory
Real Estate Kaua'i, HI, Review Period
Ends: 09/21/2026, Contact: William
Manley 808-425-8642.

EIS No. 20260102, Draft, APHIS, MT,
Grizzly Bear Damage Management in
Montana, Comment Period Ends: 10/
05/2026, Contact: Dalin Tidwell 406-657-6464.

EIS No. 20260103, Final, BLM, NV,
Copper Rays Solar Project, Review
Period Ends: 09/21/2026, Contact:
Jessica Headen 702-515-5000.

Amended Notice

EIS No. 20260033, Draft, USAF, OR,
Basing F-35A Lightning II Formal
Training Unit at Kingsley Field Air
National Guard Base Klamath Falls,
Oregon, Comment Period Ends: 08/
31/2026, Contact: Alicia Treece 240-612-8531. Revision to FR Notice
Published 04/10/2026; Reopening the
Comment Period until 08/31/2026.

Dated: August 18, 2026.

Nancy Abrams,
Deputy Director, Federal Activities Division.

[FR Doc. 2026-17100 Filed 8-20-26; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2014-0359; FRL-13348-01-OW]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Information Request for the Underground Injection Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Information Request for the Underground Injection Control (UIC) Program" (EPA ICR No. 0370.28, OMB Control No. 2040-0042) to the Office of Management and Budget (OMB) for review and approval in accordance with

the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2026. This notice allows for 60 days for public comments.

DATES: Comments must be submitted on or before October 20, 2026.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OW-2014-0359, to (1) EPA online using www.regulations.gov (our preferred method), by email to OW-Docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Kyle Carey, Drinking Water Infrastructure Development Division, Office of Ground Water and Drinking Water, 4606M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (914) 489-1550; fax number: (202) 564-3756; email address: carey.kyle@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through December 31, 2026. 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.

This notice allows 60 days for public comments. Supporting documents, which explain in detail the information that EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA developed the Underground Injection Control Program under the authority of the Safe Drinking Water Act to establish a Federal-State regulatory system to protect underground sources of drinking water (USDWs) from injection fluids and injection-related activities. Injected fluids can include hazardous waste; produced oil field brines or fluids used to enhance oil recovery; mineral processing fluids; various types of industrial fluids; automotive, sanitary, and other wastes; and carbon dioxide injected for geologic sequestration. Owners or operators of injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to EPA or—if the State in which the well is operated has been granted primary enforcement authority by EPA—the State agency. States must report to EPA on permitting activities, permittee compliance, and related information. This mandatory information is reported using standardized forms, online tools, and annual reports. Reporting data are used by UIC authorities to ensure the protection of USDWs.

Form Numbers: 7520–1, 7520–2A, 7520–2B, 7520–3, 7520–4, 7520–6, 7520–7, 7520–8, 7520–11, 7520–16, 7520–17, 7520–18, and 7520–19.

Respondents/affected entities: Owners or operators of underground injection wells and State UIC primacy agencies.

Respondent's obligation to respond: mandatory (40 CFR parts 144 through 148).

Estimated number of respondents: 37,143 (total).

Frequency of response: annual, semi-annual, and quarterly.

Total estimated burden: 1,689,674 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$948,837,355 (per year), which includes \$829,055,263 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 58,313 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to adjustments that include an increase in the number of Class I, Class III, and Class VI permit applications expected to be prepared and reviewed. This is offset by a decrease in the number of Class II permit applications expected to be submitted and the number of Class II and Class III owners or operators who will be performing monitoring and reporting activities (associated with decreases in the injection well inventory). The unit burden for completing a permit application has not changed but the number of permit applications, and therefore the number of entities performing these activities has. EPA is implementing electronic reporting options, which will reduce the burden to operators and primacy agencies. Programmatic changes that result in changes to the burden estimate include anticipated approval of Class VI UIC Program primacy for several states, which will increase state burden (by shifting burden from EPA to the approved States).

Jennifer L. McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2026–17096 Filed 8–20–26; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Commission Meeting—Sunshine Act Notice

TIME AND DATE: Wednesday, August 26, 2026, 10:00 a.m. Eastern Time.

PLACE: The meeting will be held at the Jacqueline A. Berrien Training Center, 131 M Street NE, Washington, DC 20507. The meeting will also be held as a listen-only audio. The public may attend in person or connect to the audio only by following the instructions that will be posted on www.eeoc.gov at least 24 hours before the meeting. ASL services will be available for those attending the meeting in person and a closed captioning link will be posted on our website prior to the meeting.

If you wish to attend the meeting in person, you must email

commissionmeetingcomments@eeoc.gov to register by providing your name as it appears on your driver's license or other government-issued identification at least 24 hours prior to the meeting. You will be asked to show your ID upon arrival.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: The following items will be considered at the meeting:

- EEOC Strategic Plan for Fiscal Years 2026–2030
- Draft Notice of Proposed Rulemaking—Revision of Federal-sector EEO Complaint Regulations (29 CFR part 1614)

NOTE: In accordance with the Sunshine Act, the public will be able to observe the Commission's deliberations and voting. (In addition to publishing notices on Commission meetings in the **Federal Register**, the Commission also provides information about Commission meetings on its website, www.eeoc.gov and provides a recorded announcement one week in advance of future Commission meetings.) Public observation does not include participation. Observers seeking to take still photographs, video, or audio recordings of the meeting must seek permission by contacting the Executive Secretariat at commissionmeetingcomments@eeoc.gov at least 24 hours before the meeting to discuss the manner of recording and ensure it does not interfere with the meeting.

Please telephone (202) 921–2705, or email commissionmeetingcomments@eeoc.gov at any time for information on this meeting.

CONTACT PERSON FOR MORE INFORMATION: Raymond Windmiller, Executive Officer, (202) 921–2705.

Dated: August 19, 2026.

Raymond D. Windmiller,
Executive Officer, Executive Secretariat.

[FR Doc. 2026–17117 Filed 8–19–26; 11:15 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 362997]

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before October 20, 2026.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054, Rolanda-Faye.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: The Media Bureau shall provide notice in the **Federal Register** that an application to modify an AM or FM station's community of license has been filed. See 71 FR 76208, 76211 (published December 20, 2006). The following applicants filed AM or FM proposals to change the community of license: RUDEX BROADCASTING LIMITED, KWQQ(AM), FAC ID NO. 36830, FROM: HEMET, CA, TO: LOMA LINDA, CA, FILE NO. 0000299205 AND CANTICO NUEVO MINISTRY INC., WTOC(AM), FAC ID NO. 25414, FROM: NEWTON, NJ, TO: BOONTON, NJ, FILE NO. 0000301652. The full text of these applications is available electronically via Licensing and Management System (LMS), <https://enterpriseefiling.fcc.gov/dataentry/public/tv/publicSearchLanding.html>.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2026–17160 Filed 8–20–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal

Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 21, 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. *Journey Financial Group, Inc., Montgomery, Texas*; to become a bank holding company by acquiring Lone Star Bank, Houston, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2026–17118 Filed 8–20–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the reinstatement with change of the previously approved information collection project “AHRQ Research Reporting System (ARRS)” OMB No 0935–0122. This information collection was previously published in the **Federal**

Register on June 17, 2026, and allowed 60 days for public comment. AHRQ did not receive any comments. The purpose of this notice is to allow an additional 30 days for public comment. The package expired on July 31, 2027.

DATES: Comments on this notice must be received by September 21, 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. Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Margie Shofer, AHRQ Reports Clearance Officer, 301–427–1696 or by email at REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

In 2007, AHRQ developed a systematic method for its grantees to report project progress, and important preliminary findings called the Grants Reporting System (GRS). In 2008, GRS was renamed AHRQ Research Reporting System (ARRS) and in addition to reporting on grant progress, also supported reporting on jobs created under contracts pursuant to the American Recovery and Reinvestment Act of 2009. ARRS is still being used to track grant progress and may also support administrative progress reporting for AHRQ-funded research activities conducted under contracts and challenge competition awards, as applicable. Such information may be entered by award recipients, contractors, or authorized AHRQ officials, as appropriate. ARRS is no longer used for contract job creation.

The system addressed the shortfalls in the previous reporting process and established a consistent and comprehensive reporting solution for AHRQ. The ARRS provides a centralized repository of AHRQ-supported research progress and administrative project information across grants, and where applicable, research contracts and challenge competition awards, that can be used to support initiatives within the Agency. This includes future research planning and support to administration activities such as performance monitoring,

budgeting, knowledge transfer as well as strategic planning.

This Project seeks to answer the following research questions:

(1) What progress has been demonstrated across AHRQ-funded research activities and related funding mechanisms, including grants, research contracts, and challenge completion awards, and how can the resulting progress and output data be systematically leveraged to inform future research planning and to support core administrative functions, including performance monitoring, budgeting, knowledge transfer, and strategic planning?

This Project has the following goals:

(1) To promote the transfer of critical information more frequently and efficiently and enhance the Agency's ability to support research designed to improve the outcomes and quality of health care, reduce its costs, and broaden access to effective services

(2) To increase the efficiency of the Agency in responding to ad-hoc information requests

(3) To support Executive Branch requirements for increased transparency and public reporting

(4) To establish a consistent approach throughout the Agency for information collection regarding research progress

and a systematic basis for oversight and for facilitating potential collaborations among grantees

(5) To decrease the inconvenience and burden on grantees of unanticipated ad-hoc requests for information by the Agency in response to particular (one-time) internal and external requests for information

The information is being collected by AHRQ, pursuant to its statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement, and database development. 42 U.S.C. 299a(a)(1) and (8). Minor revisions to the scope of respondents are being proposed to clarify applicability to AHRQ-funded research contracts and challenge competition recipients; no substantive revisions to the core reporting content are being proposed.

Method of Collection

To achieve the goals of this project the following data collections will be implemented:

AHRQ Research Reporting System (ARRS)—Award recipients, contractors,

and authorized AHRQ official, as applicable, use the ARRS system to report project progress and important preliminary findings for AHRQ-funded research activities. Reporting frequency varies based on award type and programmatic need. All users access the ARRS system through a secure online interface which requires user authentication. When status reports are due AHRQ notifies designated reporting officials via email.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents. The estimated number of respondents is 450 a year, a decrease from the last Information Collection Request, which estimated 500 reports to be collected in a year. This revised amount is based on the current number of 210 active reports and adjusted upwards to account for any new grants, research contracts, or challenge competition awards AHRQ may award in the future.

Grantees will take an estimated 30 minutes to enter the necessary data into the ARRS. Frequency of reporting varies from monthly to twice a year. Based on that, the total annualized burden hours are estimated to be 225 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
ARRS Data Entry	450	1	30/60	225
Total	450	N/A	N/A	225

Exhibit 2 shows the estimated annualized cost burden for the

respondents. The total estimated cost burden for respondents is \$26,725.50.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Total burden hours	Average hourly wage rate*	Adjusted hourly wage rate**	Total cost burden
ARRS Data Entry	225	\$59.39	\$118.78	\$26,725.50
Total	225	N/A	N/A	26,725.50

*National Compensation Survey: Occupational Wages in the United States, May 2025," U.S. Department of Labor, Bureau of Labor Statistics, <https://data.bls.gov/oes/#/area/0000000/2025>.

**Based upon the average wages for Healthcare Practitioner and Technical Occupations (29-0000), **The Adjusted Hourly Rate was estimated at 200% of the hourly wage.

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the

proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of

burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the

respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 18, 2026.

Jeffrey Toven,
Executive Officer.

[FR Doc. 2026-17164 Filed 8-20-26; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-2728 and CMS-10110]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 20, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and

recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: _____, OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of*

Information Collection: End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration; *Use:* Section 226A (2) of the Social Security Act specifically states that a person must be "medically determined to have end stage renal disease" Similarly, Section 188(a) of the law states "The benefits provided by parts A and B of this title shall include benefits for individuals who have been determined to have end stage renal disease as provided in Section 226A". The End Stage Renal Disease (ESRD) Medical Evidence (CMS-2728) is completed for all ESRD patients either by the first treatment facility or by a Medicare-approved ESRD facility when it is determined by a physician that the patient's condition has reached that stage of renal impairment that a regular course of kidney dialysis or a kidney transplant is necessary to maintain life.

The data reported on the CMS-2728 is used by the Federal Government, ESRD Networks, treatment facilities, researchers and others to monitor and assess the quality and type of care provided to end stage renal disease beneficiaries. The data collection captures the specific medical information required to determine the Medicare medical eligibility of End Stage Renal Disease claimants. It also collects data for research and policy on this population.

The three main data systems available for evaluating the ESRD program and for monitoring epidemiology, access, and quality and reimbursement effects on quality are: (1) The United States Renal Data System (USRDS) provides basic data on patterns of incidence of ESRD in the United States. The USRDS database is intended to be used for biomedical research by investigators throughout the United States and abroad. The USRDS data is intended to supplement (and not replace) public use files produced by CMS. (2) United Network for Organ Sharing (UNOS) focus is on organ donation, transplantation and educational activities. (3) The ESRD Program Management and Medical System (PMMIS), maintained by CMS, provide the foundation data for the USRDS. This system, as required by Public Law 95-292, section C(1) (A), is designed to serve the needs of the Department of Health and Human Services in support of program analysis, policy development, and epidemiological research.

The ESRD PMMIS includes information on both Medicare and non-Medicare ESRD patients and on Medicare approved ESRD hospitals and dialysis facilities. The methods of ESRD

data collection (e.g., use of same forms, sharing of analysis) by CMS, UNOS, and USRDS have all agreed on a common data collection process that will provide needed additional information on the ESRD population.

In October 2024, SDOH questions were formally activated within EQRS as part of the form. Concurrently, and in coordination with the Quality Incentive Program (QIP), questions 19, 21, 23, 24, and 25 were made unavailable for batch submission by dialysis organizations to reduce duplication with the QIP SDOH Screening Tool. Due to feedback from the stakeholder community the CMS-2728 form has been revised to remove SDOH vulnerability questions. Stakeholders unanimously agreed that SDOH questions are misplaced on the CMS-2728 since the form is a one-time admission document and is not designated to capture the dynamic, ongoing nature of social needs. Clinics already conduct SDOH assessments through established social worker workflows, and including questions on the CMS-2728 adds operational burden. *Form Number:* CMS-2728 (OMB control number: 0938-0046); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 7,478; *Total Annual Responses:* 123,460; *Total Annual Hours:* 123,460. (For policy questions regarding this collection contact Christina Goatee at (410) 786-6689).

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Manufacturer Submission of Average Sales Price (ASP) Data for Medicare Part B Drugs and Biologicals and Supporting Regulations in 42 CFR 414.800-806; *Use:* Section 1847A of the Social Security Act (the Act) requires that the Medicare Part B payment amounts for covered drugs and biologicals not paid on a cost or prospective payment basis be based upon manufacturers' average sales price (ASP) data submitted quarterly to CMS. The reporting requirements are specified in 42 CFR part 414, subpart J. Section 1193(a)(5) of the Act requires a manufacturer that chooses to participate in the Medicare Drug Price Negotiation Program to comply with requirements determined by the Secretary to be necessary for purposes of administering the Medicare Drug Price Negotiation Program and monitoring compliance with the Medicare Drug Price Negotiation Program. Use of ASP reporting for a selected drug is part of CMS' Medicare Drug Price Negotiation Program administration and oversight of

manufacturer compliance, under sections 1193(a)(5) and 1196(a)(1)-(3), (b) of the Act. This July 2026 iteration proposes to revise CMS' use of ASP data to support manufacturer effectuation of the maximum fair price for selected drugs payable under Part B for the purposes of the Medicare Drug Price Negotiation Program. *Form Number:* CMS-10110 (OMB control number: 0938-0921); *Frequency:* Quarterly; *Affected Public:* Private Sector; *Number of Respondents:* 500; *Total Annual Responses:* 4,500; *Total Annual Hours:* 49,500. (For policy questions regarding this collection contact: Elisabeth Daniel at 667-290-8793.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-17128 Filed 8-20-26; 8:45 am]

BILLING CODE 4169-69-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-R-153]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 20, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: _____ /OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this

requirement, CMS is publishing this notice.

Information Collections

1. Type of Information Collection

Request: Revision of a currently approved collection; **Title of Information Collection:** Medicaid Drug Use Review (DUR) Program; **Use:** States must provide for a review of drug therapy before each prescription is filled or delivered to a Medicaid patient. This review includes screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Pharmacists must make a reasonable effort to obtain, record, and maintain Medicaid patient profiles. These profiles must reflect at least the patient's name, address, telephone number, date of birth/age, gender, history, e.g., allergies, drug reactions, list of medications, and pharmacist's comments relevant to the individual's drug therapy. The State must conduct retrospective drug use review which provides for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, inappropriate or medically unnecessary care. Patterns or trends of drug therapy problems are identified and reviewed to determine the need for intervention activity with pharmacists and/or physicians. States may conduct interventions via telephone, correspondence, or face-to-face contact. The states and managed care organizations (MCOs) are provided the reporting instrument (a survey) by CMS, and by responding to the survey, the states generate annual reports which are submitted to CMS for the purposes of monitoring compliance and evaluating the progress of states' DUR programs. The survey and the annual recordkeeping and reporting requirements under the pertinent regulations, are completed by pharmacists employed by, or contracted with the various state Medicaid programs and their MCOs. The annual reports submitted by states are reviewed and results are compiled by CMS in a format intended to provide information, comparisons and trends related to states' experiences with DUR. The states benefit from the information and may enhance their programs each year based on state reported innovative practices that are compiled by CMS from the annual reports. A comparison/summary of the data from the annual reports is published on *Medicaid.gov* annually, and serves as a resource for stakeholders, including but not limited

to states, manufacturers, researchers, congress, CMS, the Office of Inspector General, non-governmental payers and clinicians on the topic of DUR in state Medicaid programs. **Form Number:** CMS-R-153 (OMB control number: 0938-0659); **Frequency:** Yearly, quarterly, and occasionally; **Affected Public:** State, Local, or Tribal Governments; **Number of Respondents:** 52; **Total Annual Responses:** 676; **Total Annual Hours:** 41,548. (For policy questions regarding this collection contact Mike Forman at 410-786-2666.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026-17112 Filed 8-20-26; 8:45 am]

BILLING CODE 4169-69-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2026-N-0008]

Advisory Committee; Oncologic Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Oncologic Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Oncologic Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the September 1, 2028, expiration date.

DATES: Authority for the Oncologic Drugs Advisory Committee will expire on September 1, 2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Advisory Committee Oversight and Management Staff, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3215, Silver Spring, MD 20993-0002, (301) 796-8220, ACOMSSubmissions@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102-3.65, 21 CFR 14.40, and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the

Oncologic Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of at least thirteen voting members including the Chair. Subject to legal and regulatory requirements, members and the Chair are selected by and serve at the discretion of the Commissioner or designee. Each member, including the Chair, will be selected from among authorities knowledgeable in the fields of general oncology, pediatric oncology, hematologic oncology, immunology oncology, biostatistics, and other related professions.

Members may be invited to serve for terms of up to four years, or for less time in the discretion of the Commissioner or designee. Non-Federal members of this committee will serve as Special Government Employees or representatives. Federal members will serve as Regular Government Employees or Ex-Officios.

In addition to the voting members, the Commissioner or designee may identify consumer and/or industry representatives to join the Committee (or serve as alternate representatives) as non-voting representative member(s), via a process consistent with legal and regulatory requirements. Individuals currently employed at FDA-regulated companies, such as pharmaceutical and medical device manufacturers, shall not be selected to serve as members of the Committee unless this Committee is expected to address issues for which inclusion of an industry representative is required by statute. If this Committee includes an industry representative, the Commissioner or designee will determine whether to invite them to participate in meetings on a case-by-case basis, according to applicable legal and regulatory requirements.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees to serve temporarily as voting members and to designate Special Government Employees to serve temporarily as

voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members), or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking.

A quorum for the Committee is a majority of the current voting members present at the time, provided that FDA may specify a quorum that is less than a majority of the current voting members because of the size of the Committee and the variety in the types of issues that it will consider, or other reason determined appropriate in accordance with legal and regulatory requirements. 21 CFR 14.22(d).

If functioning as a medical device panel, an additional non-voting representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Members appointed to an advisory committee serve for the duration of the committee, or until their terms expire, they resign, or they are removed from membership by the Commissioner or designee. Committee members' terms may be ended prior to their date of expiration, for reasons determined to be good cause. Good cause includes excessive absenteeism from committee meetings, a demonstrated bias that interferes with the ability to render objective advice, failure to abide by established procedures, or violation of other applicable rules and regulations.

The Pediatric Subcommittee of the Oncologic Drugs Advisory Committee (Pediatric Subcommittee) is a permanent subcommittee of the Oncologic Drugs Advisory Committee described in Section 15 of the Best Pharmaceuticals for Children Act, Pub. L. 107–109. The Pediatric Subcommittee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pediatric cancers and provides advice on new and emerging therapeutic alternatives for children with cancer. Its functions include evaluating and, to the extent practicable, prioritizing new and emerging pediatric cancer therapies; providing recommendations and guidance to help ensure timely access to promising new cancer therapies; and advising on ways to improve consistency in the availability of new therapeutic agents.

The Pediatric Subcommittee shall consist of up to 11 voting members appointed by the Secretary of Health and Human Services from the membership of the Pediatric Advisory Committee and the Oncologic Drugs Advisory Committee. As needed for the scientific and ethical consideration of pediatric cancer topics, the Pediatric Subcommittee may include or request participation from pediatric oncology specialists, including specialists from the National Cancer Institute, statisticians, representatives of pediatric cancer patients or patient-family organizations, representatives of the nursing community, representatives of the pharmaceutical industry, pediatric pharmacologists, and other scientific experts. Relevant expertise includes pediatric oncology, general oncology, hematologic oncology, immunologic oncology, clinical pharmacology, biostatistics, pediatric therapeutics, patient and family perspectives, and related scientific and ethical expertise.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/oncologic-drugs-advisory-committee/oncologic-drugs-advisory-committee-charter> or by contacting the Advisory Committee Oversight and Management Staff (see **FOR FURTHER INFORMATION CONTACT**). Because the committee's name and description of duties remain unchanged, 21 CFR 14.100 will not be amended.

Renewal Requirements and Justification: The Commissioner has determined that renewal of the Oncologic Drugs Advisory Committee is in the public interest. This determination is based on the Committee's essential role in providing independent expert advice on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer, the continued need for specialized expertise in this therapeutic area, and the Committee's demonstrated value in supporting FDA's regulatory mission. The following information supports this determination in accordance with applicable legal and regulatory requirements.

Public Interest Determination

Pursuant to 41 CFR 102–3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination

approved by the head of the agency to the Secretariat with a copy to the Office of Management and Budget. In addition, pursuant to 41 CFR 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that renewing the committee is in the public interest:

1. Annual budget.

Annual budget and expected costs: \$286,942.

a. Federal personnel on a full-time equivalent (FTE) basis.

The estimated person years of Federal staff support is .40 at an estimated annual cost of \$70,265.

b. Other Federal internal costs.

The anticipated total value in USD of other internal costs, such as cost associated with IT supplies for meeting is \$73,958.

c. Proposed payments to members.

The estimated annual payment to members is \$39,090.

d. Proposed number of members.

The anticipated number of members is thirteen.

e. Reimbursable costs.

The estimated annual reimbursable costs, including travel and related expenses for members, is \$41,159.

2. If applicable, the total dollar value of grants expected to be recommended during the fiscal year N/A.

3. Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership.

Ensuring Necessary Expertise:

Members must have background, education, and experience commensurate with the committee's function of advising FDA on the existing and relevant evidence of benefits and risks of marketed and investigational human drug products for use in the treatment of cancer and related specialties. Scientific and technical competence is critical. Nominees should be acknowledged experts with demonstrated skills in critical evaluation of data and effective communication. As outlined in the committee charter, the membership should include authorities knowledgeable in the fields of general oncology, pediatric oncology, hematologic oncology, immunology oncology, biostatistics, and other related professions, as well as needed consumer and industry representation. FDA also follows the requirements in section

505(n)(3) regarding membership of drug product advisory committees. (21 U.S.C. 355(n)(3)). Additionally, as outlined in the committee charter, relevant expertise for members of the pediatric subcommittee includes pediatric oncology, general oncology, hematologic oncology, immunologic oncology, clinical pharmacology, biostatistics, pediatric therapeutics, nursing, industry perspectives, patient and family perspectives, and related scientific and ethical expertise.

Ensuring Fair Balance: Appointments are made without discrimination. The committee is reviewed in totality for balance, characterized by inclusion of necessary knowledge, insight, and scientific perspective from the relevant community or expertise area.

Nominations are sought from all geographic locations within the United States and its territories, and from diverse sources including professional and scientific societies, academia, government agencies, industry and trade associations, consumer and patient organizations, and current Agency staff.

4. List of all other Federal advisory committees of the agency.

FDA maintains the following Federal advisory committees:

- Anesthetic and Analgesic Drug Products Advisory Committee
- Antimicrobial Drugs Advisory Committee
- Blood Products Advisory Committee
- Cardiovascular and Renal Drugs Advisory Committee
- Cellular Tissue and Gene Therapies Advisory Committee
- Dermatologic and Ophthalmic Drugs Advisory Committee
- Device Good Manufacturing Practice Advisory Committee
- Digital Health Advisory Committee
- Drug Safety and Risk Management Advisory Committee
- Endocrinologic and Metabolic Drugs Advisory Committee
- Genetic Metabolic Disease Advisory Committee
- Medical Devices Advisory Committee
- National Mammography Quality Assurance Advisory Committee (Administratively Inactive)
- Nonprescription Drugs Advisory Committee
- Obstetrics, Reproductive and Urologic Drugs Advisory Committee
- Pediatric Advisory Committee
- Peripheral and Central Nervous System Advisory Committee
- Pharmacy Compounding Advisory Committee
- Psychopharmacologic Drugs Advisory Committee
- Pulmonary-Allergy Drugs Advisory Committee

- Risk Communication Advisory Committee (Administratively Inactive)
- Science Board to the Food and Drug Administration
- Technical Electronic Product Radiation Safety Standards Committee
- Tobacco Products Scientific Advisory Committee
- Vaccines and Related Biological Products Advisory Committee

5. Justification that the information or advice provided by the Federal advisory committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source.

The Oncologic Drugs Advisory Committee provides independent expert advice to FDA on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer. The topics considered by the Oncologic Drugs Advisory Committee require specialized expertise in the fields of general oncology, pediatric oncology, hematologic oncology, immunology oncology, biostatistics, and related specialties that is not within the primary scope of other FDA advisory committees. Potential topics that may need committee input include products related to the topics outlined in Section (6) below. These and other issues cannot be appropriately addressed by another standing committee without diminishing the depth and relevance of the expert input provided to the Agency.

6. If the consultation is a committee renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue.

Summary of previous Accomplishments:

In the last two years, ODAC met three times: On April 30, 2026, the Oncologic Drugs Advisory Committee met to discuss the following: On the morning of April 30, 2026, the Committee discussed new drug application (NDA) 220359, for camizestrant tablets, submitted by AstraZeneca Pharmaceuticals LP. The proposed indication (use) is in combination with a CDK4/6 inhibitor (palbociclib, ribociclib or abemaciclib) for the treatment of adult patients with hormone receptor (HR)-positive, human epidermal growth factor receptor 2 (HER2)-negative, locally advanced or metastatic breast cancer upon emergence of ESR1 mutation during first-line endocrine-based therapy, based on an FDA approved test. Agency

Action: The Agency is reviewing recommendations made at the meeting.

On the afternoon of April 30, 2026, the Committee discussed supplemental new drug application (sNDA) 218197/S-004, for Truqap (capivasertib) tablets, submitted by AstraZeneca Pharmaceuticals LP. The proposed indication (use) is in combination with abiraterone for the treatment of adult patients with metastatic hormone-sensitive prostate cancer (mHSPC) that is PTEN-deficient as detected by an FDA-approved test. Agency Action: The Agency is reviewing recommendations made at the meeting.

Between May 20–21, 2025, the Oncologic Drugs Advisory Committee met to discuss the following: On the morning of May 20, 2025, the Committee discussed supplemental biologics license application (sBLA) 761309/S-001, for COLUMVI (glofitamab) injection, submitted by Genentech, Inc. The proposed indication (use) is in combination with gemcitabine and oxaliplatin for the treatment of adult patients with relapsed or refractory diffuse large B-cell lymphoma, not otherwise specified (DLBCL, NOS) who are not candidates for autologous stem cell transplant (ASCT). The issues the Committee discussed focused on how the differential results observed in the Asian and Non-Asian regions impacted the overall interpretation of the STARGLO trial results and the generalizability to a U.S. patient population. The Committee members were in near unanimous agreement (8 Noes and 1 Yes) that the STARGLO population and trial results are not applicable to the proposed U.S. patient population. Agency Action: The Agency is reviewing recommendations made at the meeting.

On the afternoon of May 20, 2025, the Committee discussed sBLA 761145/S-029, for DARZALEX FASPRO (daratumumab and hyaluronidase) injection, for subcutaneous use, submitted by Janssen Biotech, Inc. The proposed indication (use) is as monotherapy for the treatment of adult patients with high-risk smoldering multiple myeloma (SMM). The issues the Committee discussed focused on the clinical meaningfulness of the efficacy endpoints assessed in the AQUILA trial, and the benefit-risk of daratumumab hyaluronidase for the intended high-risk (SMM) population. The majority of Committee members (6 Yeses and 2 Noes) agreed that the results from the AQUILA trial provided sufficient evidence to support a favorable benefit-risk profile for Dara SC for patients with high-risk SMM. Agency Action: The

Agency is reviewing recommendations made at the meeting.

On the morning of May 21, 2025, the Committee discussed new drug application (NDA) 215793, for UGN-102 (mitomycin) intravesical solution, submitted by UroGen Pharma, Inc. The proposed indication (use) is for the treatment of adult patients with low-grade intermediate risk non-muscle invasive bladder cancer (LG-IR-NMIBC). The issues the Committee discussed focused on whether randomized trials should be required in the future to assess the effectiveness of therapies in LG-IR-NMIBC given the uncertainty regarding interpretation of study results. The Committee was split with a slight majority voting that the overall benefit-risk of UGN-102 was not favorable in patients with recurrent LG-IR-NMIBC (5 Noes and 4 Yeses). Agency Action: The Agency is reviewing recommendations made at the meeting.

On the afternoon of May 21, 2025, the Committee discussed supplemental new drug application (sNDA) 211651/S-013, for TALZENNA (talazoparib) capsules, submitted by Pfizer Inc. The proposed indication (use) is in combination with enzalutamide for the treatment of adult patients with metastatic castration-resistant prostate cancer (mCRPC). The issues the Committee discussed focused on whether efficacy should be formally evaluated in a biomarker-negative population when the biomarker is predictive of response and the prevalence of the biomarker-negative group is high. The Committee members were in unanimous agreement (8 Noes, and 0 Yeses) that the results from the TALAPRO-2 trial were not sufficient to conclude a favorable benefit-risk profile for adding talazoparib to enzalutamide in patients with non-HRRm mCRPC. Agency Action: The Agency is reviewing recommendations made at the meeting.

On July 17, 2025, the Committee discussed BLA 761440, belantamab mafodotin submitted by GlaxoSmithKline LLC, for the treatment of adults with multiple myeloma in combination with bortezomib and dexamethasone in patients who have received at least one prior line of therapy; and in combination with pomalidomide and dexamethasone in patients who have received at least one prior line of therapy including lenalidomide. The majority of Committee members (5 Noes, 3 Yeses) agreed that the overall benefit-risk of belantamab mafodotin in combination with bortezomib and dexamethasone was not favorable at the proposed dosage in the proposed patient

population. The Committee was nearly in unanimous agreement (7 Noes, 1 Yes) that the overall benefit-risk of belantamab mafodotin in combination with pomalidomide and dexamethasone was not favorable at the proposed dosage in the proposed patient population. Agency Action: The Agency is reviewing recommendations made at the meeting.

7. Explanation of why the committee/subcommittee is essential to the conduct of agency business.

Reasons for Continuation: The committee plays a critical role in enabling FDA to meet the requirements of sections 505(n)(1) and (s)(1) of the Federal Food, Drug, and Cosmetic Act by providing expert scientific advice and recommendations. Without the Oncologic Drugs Advisory Committee, FDA's ability to obtain external expert input on issues related to the approval and regulation of the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer would be significantly limited.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

This notice is issued under the Federal Advisory Committee Act as amended (5 U.S.C. 1001 *et seq.*). For general information related to FDA advisory committees, please visit us at <http://www.fda.gov/AdvisoryCommittees/default.htm>.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026-17084 Filed 8-20-26; 8:45 am]

BILLING CODE 4164-01-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: Faculty Loan Repayment Program, OMB No. 0906-0082—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

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 October 20, 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) 443-9094.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Faculty Loan Repayment Program OMB No. 0906-0082—Revision.

Abstract: HRSA administers the Faculty Loan Repayment Program (FLRP). FLRP provides health professionals from disadvantaged backgrounds, defined as a geographic and/or economic vulnerability, the opportunity to enter into a contract with HHS to receive repayment of qualifying educational loans in exchange for a minimum of 2 years of service as a full-time or part-time faculty member at an eligible health professions school. The applicant completes and submits an electronic application that identifies for the Secretary of Health and Human Services (Secretary) that the applicant comes from an economically or geographically vulnerable background, has a contract with an eligible health professions school to serve as a full-time or part-time faculty member for a minimum of 2 years, and has qualifying outstanding educational loans. In addition, for each undergraduate and/or graduate loan for which repayment is sought, the applicant is required to submit loan documentation verifying the establishment of the educational loan(s) and lender account statements, promissory notes including the original date, and current balance of the outstanding educational loan(s).

This revised ICR contains two new forms. The first is the Employer's Agreement to Loan Repayment Match/Request for a Waiver of the Loan Repayment Match form, which is

needed to ensure applicant eligibility and school compliance with the statute. The second is the Semi-annual In-Service Verification form, which is sent to current participants and the institution twice each year to confirm their employment status. The addition of these forms and an increased number of respondents/applicants to the FLRP will increase the estimated burden hours.

This proposed ICR also contains updated terminology with respect to Disadvantaged Background and accompanying definitions by updating the following:

- Changing form title to “Certification Regarding Vulnerable Background,”
- Replacing “disadvantaged” with “vulnerable” throughout the form, and
- Replacing “environmentally disadvantaged” with “geographically vulnerable.”

These changes are needed to align the form with the Administration’s priority of reinforcing programs that direct resources to areas of greatest need to improve health outcomes. The FLRP statute defines eligible individuals as coming from “disadvantaged backgrounds” (42 U.S.C. 293b(a)) but does not define the term. HRSA’s use of “vulnerable background” operationalizes the statutory term by identifying individuals whose geographic or economic circumstances inhibited their ability to obtain the knowledge, skills, and abilities required to enroll in and graduate from an eligible health professions school. This approach remains consistent with the statute’s intent while incorporating more current terminology. These updates were made throughout the form to improve consistency and help ensure that applicants and reviewers

understand the criteria using current terminology.

FLRP will define “vulnerable background” as “coming from a geographically vulnerable background or an economically vulnerable background that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from an eligible health professions school.”

Examples of indicators that an individual comes from a geographically vulnerable background include, but are not limited to:

- Individuals who graduated from a high school with low average SAT/ACT scores or below average state test results.
- Individuals from a school district where 50 percent or less of graduates go to college.
- Individuals raised in households where language barriers affected education access.
- Individuals from a high school where at least 30 percent of enrolled students are eligible for free or reduced-price lunch.
- Individuals who are the first generation in their family to attend college.

An individual from an economically vulnerable background is defined as someone who:

- Comes from a low-income family. Low-income family is defined as a family that has an annual income below the 200 percent of HHS’s poverty guidelines;
- Is eligible for a Pell Grant; and/or
- Comes from a family that receives public assistance (e.g., Temporary Assistance to Needy Families, Supplemental Nutrition Assistance Program, Medicaid, public housing).

The Secretary defines a ‘low-income family’ for programs included in Titles III, VII, and VIII of the Public Health Service Act as having an annual income that does not exceed 200 percent of HHS’s poverty guidelines, which are based on the U.S. Census Bureau’s low-income threshold. This threshold is simplified to facilitate the determination of financial eligibility for some federal programs and further adjusted by the Secretary based on the Consumer Price Index. Family is defined as a group of two or more individuals related by birth, marriage, or adoption who live together, or an individual who is not living with any relatives.

Need and Proposed Use of the Information: The information collected will be used to evaluate applicants’ eligibility to participate in the FLRP and to monitor FLRP related activities and compliance with program requirements.

Likely Respondents: FLRP applicants and institutions providing employment to the applicants.

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.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Completed by	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Eligible Applications	Applicant	225	1	225	1.00	225.00
Institution/Loan Repayment Employment Form.	Institution, on behalf of applicant.	225	1	225	1.00	225.00
Authorization to Release Information Form.	Applicant	225	1	225	0.25	56.25
Certification Regarding Vulnerable Background Form.	Applicant	225	1	225	0.20	45.00
Employer’s Agreement to Loan Repayment Match/Request for a Waiver of the Loan Repayment Match Form.	Institution, on behalf of applicant.	225	1	225	1.00	225.00
Participant Semi-Annual In Service Verification Form.	Institution, Participant.	150	2	300	0.50	150.00

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Completed by	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Total		*600		1,425		926.25

* The total number of unique respondents is estimated to be 600, consisting of 225 applicants and 225 institutions completing forms on behalf of the applicant. Additionally, an estimated 75 participants receiving the loan repayment and 75 institutions verifying service will complete the semi-annual In-Service Verification Form.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–17190 Filed 8–20–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Research Education Programs in the Behavioral, Health, and Population Sciences (R25).

Date: September 24, 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: David Erik Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, (301) 594–4002, polliode@csr.nih.gov.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Immune Mechanisms of Hypersensitivity and Allergy Study Section.

Date: October 20–21, 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: Deanna C Bublit, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4005, deanna.bublit@nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Maximizing Investigators' Research Award C Study Section.

Date: October 20–21, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Ezgi Kunttas-Tatli, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7047, ezgi.kunttas-tatli@nih.gov.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Basic Mechanisms of Diabetes and Metabolism Study Section.

Date: October 22–23, 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: Victoria Martinez Virador, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4703, victoria.virador@nih.gov.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Imaging and Bioengineering Technology for Visual Systems Study Section.

Date: October 26–27, 2026.

Time: 8:30 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: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes

of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 240–762–3076, susan.gillmor@nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Cellular Signaling and Regulatory Systems Study Section.

Date: October 26–27, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive Bethesda, MD 20892, (301) 827–6918, jimok.kim@nih.gov.

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Drug Discovery and Molecular Pharmacology C Study Section.

Date: October 27–28, 2026.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Alireza S Alavi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–4108, ali.alavi@nih.gov.

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Imaging Technology for Neuroscience Study Section.

Date: October 27–28, 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: Rachel A. Kane, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 496–0221, kanera@csr.nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

Date: October 27–28, 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: Jennifer Fiori O'Connell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827-4985, jennifer.oconnell@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training: Career Development Awards: Behavioral and Biobehavioral Processes.

Date: October 27–28, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rajasri Roy, M.Ph., Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-8383, rajasri.roy@nih.gov.

Name of Committee: Applied Immunology and Disease Control Integrated Review Group; Anti-Infective Resistance and Targets Study Section.

Date: October 28–29, 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: Jui Pandhare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594-7735, pandharej2@csr.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: August 19, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026-17156 Filed 8-20-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government Owned Invention

Available for License: Matched Patient-Derived 3D Isocitrate Dehydrogenase (IDH)-Mutant Glioma Cell Lines for Modeling Malignant Transformation

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) seeks licensees for matched patient-derived 3D Isocitrate Dehydrogenase (IDH)-mutant glioma cell lines, 403L and 403H, generated from the same patient before and after malignant transformation from WHO grade 2 to WHO grade 4 disease. This research material provides an opportunity to study IDH-mutant glioma progression, temozolomide-associated hypermutation, invasion, metabolism, and treatment resistance.

FOR FURTHER INFORMATION CONTACT:

Inquiries related to this license opportunity should be directed to: Michael Pollack, Unit Supervisor, NCI, Technology Transfer Center, Email: michael.pollack@nih.gov or Phone: 240-276-5519.

SUPPLEMENTARY INFORMATION: IDH-mutant gliomas often begin as lower-grade tumors but remain incurable and frequently progress to higher-grade disease through malignant transformation. This is clinically important but difficult to study because matched low-grade and high-grade tumor materials from the same patient are rare. Further, fixed tumor specimens are limited for repeated mechanistic or drug-response experiments.

Researchers at the NCI developed a matched pair of patient-derived cell models, 403L and 403H, from the same patient before and after malignant transformation. 403L was established from a WHO grade 2 IDH-mutant astrocytoma. 403H was derived from the recurrent WHO grade 4 tumor following radiation and temozolomide treatment. Both cell lines: (1) grow as 3D spheroids, (2) retain endogenous IDH1 R132H expression, and (3) were authenticated to the patient's germline by short tandem repeat (STR) profiling (100% match for 403L; 93.33% match for 403H).

The high-grade 403H line shows increased invasive behavior, temozolomide-associated hypermutation (tumor mutational burden of 70.07/Mb vs. 3.96/Mb in 403L), upregulated epithelial-mesenchymal transition (EMT) signaling (whereas Notch signaling is enriched in 403L), and changes in glioma-associated metabolism, including 2-hydroxyglutarate (2-HG), glutamine, fatty acid metabolism, and lactate/pyruvate flux. Furthermore, 403H showed significantly greater 3D invasion than 403L ($p < 0.0001$). 403H formed infiltrative high-grade glioma in 4 of 5 orthotopically xenografted NSG mice. In contrast, 403L did not form tumors within 18 months.

“This Notice is in accordance with 37 CFR 404.4 Authority to grant licenses.”

NIH Reference Number: E-145-2026-0.

Related Technologies: N/A.

Product Type: Research Material/Tool.

Therapeutic Area(s): Oncology | Neurology.

Development Stage: Developed.

Publications:

- Kim O, et al. A patient-derived cell model for malignant transformation in IDH-mutant glioma. (<https://pubmed.ncbi.nlm.nih.gov/39256867/>)

Patents: PCT/US2024/054179, filed November 1, 2024.

Potential Commercial Applications:

- Molecular classification and diagnosis of CNS and kidney tumors, including difficult-to-classify and low-confidence cases.
 - Diagnostic subtyping aligned to WHO-guided entities.
 - Reference-lab and hospital-lab deployment.
 - Clinical trial stratification and translational research cohort harmonization.
 - Multi-classifier diagnostic decision support.
 - Cancer treatment development.
- Competitive Advantages:*
- Developed from a rigorously curated, large reference set of methylation profiles.
 - Clinically relevant CNS diagnostic.
 - CNS tumor methylation classes not represented in existing tools, expanding diagnostic coverage.
 - Clinical-impact analysis creating superior diagnostic precision.
 - Superior classifier for kidney cancer.
 - Superior classifiers for multiple solid, difficult-to-diagnose tumors.
 - Integrative into clinical workflows, improving diagnostic practices and enhancing patient care.

Dated: August 19, 2026.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2026-17157 Filed 8-20-26; 8:45 am]

BILLING CODE 4167-05-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA-2026-0002; Internal Agency Docket No. FEMA-B-2621]****Proposed Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before November 19, 2026.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS

report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2621, to David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report

that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Screven County, Georgia and Incorporated Areas	
Project: 18-04-0006S Preliminary Date: November 20, 2025	
City of Oliver	City Hall, 6069 Effingham Highway, Oliver, GA 30449.
City of Sylvania	City Hall, 104 South Main Street, Sylvania, GA 30467.
Town of Hiltonia	Town Hall, 2386 Waynesboro Highway, Hiltonia, GA 30467.
Town of Newington	Town Hall, 201 Church Street, Newington, GA 30446.
Town of Rocky Ford	Town Hall, 160 Main Street, Rocky Ford, GA 30455.
Unincorporated Areas of Screven County	Screven County Planning and Zoning Office, 216 Mims Road, Sylvania, GA 30467.
Sedgwick County, Kansas and Incorporated Areas	
Project: 21-07-0023S Preliminary Date: January 22, 2026	
City of Bentley	City Hall, 150 South Wichita Avenue, Bentley, KS 67016.

Community	Community map repository address
City of Maize	City Hall, 10100 West Grady Avenue, Maize, KS 67101.
City of Mount Hope	City Offices, 112 West Main Street, Mount Hope, KS 67108.
City of Mulvane	City Hall, 211 North 2nd Avenue, Mulvane, KS 67110.
City of Valley Center	Public Works Building, 545 West Clay Street, Valley Center, KS 67147.
City of Wichita	City Hall, 455 North Main Street, Wichita, KS 67202.
Unincorporated Areas of Sedgwick County	Sedgwick County Ronald Reagan Building, 271 West 3rd Street N, Wichita, KS 67202.

[FR Doc. 2026-17076 Filed 8-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA-2026-0002]****Final Flood Hazard Determinations**

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having an effect in order to qualify or remain qualified for participation in the Federal

Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of December 10, 2026 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at <https://msc.fema.gov> by the date indicated above.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified

flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address

Cherokee County, Kansas and Incorporated Areas**Docket No.: FEMA-B-2523**

City of Baxter Springs	City Hall, 1445 Military Avenue, Baxter Springs, KS 66713.
City of Columbus	City Hall, 300 East Maple Street, Columbus, KS 66725.
City of Galena	City Hall, 211 West 7th Street, Galena, KS 66739.
City of Roseland	Roseland City Hall, 103 West Roseland Boulevard, Scammon, KS 66773.
City of Scammon	City Hall, 202 East 3rd Street, Scammon, KS 66773.
City of Weir	City Hall, 306 North Washington Street, Weir, KS 66781.
City of West Mineral	City Hall, 412 Richardson Avenue, West Mineral, KS 66782.
Unincorporated Areas of Cherokee County	Cherokee County Courthouse, 110 West Maple Street, Columbus, KS 66725.

Lyon County, Kansas and Incorporated Areas**Docket No.: FEMA-B-2554**

City of Hartford	City Hall, 200 Commercial Street, Hartford, KS 66854.
City of Neosho Rapids	City Hall, 238 North Main Street, Neosho Rapids, KS 66864.
Unincorporated Areas of Lyon County	Lyon County Courthouse, 430 Commercial Street, Emporia, KS 66801.

Community	Community map repository address
Essex County, New York (All Jurisdictions) Docket No.: FEMA-B-2524	
Town of Chesterfield	Chesterfield Town Office, 1 Vine Street, Keeseville, NY 12944.
Town of Crown Point	Town Hall, 17 Monitor Bay Road, Crown Point, NY 12928.
Town of Elizabethtown	Town Offices, 7563 Court Street, Elizabethtown, NY 12932.
Town of Essex	Town Hall, 2313 Main Street, Essex, NY 12936.
Town of Jay	Jay Town Office, 11 School Lane, Au Sable Forks, NY 12912.
Town of Keene	Town Hall, 10892 NYS Route 9N, Keene, NY 12942.
Town of Lewis	Town Hall, 8574 US Route 9, Lewis, NY 12950.
Town of Minerva	Town Hall, 5 Morse Memorial Highway, Minerva, NY 12851.
Town of Moriah	Moriah Town Hall, 38 Park Place, Port Henry, NY 12974.
Town of Newcomb	Town Hall, 5639 NY-28N, Newcomb, NY 12852.
Town of North Elba	North Elba Town Hall, 2693 Main Street, Lake Placid, NY 12946.
Town of North Hudson	Town Hall, 3024 US Route 9, North Hudson, NY 12855.
Town of Schroon	Schroon Town Hall, 15 Leland Avenue, Schroon Lake, NY 12870.
Town of St. Armand	St. Armand Town Hall, 1702 NYS Route 3, Bloomingdale, NY 12913.
Town of Ticonderoga	Town Office, 132 Montcalm Street, Ticonderoga, NY 12883.
Town of Westport	Town Hall, 22 Champlain Avenue, Westport, NY 12993.
Town of Willsboro	Town Hall, 5 Farrell Road, Willsboro, NY 12996.
Town of Wilmington	Town Offices, 7 Community Circle, Wilmington, NY 12997.
Village of Lake Placid	Municipal Hall, 2693 Main Street, Lake Placid, NY 12946.
Northumberland County, Pennsylvania (All Jurisdictions) Docket No.: FEMA-B-1977 & FEMA-B-2286	
Borough of Herndon	Borough Building, 278 N Main Street, Herndon, PA 17830.
Borough of Northumberland	Borough Building, 175 Orange Street, Northumberland, PA 17857.
Borough of Riverside	Borough Building, 415 Dewart Street, Riverside, PA 17868.
Borough of Snyderstown	Snyderstown Borough Building, 61 S Main Street, Sunbury, PA 17801.
City of Shamokin	City Hall, 47 E Lincoln Street, Shamokin, PA 17872.
City of Sunbury	Municipal Building, 225 Market Street, Sunbury, PA 17801.
Township of Coal	Municipal Building, 805 W Lynn Street, Coal Township, PA 17866.
Township of Jackson	Jackson Township Hall, 145 Jackson Township Road, Herndon, PA 17830.
Township of Jordan	Jordan Township Building, 444 Jordan Township Road, Herndon, PA 17830.
Township of Lower Augusta	Lower Augusta Township Building, 609 Hallowing Run Road, Sunbury, PA 17801.
Township of Lower Mahanoy	Lower Mahanoy Township Building, 550 Hickory Road, Dalmatia, PA 17017.
Township of Mount Carmel	Township Office, 300 Laurel Street, Mount Carmel, PA 17851.
Township of Point	Point Township Building, 759 Ridge Road, Northumberland, PA 17857.
Township of Ralpho	Ralpho Township Municipal Building, 206 S Market Street, Suite 1, Elysburg, PA 17824.
Township of Rockefeller	Rockefeller Township Municipal Building, 538 Seven Points Road, Sunbury, PA 17801.
Township of Rush	Rush Township Municipal Building, 2303 Center Road, Danville, PA 17821.
Township of Shamokin	Shamokin Township Municipal Building, 138 Old Reading Road, Sunbury, PA 17801.
Township of Upper Augusta	Township of Upper Augusta Municipal Building, 2087 Snyderstown Road, Sunbury, PA 17801.
Township of West Chillisquaque	West Chillisquaque Township Building, 485 Railroad Street, Montandon, PA 17850.
Sussex County, Virginia and Incorporated Areas Docket No.: FEMA-B-2553	
Town of Stony Creek	Sussex County Administration Office, 20135 Princeton Road, Sussex, VA 23884.
Town of Wakefield	Town Hall, 200 W Main Street, Wakefield, VA 23888.
Town of Waverly	Town Hall, 119 Bank Street, Waverly, VA 23890.
Unincorporated Areas of Sussex County	Sussex County Administration Office, 20135 Princeton Road, Sussex, VA 23884.
Garfield County, Washington and Incorporated Areas Docket No.: FEMA-B-2525	
City of Pomeroy	City Hall, 80 North 7th Street, Pomeroy, WA 99347.
Unincorporated Areas of Garfield County	Garfield County Public Works Building, 300 South 19th Street, Pomeroy, WA 99347.

Community	Community map repository address
Douglas County, Wisconsin and Incorporated Areas Docket No.: FEMA-B-2521	
City of Superior	City Hall, 1316 N 14th Street, Superior, WI 54880.
Fond du Lac Band of Lake Superior Chippewa	Fond du Lac Band of Lake Superior Chippewa Tribal Center, 1720 Big Lake Road, Cloquet, MN 55720.
Unincorporated Areas of Douglas County	Douglas County Courthouse Building, 1313 Belknap Street, Superior, WI 54880.
Village of Lake Nebagamon	Village Hall, 11596 E Waterfront Drive, Lake Nebagamon, WI 54849.
Village of Oliver	Oliver Village Hall, 2125 E State Street, Superior, WI 54880.
Village of Poplar	Village Hall, 4932 S Village Road, Poplar, WI 54864.
Village of Solon Springs	Village Hall, 11523 S Business Highway 53, Solon Springs, WI 54873.
Village of Superior	Village Hall, 6702 Ogden Avenue, Superior, WI 54880.

[FR Doc. 2026-17078 Filed 8-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA-2026-0002; Internal Agency Docket No. FEMA-B-2619]****Proposed Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before November 19, 2026.**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective

Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-2619, to David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the

revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Chittenden County, Vermont (All Jurisdictions) Project: 18-01-0020S Preliminary Date: June 30, 2025	
Town of Bolton	Town Hall, 3045 Theodore Roosevelt Highway, Bolton, VT 05676.
Town of Colchester	Town Hall, 781 Blakely Road, Colchester, VT 05446.
Town of Essex	Essex Town Hall, 81 Main Street, Essex Junction, VT 05452.
Town of Jericho	Town Hall, 67 Vermont Route 15, Jericho, VT 05465.
Town of Milton	Town Hall, 43 Bombardier Road, Milton, VT 05468.
Town of Underhill	Town Hall, 12 Pleasant Valley Road, Underhill, VT 05489.
Town of Westford	Town Office, 1713 Vermont Route 128, Westford, VT 05494.
Warren County, New York (All Jurisdictions) Project: 20-02-0013S Preliminary Date: November 24, 2025	
City of Glens Falls	Department of Public Works, 230 Dix Avenue, Glens Falls, NY 12801.
Town of Bolton	Bolton Town Hall, 4949 Lake Shore Drive, Bolton Landing, NY 12814.
Town of Chester	Chester Municipal Center, 6307 State Route 9, Chestertown, NY 12817.
Town of Hague	Community Center, 9793 Graphite Mountain Road, Hague, NY 12836.
Town of Horicon	Horicon Community Center, 6604 State Route 8, Brant Lake, NY 12815.
Town of Johnsbury	Johnsbury Town Hall, 219 Main Street, North Creek, NY 12853.
Town of Lake George	Town Center, 20 Old Post Road, Lake George, NY 12845.
Town of Lake Luzerne	Town Hall, 539 Lake Avenue, Lake Luzerne, NY 12846.
Town of Queensbury	Town Hall, 742 Bay Road, Queensbury, NY 12804.
Town of Stony Creek	Town Hall, 52 Hadley Road, Stony Creek, NY 12878.
Town of Thurman	Thurman Town Hall, 311 Athol Road, Athol, NY 12810.
Town of Warrensburg	Emerson Memorial Town Hall, 3797 Main Street, Warrensburg, NY 12885.
Village of Lake George	Village Hall, 26 Old Post Road, Lake George, NY 12845.
Howard County, Maryland and Incorporated Areas Project: 19-03-0041S Preliminary Date: August 1, 2025	
Unincorporated Areas of Howard County	Bureau of Environmental Services, 9801 Broken Land Parkway, Columbia, MD 21046.
Mecklenburg County, Virginia and Incorporated Areas Project: 23-03-0004S Preliminary Date: August 28, 2025	
Town of Boydton	Town Hall, 461 Madison Street, Boydton, VA 23917.
Town of Chase City	Town Hall, 525 N Main Street, Chase City, VA 23924.
Town of Clarksville	Town Hall, 321 Virginia Avenue, Clarksville, VA 23927.
Town of La Crosse	Town Office, 115 S Main Street, La Crosse, VA 23950.
Town of South Hill	Town Hall, 211 S Mecklenburg Avenue, South Hill, VA 23970.
Unincorporated Areas of Mecklenburg County	Mecklenburg County Zoning Administrator's Office, 350 Washington Street, Boydton, VA 23917.
Roanoke County, Virginia and Incorporated Areas Project: 24-03-0012S Preliminary Date: November 21, 2025 and February 12, 2026	
City of Roanoke	Public Works Service Center, 1802 Courtland Road NE, Roanoke, VA 24012.
City of Salem	City of Salem Community Development, 21 S Bruffey Street, Salem, VA 24153.
Town of Vinton	Planning and Zoning Department, 311 S Pollard Street, Vinton, VA 24179.
Unincorporated Areas of Roanoke County	Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, VA 24018.

[FR Doc. 2026-17075 Filed 8-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA-2026-0002]****Final Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having an effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of January 8, 2027 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at <https://msc.fema.gov> by the date indicated above.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these

changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Fairbanks North Star Borough, Alaska and Incorporated Areas Docket No.: FEMA-B-2532	
Fairbanks North Star Borough	Juanita Helms Administration Center, Community Planning Department, 907 Terminal Street, Fairbanks, AK 99701
Butte County, California and Incorporated Areas Docket No.: FEMA-B-2559	
City of Chico	Municipal Center, 411 Main Street, 2nd Floor, Chico, CA 95928.
Unincorporated Areas of Butte County	Butte County Department of Public Works, 7 County Center Drive, Oroville, CA 95965.
Benton County, Mississippi and Incorporated Areas Docket No.: FEMA-B-2507	
Unincorporated Areas of Benton County	Benton County Courthouse, 190 Ripley Avenue, Ashland, MS 38603.
Panola County, Mississippi and Incorporated Areas Docket No.: FEMA-B-2507	
City of Batesville	Code Office, 146 Public Square, Batesville, MS 38606.
Unincorporated Areas of Panola County	Panola County Land Development Office, 245 Eureka Street, Batesville, MS 38606.
Tippah County, Mississippi and Incorporated Areas Docket No.: FEMA-B-2507	
Unincorporated Areas of Tippah County	Tippah County Building, 101 East Spring Street, Ripley, MS 38663.
Wyoming County, New York (All Jurisdictions) Docket No.: FEMA-B-2545	
Town of Arcade	Town Hall, 7340 Route 98, Arcade, NY 14009.
Town of Attica	Town Hall, 11 Exchange Street, Suite 1, Attica, NY 14011.
Town of Bennington	Bennington Town Hall, 905 Old Alleghany Road, Attica, NY 14011.

Community	Community map repository address
Town of Castile	Town Hall, 53 N Main Street, Castile, NY 14427.
Town of Covington	Covington Town Hall, 584 Perry Road, Pavilion, NY 14525.
Town of Eagle	Eagle Clerks Office, 3378 School Street, Bliss, NY 14024.
Town of Gainesville	Town Hall, 2 Toolhouse Road, Gainesville, NY 14066.
Town of Genesee Falls	Genesee Falls Town Hall, 6673 Church Street, Portageville, NY 14536.
Town of Java	Java Town Hall, 4222 Route 98, North Java, NY 14113.
Town of Middlebury	Middlebury Highway Building, 51 Sherman Avenue, Wyoming, NY 14591.
Town of Orangeville	Orangeville Town Hall, 3529 Route 20A, Warsaw, NY 14569.
Town of Perry	Town Hall, 22 S Main Street, Perry, NY 14530.
Town of Pike	Town Office, 60 E Main Street, Pike, NY 14130.
Town of Sheldon	Sheldon Town Hall, 1380 Centerline Road, Strykersville, NY 14145.
Town of Warsaw	Wyoming County Zoning Office, 36 Center Street, Suite C, Warsaw, NY 14569.
Town of Wethersfield	Wethersfield Clerks Office, 4362 Route 78, Gainesville, NY 14066.
Village of Arcade	Village Hall, 17 Church Street, Arcade, NY 14009.
Village of Attica	Municipal Building, 9 Water Street, Attica, NY 14011.
Village of Castile	Village Hall, 53 N Main Street, Castile, NY 14427.
Village of Gainesville	Village Hall, 29 E Street, Gainesville, NY 14066.
Village of Perry	Village Hall, 46 N Main Street, Perry, NY 14530.
Village of Silver Springs	Village Hall, 43 N Main Street, Silver Springs, NY 14550.
Village of Warsaw	Village Hall, 15 S Main Street, Warsaw, NY 14569.
Village of Wyoming	Village Clerks Office, 90 Main Street, Wyoming, NY 14591.

[FR Doc. 2026–17069 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2026–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address

listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65. The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Florida:					
Collier (FEMA Docket No.: B-2611).	Unincorporated areas of Collier County (25-04-3166P).	Amy Patterson, Manager, Collier County, 3299 Tamiami Trail East, Naples, FL 34112.	Collier County Growth Management Community Development Department, 2800 North Horseshoe Drive, Naples, FL 34104.	Jun. 18, 2026	120067
Duval (FEMA Docket No.: B-2611).	City of Jacksonville (25-04-5552P).	The Honorable Donna Deegan, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Jun. 12, 2026	120077
Duval (FEMA Docket No.: B-2611).	City of Jacksonville (25-04-6517P).	The Honorable Donna Deegan, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	Jun. 12, 2026	120077
Leon (FEMA Docket No.: B-2611).	City of Tallahassee (25-04-3809P).	The Honorable John E. Dailey, Mayor, City of Tallahassee, 300 South Adams Street, Tallahassee, FL 32301.	City Hall, 300 South Adams Street, Tallahassee, FL 32301.	Jun. 12, 2026	120144
Marion (FEMA Docket No.: B-2611).	Unincorporated areas of Marion County (25-04-4549P).	Mounir Bouyounes, Marion County Administrator, 601 Southeast 25th Avenue, Ocala, FL 34471.	Marion County Growth Services—Planning & Zoning, 2710 East Silver Springs Boulevard, Ocala, FL 34470.	Jun. 15, 2026	120160
Orange (FEMA Docket No.: B-2611).	City of Winter Garden (24-04-7800P).	Jon C. Williams, Manager, City of Winter Garden, 300 West Plant Street, Winter Garden, FL 34787.	City Hall, 300 West Plant Street, Winter Garden, FL 34787.	Jun. 17, 2026	120187
Orange (FEMA Docket No.: B-2611).	Unincorporated areas of Orange County (24-04-7800P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Public Works Department, Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Jun. 17, 2026	120179
Orange (FEMA Docket No.: B-2611).	Unincorporated areas of Orange County (25-04-5225P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Public Works Department, Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Jun. 30, 2026	120179
Osceola (FEMA Docket No.: B-2611).	Unincorporated areas of Osceola County (26-04-0453P).	Don Fisher, Manager, Osceola County, 1 Courthouse Square, Suite 4700, Kissimmee, FL 34741.	Osceola County Community Development Department, 1 Courthouse Square, Suite 1400, Kissimmee, FL 34741.	Jun. 12, 2026	120189
Pasco (FEMA Docket No.: B-2611).	Unincorporated areas of Pasco County (24-04-6093P).	Mike Carballa, Pasco County Administrator, 8731 Citizens Drive, New Port Richey, FL 34654.	Pasco County Building Construction Services, 8731 Citizens Drive, Suite 100, New Port Richey, FL 34654.	Jun. 25, 2026	120230
Pasco (FEMA Docket No.: B-2611).	Unincorporated areas of Pasco County (25-04-3922P).	Mike Carballa, Pasco County Administrator, 8731 Citizens Drive, New Port Richey, FL 34654.	Pasco County Building Construction Services, 8731 Citizens Drive, Suite 100, New Port Richey, FL 34654.	Jun. 18, 2026	120230
Polk (FEMA Docket No.: B-2611).	City of Winter Haven (25-04-3808P).	The Honorable Nathaniel J. Birdsong, Jr., Mayor, City of Winter Haven, 451 3rd Street Northwest, Winter Haven, FL 33881.	Building Division, 490 3rd Street Northwest, Winter Haven, FL 33881.	Jun. 11, 2026	120271
Walton (FEMA Docket No.: B-2611).	City of Freeport (25-04-5622P).	The Honorable Russ Barley, Mayor, City of Freeport, 112 Highway 20 West, Freeport, FL 32439.	City Hall, 112 Highway 20 West, Freeport, FL 32439.	Jun. 18, 2026	120319
Walton (FEMA Docket No.: B-2611).	Unincorporated areas of Walton County (25-04-5622P).	Brian Kellenberger, Walton County Administrator, 76 North 6th Street, DeFuniak Springs, FL 32433.	Walton County Planning and Development Services Department, 842 State Highway 20 East, Unit 110, Freeport, FL 32439.	Jun. 18, 2026	120317
Illinois: Will (FEMA Docket No.: B-2611).	Village of Romeoville (25-05-2286P).	The Honorable John Noak, Mayor, Village of Romeoville, 1050 West Romeo Road, Romeoville, IL 60446.	Village Hall, 1050 West Romeo Road, Romeoville, IL 60446.	Jun. 12, 2026	170711
Indiana: Hamilton (FEMA Docket No.: B-2611).	City of Noblesville (25-05-0770P).	The Honorable Chris Jensen, Mayor, City of Noblesville, 16 South 10th Street., Noblesville, IN 46060.	Planning Department, 16 South 10th Street, Suite 150, Noblesville, IN 46060.	Jun. 30, 2026	180082
Kansas:					
Johnson (FEMA Docket No.: B-2611).	City of Olathe (25-07-0542P).	Michael Wilkes, Manager, City of Olathe, 100 East Santa Fe Street, Olathe, KS 66061.	City Hall, 100 East Santa Fe Street, Olathe, KS 66061.	Jun. 23, 2026	200173
Sedgwick (FEMA Docket No.: B-2611).	City of Wichita (25-07-0657P).	Robert Layton, Manager, City of Wichita, 455 North Main, Wichita, KS 67202.	City Hall, 455 North Main, Wichita, KS 67202.	Jun. 25, 2026	200328
Sedgwick (FEMA Docket No.: B-2611).	Unincorporated areas of Sedgwick County (25-07-0657P).	Tom Stolz, Manager, Sedgwick County, 100 North Broadway, Suite 630, Wichita, KS 67202.	Sedgwick County Metropolitan Area Building and Construction Department, 271 West 3rd Street, Wichita, KS 67202.	Jun. 25, 2026	200321
Louisiana: Lafayette (FEMA Docket No.: B-2611).	City of Broussard (25-06-2553P).	The Honorable Ray Bourque, Mayor, City of Broussard, 310 East Main Street, Broussard, LA 70518.	City Hall, 310 East Main Street, Broussard, LA 70518.	Jun. 12, 2026	220102
Massachusetts:					
Essex (FEMA Docket No.: B-2611).	City of Gloucester (25-01-0950P).	The Honorable Paul Lundberg, Mayor, City of Gloucester, 9 Dale Avenue, Gloucester, MA 01930.	City Hall Annex, 3 Pond Road, Gloucester, MA 01930.	Jun. 18, 2026	250082

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Plymouth (FEMA Docket No.: B-2611).	Town of Hull (25-01-0841P).	Jennifer Constable, Manager, Town of Hull, 253 Atlantic Avenue, Hull, MA 02045.	Town Hall, 253 Atlantic Avenue, Hull, MA 02045.	Jun. 12, 2026	250269
New York:					
Monroe (FEMA Docket No.: B-2611).	Town of Penfield (24-02-0226P).	The Honorable Kevin Berry, Town Supervisor, Town of Penfield, 3100 Atlantic Avenue, Penfield, NY 14526.	Town Hall, 3100 Atlantic Avenue, Penfield, NY 14526.	May 28, 2026	360426
Monroe (FEMA Docket No.: B-2611).	Town of Webster (24-02-0226P).	The Honorable Tom Flaherty, Town Supervisor, Town of Webster, 1000 Ridge Road, Webster, NY 14580.	Town Clerk, 1000 Ridge Road, Webster, NY 14580.	May 28, 2026	360436
Pennsylvania: Philadelphia (FEMA Docket No.: B-2611).	City of Philadelphia (25-03-0879P).	The Honorable Cherelle L. Parker, Mayor, City of Philadelphia, 1400 John F. Kennedy Boulevard, Philadelphia, PA 19107.	City Hall, 1400 John F. Kennedy Boulevard, Philadelphia, PA 19107.	Jun. 29, 2026	420757
Tennessee:					
Jefferson (FEMA Docket No.: B-2611).	Unincorporated areas of Jefferson County (26-04-0358P).	The Honorable Mark Potts, Mayor, Jefferson County, 214 West Main Street, Dandridge, TN 37725.	Jefferson County Zoning Department, 202 West Main Street, Room 103, Dandridge, TN 37725.	Jun. 12, 2026	470097
Williamson (FEMA Docket No.: B-2611).	City of Franklin (25-04-4708P).	The Honorable Ken Moore, Mayor, City of Franklin, 109 3rd Avenue South, Franklin, TN 37064.	City Hall, 120 9th Avenue South, Franklin, TN 37064.	Jun. 12, 2026	470206
Williamson (FEMA Docket No.: B-2611).	Unincorporated areas of Williamson County (25-04-4708P).	The Honorable Rogers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Planning and Zoning, 1320 West Main Street, Suite 400, Franklin, TN 37064.	Jun. 12, 2026	470204
Texas:					
Collin (FEMA Docket No.: B-2611).	City of Lucas (25-06-0604P).	John Whitsell, Manager, City of Lucas, 665 Country Club Road, Lucas, TX 75002.	City Hall, 665 Country Club Road, Lucas, TX 75002.	Jun. 15, 2026	481545
Collin (FEMA Docket No.: B-2611).	City of McKinney (25-06-0993P).	The Honorable Bill Cox, Mayor, City of McKinney, 401 East Virginia Street, McKinney, TX 75069.	Engineering Department, 401 East Virginia Street, McKinney, TX 75069.	Jun. 22, 2026	480135
Collin (FEMA Docket No.: B-2611).	City of McKinney (25-06-1495P).	The Honorable Bill Cox, Mayor, City of McKinney, 401 East Virginia Street, McKinney, TX 75069.	Engineering Department, 401 East Virginia Street, McKinney, TX 75069.	Jun. 22, 2026	480135
Collin (FEMA Docket No.: B-2611).	City of Melissa (25-06-1495P).	The Honorable Jay Northcutt, Mayor, City of Melissa, 3411 Barker Avenue, Melissa, TX 75454.	City Hall, 3411 Barker Avenue, Melissa, TX 75454.	Jun. 22, 2026	481626
Collin (FEMA Docket No.: B-2611).	Unincorporated areas of Collin County (25-06-1495P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, 1st Floor, McKinney, TX 75071.	Collin County Engineering Building, 4690 Community Avenue, Suite 200, McKinney, TX 75071	Jun. 22, 2026	480130
Fannin (FEMA Docket No.: B-2611).	City of Leonard (25-06-0913P).	The Honorable Michael Pye, Mayor, City of Leonard, P.O. Box 1270, Leonard, TX 75452.	City Hall, 111 West Collin Street, Leonard, TX 75452.	Jun. 17, 2026	480812
Rockwall (FEMA Docket No.: B-2611).	City of Rockwall (24-06-2415P).	The Honorable Tim McCallum, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	City Hall, 385 South Goliad Street, Rockwall, TX 75087.	Jun. 12, 2026	480547
Tarrant (FEMA Docket No.: B-2611).	City of Bedford (24-06-0384P).	The Honorable Dan Cogan, Mayor, City of Bedford, 2000 Forest Ridge Drive, Bedford, TX 76021.	Public Works Office, 1813 Reliance Parkway, Bedford, TX 76021.	Jun. 22, 2026	480585
Tarrant (FEMA Docket No.: B-2611).	City of North Richland Hills (24-06-2576P).	The Honorable Jack McCarty, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, TX 76182.	City Hall, 4301 City Point Drive, North Richland Hills, TX 76180.	Jun. 22, 2026	480607
Tarrant (FEMA Docket No.: B-2611).	Unincorporated areas of Tarrant County (24-06-2388P).	The Honorable Tim O'Hare, Tarrant County Judge, 100 East Weatherford Street, Suite 501, Fort Worth, TX 76196.	Tarrant County Transportation Services Department, 200 Taylor Street, Suite 305, Fort Worth, TX 76196.	Jun. 15, 2026	480582
Taylor (FEMA Docket No.: B-2611).	City of Abilene (25-06-1804P).	Emily Crawford, Manager, City of Abilene, P.O. Box 60, Abilene, TX 79604.	City Hall, 555 Walnut Street, Abilene, TX 79601.	Jun. 12, 2026	485450
Young (FEMA Docket No.: B-2611).	Unincorporated areas of Young County (25-06-1793P).	The Honorable Edwin S. Graham IV, Young County Judge, 516 4th Street, Graham, TX 76450.	Young County 911 Director Office, 516 4th Street, Room B5, Graham, TX 76450.	Jun. 11, 2026	480684
Vermont: Windham (FEMA Docket No.: B-2611).	Town of Brattleboro (25-01-0657P).	John R. Potter, Town Manager, Town of Brattleboro, 230 Main Street, Suite 208, Brattleboro, VT 05301.	Planning Services Department, 230 Main Street, Suite 202, Brattleboro, VT 05301.	Jun. 25, 2026	500126
Virginia: Caroline (FEMA Docket No.: B-2611).	Unincorporated areas of Caroline County (25-03-0717P).	The Honorable Charles M. Culley, Jr., Caroline County Administrator, 212 North Main Street, Bowling Green, VA 22427.	Caroline County Administration, 212 North Main Street, Bowling Green, VA 22427.	Jun. 15, 2026	510249

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****[Docket ID FEMA–2026–0002; Internal Agency Docket No. FEMA–B–2626]****Proposed Flood Hazard Determinations****AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before November 19, 2026.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS

report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA–B–2626, to David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report

that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://hazards.fema.gov/femaportal/prelimdownload> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Pima County, Arizona and Incorporated Areas Project: 20–09–0008S Preliminary Date: January 27, 2026	
Unincorporated Areas of Pima County	Pima County—City Public Works Center, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.
Town of Marana	Ed Honea Marana Municipal Complex, 11555 West Civic Center Drive, Marana, AZ 85653.
Powell County, Montana and Incorporated Areas Project: 21–08–0010S Preliminary Date: May 15, 2026	
City of Deer Lodge	City Hall, 300 Main Street, Deer Lodge, MT 59722.
Unincorporated Areas of Powell County	Powell County Courthouse, 409 Missouri Avenue, Suite 114, Deer Lodge, MT 59722.

[FR Doc. 2026–17074 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA–2026–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address

listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, “Flood Insurance.”)

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa. (FEMA Docket No.: B–2576).	City of Buckeye (25–09–0735P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	City Hall, 945 North 215th Avenue, Suite 137, Buckeye, AZ 85326.	Feb. 10, 2026	040039
Maricopa. (FEMA Docket No.: B–2576).	City of Glendale (25–09–0110P).	The Honorable Jerry P. Weiers, Mayor, City of Glendale, 9494 West Maryland Avenue, Glendale, AZ 85305.	City Hall, 5850 West Glendale Avenue, Glendale, AZ 85301.	Jan. 23, 2026	040045
Maricopa. (FEMA Docket No.: B–2576).	City of Goodyear (25–09–0308P).	The Honorable Joe Pizzillo, Mayor, City of Goodyear, 1900 North Civic Square, Goodyear, AZ 85395.	City Hall, 1900 North Civic Square, Goodyear, AZ 85395.	Jan. 26, 2026	040046
Maricopa. (FEMA Docket No.: B–2576).	City of Phoenix (25–09–0426P).	The Honorable Kate Gallego, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	Dec. 26, 2025	040051
Maricopa. (FEMA Docket No.: B–2576).	City of Surprise (23–09–0945P).	The Honorable Kevin Sartor, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	City Hall, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Jan. 23, 2026	040053
Maricopa. (FEMA Docket No.: B–2576).	Unincorporated areas of Maricopa County (25–09–0110P).	Jen Pokorski, County Manager, Maricopa County, 301 West Jefferson Street, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jan. 23, 2026	040037
Maricopa. (FEMA Docket No.: B–2576).	Unincorporated areas of Maricopa County (25–09–0480P).	Jen Pokorski, County Manager, Maricopa County, 301 West Jefferson Street, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jan. 30, 2026	040037
Maricopa. (FEMA Docket No.: B–2576).	Unincorporated areas of Maricopa County (25–09–0528P).	Jen Pokorski, County Manager, Maricopa County, 301 West Jefferson Street, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Feb. 13, 2026	040037
Maricopa. (FEMA Docket No.: B–2576).	Unincorporated areas of Maricopa County (25–09–0735P).	Jen Pokorski, County Manager, Maricopa County, 301 West Jefferson Street, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Feb. 10, 2026	040037

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Navajo. (FEMA Docket No.: B-2576).	Town of Snowflake (24-09-0675P).	The Honorable Bryon Lewis, Mayor, Town of Snowflake, 81 West 1st South Street, Snowflake, AZ 85937.	Town Hall, 81 West 1st South Street, Snowflake, AZ 85937.	Feb. 9, 2026	040070
Pima. (FEMA Docket No.: B-2576).	Town of Oro Valley (24-09-0290P).	The Honorable Joe Winfield, Mayor, Town of Oro Valley, 11000 North La Canada Drive, Oro Valley, AZ 85737.	Town Hall, 11000 North La Canada Drive, Oro Valley, AZ 85737.	Jan. 15, 2026	040109
California:					
Los Angeles. (FEMA Docket No.: B-2576).	Unincorporated areas of Los Angeles County (24-09-0642P).	Fesia Davenport, Chief Executive Officer, Los Angeles County, 500 West Temple Street, Los Angeles, CA 90012.	Los Angeles County Public Works, 900 South Fremont Avenue, Alhambra, CA 91803.	Jan. 28, 2026	065043
Riverside. (FEMA Docket No.: B-2576).	City of Norco (25-09-0576P).	The Honorable Greg Newton, Mayor, City of Norco, 2870 Clark Avenue, Norco, CA 92860.	City Hall, 2870 Clark Avenue, Norco, CA 92860.	Dec. 9, 2025	060256
Sacramento. (FEMA Docket No.: B-2576).	Unincorporated areas of Sacramento County (24-09-1218P).	The Honorable David Villanueva, Sacramento County Executive, 700 H Street, Room 7650, Sacramento, CA 95814.	Sacramento County Department of Water Resources, 827 7th Street, Room 301, Sacramento, CA 95814.	Jan. 21, 2026	060262
San Bernardino. (FEMA Docket No.: B-2576).	Unincorporated areas of San Bernardino County (25-09-0175P).	Luther Snoke, Chief Executive Officer, San Bernardino County, 385 North Arrowhead Avenue, 5th Floor, San Bernardino, CA 92415.	San Bernardino County, Main Government Office, 385 North Arrowhead Avenue, San Bernardino, CA 92415.	Feb. 16, 2026	060270
San Diego. (FEMA Docket No.: B-2576).	City of Chula Vista (25-09-0514P).	Maria V. Kachadoorian, City Manager, City of Chula Vista, 276 4th Avenue, Chula Vista, CA 91910.	City Hall, 276 4th Avenue, Chula Vista, CA 91910.	Feb. 9, 2026	065021
San Joaquin. (FEMA Docket No.: B-2576).	City of Stockton (25-09-0442P).	William Crew, Acting City Manager, City of Stockton, 425 North El Dorado Street, Stockton, CA 95202.	Permit Center, 345 North El Dorado Street, Stockton, CA 95202.	Feb. 9, 2026	060302
San Joaquin. (FEMA Docket No.: B-2576).	Unincorporated areas of San Joaquin County (25-09-0442P).	Sandy Regalo, San Joaquin County Administrator, 44 North San Joaquin Street, 6th Floor, Suite 640, Stockton, CA 95202.	San Joaquin County Public Works Department, Water Resources Division, 1810 East Hazelton Avenue, Stockton, CA 95201.	Feb. 9, 2026	060299
Santa Clara. (FEMA Docket No.: B-2576).	City of San Jose (24-09-0860P).	Jennifer Maguire, City Manager, City of San Jose, 200 East Santa Clara Street, San Jose, CA 95113.	City Hall, 200 East Santa Clara Street, San Jose, CA 95113.	Jan. 19, 2026	060349
Shasta. (FEMA Docket No.: B-2576).	City of Redding (23-09-1098P).	Barry Tippin, City Manager, City of Redding, 777 Cypress Avenue, Redding, CA 96001.	Permit Center, 777 Cypress Avenue, 1st Floor, Redding, CA 96001.	Jan. 21, 2026	060360
Shasta. (FEMA Docket No.: B-2576).	Unincorporated areas of Shasta County (23-09-1098P).	David Rickert, Chief Executive Officer, Shasta County, 1450 Court Street, Suite 308A, Redding, CA 96001.	Shasta County Department of Public Works, 1855 Placer Street, Redding, CA 96001.	Jan. 21, 2026	060358
Sonoma. (FEMA Docket No.: B-2576).	Unincorporated areas of Sonoma County (23-09-1096P).	Christina Rivera, Sonoma County Administrator/Executive, 575 Administration Drive, Room 104A, Santa Rosa, CA 95403.	Sonoma County, Permit Sonoma Office, 2550 Ventura Avenue, Santa Rosa, CA 95403.	Feb. 13, 2026	060375
Sonoma. (FEMA Docket No.: B-2576).	Unincorporated areas of Sonoma County (25-09-0782P).	Christina Rivera, Sonoma County Administrator/Executive, 575 Administration Drive, Room 104 A, Santa Rosa, CA 95403.	Sonoma County, Permit Sonoma Office, 2550 Ventura Avenue, Santa Rosa, CA, 95403.	Feb. 16, 2026	060375
Adams. (FEMA Docket No.: B-2576).	City of Thornton (24-08-0255P).	The Honorable Jan Kulmann, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	Jan. 23, 2026	080007
Adams. (FEMA Docket No.: B-2576).	City of Thornton (24-08-0345P).	The Honorable Jan Kulmann, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	Feb. 20, 2026	080007
Adams. (FEMA Docket No.: B-2576).	City of Thornton (24-08-0545P).	The Honorable Jan Kulmann, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	Jan. 9, 2026	080007
Adams. (FEMA Docket No.: B-2576).	City of Thornton (25-08-0255P).	The Honorable Jan Kulmann, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, CO 80229.	City Hall, 9500 Civic Center Drive, Thornton, CO 80229.	Jan. 2, 2026	080007
Adams. (FEMA Docket No.: B-2576).	Unincorporated areas of Adams County (24-08-0545P).	The Honorable Lynn Baca, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, Brighton, CO 80601.	Adams County Community and Economic Development, 4430 South Adams County Parkway, 1st Floor, Suite W2000, Brighton, CO 80601.	Jan. 9, 2026	080001
Arapahoe. (FEMA Docket No.: B-2576).	City of Centennial (25-08-0381P).	The Honorable Stephanie Piko, Mayor, City of Centennial, 13133 East Arapahoe Road, Centennial, CO 80112.	Southeast Metro Stormwater Authority, 7437 South Fairplay Street, Centennial, CO 80112.	Jan. 30, 2026	080315
Arapahoe. (FEMA Docket No.: B-2576).	Unincorporated areas of Arapahoe County (25-08-0381P).	The Honorable Leslie Summey, Chair, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, CO 80120.	Arapahoe County, Public Works and Development Department, 6924 South Lima Street, Centennial, CO 80112.	Jan. 30, 2026	080011
Boulder. (FEMA Docket No.: B-2576).	Unincorporated areas of Boulder County (25-08-0300P).	The Honorable Marta Loachamin, Chair, Boulder County Board of Commissioners, P.O. Box 471, Boulder, CO 80306.	Boulder County Community Planning & Permitting Building, 2045 13th Street, Boulder, CO 80302.	Feb. 2, 2026	080023
Jefferson. (FEMA Docket No.: B-2576).	City of Westminster (24-08-0345P).	The Honorable Nancy McNally, Mayor, City of Westminster, 4800 West 92nd Avenue, Westminster, CO 80031.	City Hall, 4800 West 92nd Avenue, Westminster, CO 80031.	Feb. 20, 2026	080008
Larimer. (FEMA Docket No.: B-2576).	Town of Timnath (24-08-0396P).	The Honorable Robert Axmacher, Mayor, Town of Timnath, 4750 Signal Tree Drive, Timnath, CO 80547.	TST Inc., 748 Whalers Way, Fort Collins, CO 80525.	Dec. 29, 2025	080005

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Larimer. (FEMA Docket No.: B–2576).	Unincorporated areas of Larimer County (24–08–0396P).	The Honorable Kristin Stephens, Chair, Larimer County Board of Commissioners, P.O. Box 1190, Fort Collins, CO 80521.	Larimer County Courthouse Offices Building, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.	Dec. 29, 2025	080101
Larimer and Weld Counties. (FEMA Docket No.: B–2576).	Town of Windsor (24–08–0396P).	The Honorable Julie Cline, Mayor, Town of Windsor, 301 Walnut Street, Windsor, CO 80550.	Town Hall, 301 Walnut Street, Windsor, CO 80550.	Dec. 29, 2025	080264
Mesa. (FEMA Docket No.: B–2576).	City of Grand Junction (25–08–0092P).	The Honorable Cody Kennedy, Mayor, City of Grand Junction, 250 North 5th Street, Grand Junction, CO 81501.	City Hall, 250 North 5th Street, Grand Junction, CO 81501.	Jan. 15, 2026	080117
Mesa. (FEMA Docket No.: B–2576).	Unincorporated areas of Mesa County (25–08–0092P).	The Honorable Cody Davis, Chair, Mesa County Board of Commissioners, Department 5010, P.O. Box 20000, Grand Junction, CO 81501.	Mesa County Commissioner's Office, 544 Rood Avenue, Grand Junction, CO 81501.	Jan. 15, 2026	080115
Teller. (FEMA Docket No.: B–2576).	Unincorporated areas of Teller County (25–08–0433P).	The Honorable Dan Williams, Chair, Teller County, Board of Commissioners, P.O. Box 959, Cripple Creek, CO 80813.	Teller County, Administrative Offices, 112 North Street, Cripple Creek, CO 80813.	Feb. 19, 2026	080173
Weld. (FEMA Docket No.: B–2576).	Unincorporated areas of Weld County (24–08–0396P).	The Honorable Perry Buck, Chair, Weld County Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Administrative Building, 1150 O Street, Greeley, CO 80631.	Dec. 29, 2025	080266
Weld. (FEMA Docket No.: B–2576).	Unincorporated areas of Weld County (25–08–0134P).	The Honorable Perry Buck, Chair, Weld County Board of Commissioners, P.O. Box 758, Greeley, CO 80632.	Weld County Administrative Building, 1150 O Street, Greeley, CO 80631.	Dec. 29, 2025	080266
Hawaii: Hawaii. (FEMA Docket No.: B–2576).	Hawaii County (25–09–0283P).	The Honorable Kimo Alameda, Mayor, Hawaii County, 25 Aupuni Street, Hilo, HI 96720.	Hawaii County Department of Public Works, Aupuni Center, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	Jan. 28, 2026	155166
Idaho:					
Ada. (FEMA Docket No.: B–2576).	City of Boise (25–10–0030P).	The Honorable Lauren McLean, Mayor, City of Boise, 150 North Capitol Boulevard, Boise, ID 83702.	City Hall, 150 North Capitol Boulevard, Boise, ID 83702.	Feb. 4, 2026	160002
Ada. (FEMA Docket No.: B–2576).	City of Meridian (25–10–0070P).	The Honorable Robert Simison, Mayor, City of Meridian, 33 East Broadway Avenue, Meridian, ID 83642.	City Hall, 33 East Broadway Avenue, Meridian, ID 83642.	Feb. 4, 2026	160180
Ada. (FEMA Docket No.: B–2576).	Unincorporated areas of Ada County (25–10–0070P).	The Honorable Rod Beck Chair, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	Ada County Courthouse, 200 West Front Street, Boise, ID 83702.	Feb. 4, 2026	160001
Nevada: Clark. (FEMA Docket No.: B–2576).	City of Henderson (25–09–0388P).	The Honorable Michelle Romero, Mayor, City of Henderson, 240 South Water Street, Henderson, NV 89015.	City Hall, 240 South Water Street, Henderson, NV 89015.	Jan. 9, 2026	320005
Oregon:					
Jackson. (FEMA Docket No.: B–2576).	Unincorporated areas of Jackson County (24–10–0764P).	Danny Jordan, Jackson County Administrator, 10 South Oakdale Avenue, Room 214, Medford, OR 97501.	Jackson County Courthouse, 10 South Oakdale Avenue, Room 214, Medford, OR 97501.	Dec. 18, 2025	415589
Multnomah. (FEMA Docket No.: B–2576).	City of Portland (25–10–0014P).	The Honorable Keith Wilson, Mayor, City of Portland, 1221 Southwest 4th Avenue, Suite 340, Portland, OR 97204.	Permitting and Development, 1900 Southwest 4th Avenue, Suite 5000, Portland, OR 97201.	Feb. 13, 2026	410183
South Dakota:					
Pennington. (FEMA Docket No.: B–2576).	City of Box Elder (24–08–0209P).	The Honorable Larry Larson, Mayor, City of Box Elder, 420 Villa Drive, Box Elder, SD 57719.	City Hall, 420 Villa Drive, Box Elder, SD 57719.	Jan. 21, 2026	460089
Pennington. (FEMA Docket No.: B–2576).	Unincorporated areas of Pennington County (24–08–0209P).	The Honorable Ron Weifenbach, Chair, Pennington County Board of Commissioners, P.O. Box 6160, Rapid City, SD 57709.	Pennington County Administration Building, 130 Kansas City Street, Rapid City, SD 57701.	Jan. 21, 2026	460064
Washington:					
Clark. (FEMA Docket No.: B–2576).	Unincorporated areas of Clark County (24–10–0454P).	Kathleen Otto, County Manager, Clark County, P.O. Box 9810, Vancouver, WA 98666.	Clark County Public Service Center, 1300 Franklin Street, Vancouver, WA 98666.	Dec. 24, 2025	530024
King. (FEMA Docket No.: B–2576).	City of Des Moines (25–10–0046P).	Katherine Caffrey, City Manager, City of Des Moines, 21630 11th Avenue South, Suite A, Des Moines, WA 98198.	City Hall, 21630 11th Avenue South, Des Moines, WA 98198.	Feb. 12, 2026	530077
Okanogan. (FEMA Docket No.: B–2576).	Unincorporated areas of Okanogan County (24–10–0215P).	The Honorable Jon Neal, Chair, Okanogan County Board of Commissioners, 123 5th Avenue North, Suite 150, Okanogan, WA 98840.	Okanogan County, Virginia Grainger Building, 123 5th Avenue North, Suite 130, Okanogan, WA 98840.	Jan. 29, 2026	530117

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA-2026-0002; Internal Agency Docket No. FEMA-B-2624]

Changes in Flood Hazard Determinations**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.**ACTION:** Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The current effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these

changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Assistant Administrator, Federal Insurance Directorate, Resilience reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Coconino	City of Flagstaff (25-09-0680P).	Joanne Keene, City Manager, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, AZ 86001.	Community Development Department, 211 West Aspen Avenue, Flagstaff, AZ 86001.	https://msc.fema.gov/portal/advanceSearch .	Oct. 7, 2026	040020
Maricopa	City of Phoenix (25-09-1042P).	The Honorable Kate Gallego, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	City Hall, 200 West Washington Street, Phoenix, AZ 85003.	https://msc.fema.gov/portal/advanceSearch .	Oct. 2, 2026	040051
Maricopa	City of Phoenix (26-09-0096P).	The Honorable Kate Gallego, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	City Hall, 200 West Washington Street, Phoenix, AZ 85003.	https://msc.fema.gov/portal/advanceSearch .	Sep. 25, 2026	040051

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Pinal	Town of Queen Creek (25–09–1151P).	The Honorable Julia Wheatley, Mayor, Town of Queen Creek, 22358 South Ellsworth Road, Queen Creek, AZ 85142.	Municipal Services Building, 22358 South Ellsworth Road, Queen Creek, AZ 85142.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	040132
Pinal	Unincorporated Areas of Pinal County (25–09–1151P).	The Honorable Jeffrey McClure, Chair, Pinal County Board of Supervisors, P.O. Box 827, Florence, AZ 85132.	Pinal County Public Works Building, 85 North Florence Street, Florence, AZ 85132.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	040077
California: Glenn	City of Willows (26–09–0449P).	The Honorable Evan Hutson, Mayor, City of Willows, 201 North Lassen Street, Willows, CA 95988.	City Hall, 201 North Lassen Street, Willows, CA 95988.	https://msc.fema.gov/portal/advanceSearch .	Oct. 5, 2026	060059
Orange	City of Irvine (25–09–0579P).	The Honorable Larry Agran, Mayor, City of Irvine, 1 Civic Center Plaza, Irvine, CA 92606.	City Hall, Community Development Department, 1 Civic Center Plaza, Irvine, CA 92606.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	060222
Riverside	City of Banning (25–09–1155P).	The Honorable Richard Royce, Mayor, City of Banning, 99 East Ramsey Street, Banning, CA 92220.	City Hall, 99 East Ramsey Street, Banning, CA 92220.	https://msc.fema.gov/portal/advanceSearch .	Oct. 19, 2026	060246
Riverside	City of Corona (26–09–0139P).	The Honorable Jacque Casillas, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	City Hall, 400 South Vicentia Avenue, Corona, CA 92882.	https://msc.fema.gov/portal/advanceSearch .	Oct. 13, 2026	060250
Riverside	City of Indio (25–09–0943P).	The Honorable Elaine Holmes, Mayor, City of Indio, 100 Civic Center Mall, Indio, CA 92201.	City Hall, 100 Civic Center Drive, Indio, CA 92201.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	060255
Riverside	City of Norco (26–09–0038P).	The Honorable Robin Grundmeyer, Mayor, City of Norco, 2870 Clark Avenue, Norco, CA 92860.	City Hall, 2870 Clark Avenue, Norco, CA 92860.	https://msc.fema.gov/portal/advanceSearch .	Oct. 15, 2026	060256
Riverside	City of Rancho Mirage (26–09–0116P).	The Honorable Lynn Malotto, Mayor, City of Rancho Mirage, 69825 Highway 111, Rancho Mirage, CA 92270.	City Hall, 69825 Highway 111, Rancho Mirage, CA 92270.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	060259
Riverside	City of Riverside, (25–09–1112P).	The Honorable Patricia Lock Dawson, Mayor, City of Riverside, 3900 Main Street, Riverside, CA 92522.	City Hall, 3900 Main Street, Riverside, CA 92522.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	060260
Riverside	Unincorporated Areas of Riverside County (25–09–0943P).	The Honorable V. Manuel Perez, Chair, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control District Building, 1995 Market Street, Riverside, CA 92501.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	060245
Riverside	Unincorporated Areas of Riverside County (26–09–0139P).	The Honorable V. Manuel Perez, Chair, Riverside County Board of Supervisors, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County Flood Control District Building, 1995 Market Street, Riverside, CA 92501.	https://msc.fema.gov/portal/advanceSearch .	Oct. 13, 2026	060245
Sacramento	Unincorporated Areas of Sacramento County (26–09–0448X).	David Villanueva, County Executive, Sacramento County, 700 H Street, Room 7650, Sacramento, CA 95814.	Sacramento County, Department of Water Resources, 827 7th Street, Sacramento, CA 95814.	https://msc.fema.gov/portal/advanceSearch .	Sep. 30, 2026	060262
San Bernardino.	City of Rancho Cucamonga (25–09–1066P).	The Honorable L. Dennis Michael, Mayor, City of Rancho Cucamonga, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.	City Hall, 10500 Civic Center Drive, Rancho Cucamonga, CA 91730.	https://msc.fema.gov/portal/advanceSearch .	Oct. 13, 2026	060671
San Joaquin ...	City of Stockton (26–09–0283P).	Johnny Ford, City Manager, City of Stockton, 425 North El Dorado Street, Stockton, CA 95202.	Permit Center, 345 North El Dorado Street, Stockton, CA 95202.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	060302

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
San Joaquin ...	City of Tracy (25–09–0568P).	Midori Lichtwardt, City Manager, City of Tracy, 333 Civic Center Plaza, Tracy, CA 95376.	City Hall, 333 Civic Center Plaza, Tracy, CA 95376.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	060303
San Joaquin ...	Unincorporated Areas of San Joaquin County (25–09–0568P).	Sandy Regalo, County Administrator, San Joaquin County, 44 North San Joaquin Street, Sixth Floor, Suite 640, Stockton, CA 95202.	San Joaquin County Public Works Department, Water Resources Division, 1810 East Hazelton Avenue, Stockton, CA 95205.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	060299
Santa Barbara	City of Santa Barbara (25–09–0750P).	Kelly McAdoo, City Administrator, City of Santa Barbara, 735 Anacapa Street, Santa Barbara, CA 93101.	City Hall, 735 Anacapa Street, Santa Barbara, CA 93101.	https://msc.fema.gov/portal/advanceSearch .	Oct. 2, 2026	060335
Colorado: Adams	Unincorporated Areas of Adams County (25–08–0339P).	The Honorable Julie Duran Mullica, Chair, Adams County Board of Commissioners, 4430 South Adams County Parkway, 5th Floor, Suite C5000A, Brighton, CO 80601.	Adams County Community and Economic Development, 4430 South Adams County Parkway, 1st Floor, Suite W2000, Brighton, CO 80601.	https://msc.fema.gov/portal/advanceSearch .	Oct. 2, 2026	080001
Arapahoe	City of Cherry Hills Village (25–08–0275P).	The Honorable Katy Brown, Mayor, City of Cherry Hills Village, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113.	Village Center, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113.	https://msc.fema.gov/portal/advanceSearch .	Oct. 2, 2026	080013
Boulder	Town of Lyons (25–08–0714P).	The Honorable Mark Browning, Mayor, Town of Lyons, P.O. Box 49, Lyons, CO 80540.	Town Hall, 432 5th Avenue, Lyons, CO 80540.	https://msc.fema.gov/portal/advanceSearch .	Oct. 5, 2026	080029
Boulder	Unincorporated Areas of Boulder County (25–08–0714P).	The Honorable Claire Levy, Chair, Boulder County Board of Commissioners, P.O. Box 471, Boulder, CO 80306.	Boulder County Community, Planning and Permitting Building, 2045 13th Street, Boulder, CO 80302.	https://msc.fema.gov/portal/advanceSearch .	Oct. 5, 2026	080023
El Paso	Town of Monument (26–08–0039P).	The Honorable Mitch LaKind, Mayor, Town of Monument, 645 Beacon Lite Road, Monument, CO 80132.	Town Hall, 645 Beacon Lite Road, Monument, CO 80132.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	080064
El Paso	Unincorporated Areas of El Paso County (26–08–0039P).	The Honorable Carrie Geitner, Chair, El Paso County Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County, Pikes Peak Regional Building Department, 2880 International Circle, Colorado Springs, CO 80910.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	080059
Jefferson	City of Arvada (25–08–0611P).	The Honorable Lauren Simpson, Mayor, City of Arvada, 8101 Ralston Road, Arvada, CO 80002.	City Hall, 8101 Ralston Road, Arvada, CO 80002.	https://msc.fema.gov/portal/advanceSearch .	Sep. 25, 2026	085072
Jefferson	Unincorporated Areas of Jefferson County (25–08–0496P).	The Honorable Andy Kerr, Chair, Jefferson County Board of Commissioners, 100 Jefferson County Parkway, Suite 5550, Golden, CO 80419.	Jefferson County Planning and Zoning Division, 100 Jefferson County Parkway, Suite 3550, Golden, CO 80419.	https://msc.fema.gov/portal/advanceSearch .	Oct. 2, 2026	080087
Larimer	Town of Berthoud (25–08–0515P).	The Honorable William Karspeck, Mayor, Town of Berthoud, P.O. Box 1229, Berthoud, CO 80513.	Town Hall, 807 Mountain Avenue, Berthoud, CO 80513.	https://msc.fema.gov/portal/advanceSearch .	Sep. 21, 2026	080296
Hawaii: Maui	Maui County (26–09–0530X).	The Honorable Richard T. Bissen Jr., Mayor, Maui County, 200 South High Street, Kalana O Maui Building, 9th Floor, Wailuku, HI 96793.	Maui County, Kalana O Maui Building, 200 South High Street, Wailuku, HI 96793.	https://msc.fema.gov/portal/advanceSearch .	Oct. 9, 2026	150003
Idaho: Ada	City of Meridian (25–10–0526P).	The Honorable Robert Simison, Mayor, City of Meridian, 33 East Broadway Avenue, Meridian, ID 83642.	City Hall, 33 East Broadway Avenue, Meridian, ID 83642.	https://msc.fema.gov/portal/advanceSearch .	Oct. 5, 2026	160180

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Ada	Unincorporated Areas of Ada County, (25–10–0526P).	The Honorable Rod Beck, Chair, Ada County Board of Commissioners, 200 West Front Street, Boise, ID 83702.	Ada County Development Services, 200 West Front Street, Boise, ID 83702.	https://msc.fema.gov/portal/advanceSearch .	Oct. 5, 2026	160001
Washington: King	City of Redmond (25–10–0200P).	The Honorable Angela Birney, Mayor, City of Redmond, 15670 NE 85th Street, Redmond, WA 98073.	City Hall, 15670 NE 85th Street, Redmond, WA 98073.	https://msc.fema.gov/portal/advanceSearch .	Sep. 23, 2026	530087
King	Unincorporated Areas of King County (25–10–0200P).	Girmay Zahilay, County Executive, King County, 401 5th Avenue, Suite 800, Seattle, WA 98104.	King County Building, 201 South Jackson Street, Suite 6300, Seattle, WA 98104.	https://msc.fema.gov/portal/advanceSearch .	Sep. 23, 2026	530071
Spokane	Unincorporated Areas of Spokane County (25–10–0255P).	The Honorable Mary Kuney, Chair, Spokane County Board of Commissioners, 1116 West Broadway Avenue, Spokane, WA 99260.	Spokane County, County Building, 1116 West Broadway Avenue, Spokane, WA 99260.	https://msc.fema.gov/portal/advanceSearch .	Sep. 28, 2026	530174

[FR Doc. 2026–17072 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2025–0278; OMB No. 1660–0131]

Agency Information Collection Activities: Submission for OMB Review, Comment Request; Threat and Hazard Identification and Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) Unified Reporting Tool

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 30-Day notice of extension and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning this annual requirement for the U.S. Department of Homeland Security (DHS), FEMA to identify current capability levels for all States, territories, urban areas, and Tribes receiving non-disaster

preparedness grant funds administered by DHS.

DATES: Comments must be submitted on or before September 21, 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: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address FEMA-Information-Collections-Management@fema.dhs.gov or Benjamin Berger, Branch Chief, Risk Identification and Capability Assessments Branch, National Integration Center, FEMA, 202–372–5446, and Benjamin.berger@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: This package is an extension to the collection titled the Threat and Hazard Identification and Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) Unified Reporting Tool under OMB Control Number 1660–0131. The Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) (Pub. L. 109–295), as amended by the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53), established an annual preparedness reporting requirement for States and territories through the State Preparedness Report (PKEMRA Section 652(c), 6 U.S.C. 752(c)). FEMA

subsequently expanded preparedness reporting through the Stakeholder Preparedness Review (SPR), which is now completed annually by States, territories, urban areas, and Tribes receiving DHS non-disaster preparedness grant funding. Each report must include a description of current capability levels, a discussion of the extent to which target capabilities identified in the applicable state homeland security plan and other applicable plans are unmet, and an assessment of resources needed to meet the preparedness priorities established under PKEMRA Section 646(e) (6 U.S.C. 746(e)), including: (i) an estimate of the amount of expenditures required to attain the preparedness priorities; and (ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities. To meet this requirement, States, territories, urban areas, and Tribes first identify capability targets through THIRA and then assess against these targets in the SPR. Through the SPR, these jurisdictions estimate their current capabilities, identify and describe gaps between current capabilities and targets, indicate their intended approach for addressing gaps in the future, and report on the impact of Federal grant dollars in building and sustaining capabilities. It is also important to note that completing the THIRA and SPR are allowable expenses under the grant awards.

This proposed information collection previously published in the **Federal Register** on February 11, 2026, at 91 FR 6240 with a 60-day public comment period. FEMA received 14 comments. Respondents stated that the THIRA/SPR process imposes a significant burden while providing limited practical value,

with concerns that the methodology is inconsistently applied and difficult to compare across jurisdictions. Additional issues included challenges with data aggregation, unclear use of the data, and usability limitations of the Unified Reporting Tool. FEMA acknowledges these concerns and reiterates its commitment to the Paperwork Reduction Act, including minimizing burden and improving data utility. FEMA will consider the comments in its ongoing evaluation of THIRA/SPR, including opportunities to improve guidance, increase consistency, enhance reporting tools, and strengthen the usefulness of the data, while continuing stakeholder engagement. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Threat and Hazard Identification and Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) Unified Reporting Tool.

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0131.

FEMA Forms: FEMA Form FF–008–FY–21–106 (formerly FEMA Forms 008–0–19 and 008–0–20), Threat and Hazard Identification and Risk Assessment (THIRA)/Stakeholder Preparedness Review (SPR) Unified Reporting Tool ; FEMA Form FF–008–FY–21–107 (formerly FEMA Form 0080–0–23), THIRA/SPR After Action Conference Calls.

Abstract: The information collected enables States, territories, urban areas, and Tribes, along with the Federal Government, to understand the risks these jurisdictions face from threats and hazards, to estimate the capabilities and resources they need to manage those risks, to assess their current capability levels against their targeted capability levels, and to identify gaps between their current capabilities and the capabilities they need. FEMA and state, territory, urban area, and tribal jurisdictions use THIRA and SPR information to inform and prioritize their preparedness programs and activities.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 256.

Estimated Number of Responses: 256.

Estimated Total Annual Burden Hours: 88,779.

Estimated Total Annual Respondent Cost: \$5,863,853.

Estimated Respondents' Operation and Maintenance Costs: \$18,564,156.
Estimated Respondents' Capital and Start-Up Costs: \$0.
Estimated Total Annual Cost to the Federal Government: \$2,435,517.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Nigel S. Allcock,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2026–17125 Filed 8–20–26; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2026–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having an effect in order to qualify or remain qualified for participation in the Federal

Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of December 23, 2026 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at <https://msc.fema.gov> by the date indicated above.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Calhoun County, Mississippi and Incorporated Areas Docket No's: FEMA-B-2247 and FEMA-B-2507	
City of Bruce	City Hall, 100 Public Square, Bruce, MS 38915.
City of Calhoun City	City Hall, 102 South Monroe Street, Calhoun City, MS 38916.
Town of Derma	Town Hall, 120 South Main Street, Derma, MS 38839.
Town of Pittsboro	Town Hall, 103 East Main Street, Pittsboro, MS 38951.
Unincorporated Areas of Calhoun County	Calhoun County 911 Office, 178 South Murphree Street, Pittsboro, MS 38951.
Village of Big Creek	Town Hall, 101 West Main Street, Big Creek, MS 38914.
Grenada County, Mississippi and Incorporated Areas Docket No's: FEMA-B-2247, FEMA-B-2466	
City of Grenada	City Hall, 108 South Main Street, Grenada, MS 38901.
Unincorporated Areas of Grenada County	Grenada County Courthouse, 59 Green Street, Suite 1, Grenada, MS 38901.
Yalobusha County, Mississippi and Incorporated Areas Docket No.: FEMA-B-2507	
City of Water Valley	City Hall, 101 Blackmur Drive, Water Valley, MS 38965.
Unincorporated Areas of Yalobusha County	Yalobusha County Courthouse, 14400 Main Street, Coffeeville, MS 38922.
Whitman County, Washington and Incorporated Areas Docket No.: FEMA-B-2505	
City of Colfax	City Hall, 400 Mill Street, Colfax, WA 99111.
City of Palouse	City Hall, 120 East Main Street, Palouse, WA 99161.
City of Pullman	City Hall, 190 Southeast Crestview Street, Building A, Pullman, WA 99163.
City of Tekoa	City Hall, 419 North Washington Street, Tekoa, WA 99033.
Town of Albion	Town Hall, 310 North F Street, Albion, WA 99102.
Town of Colton	Town Hall, 706 Broadway Street, Colton, WA 99113.
Town of Endicott	Town Hall, 201 C Street, Endicott, WA 99125.
Town of Farmington	Town Hall, 203 East Main Street, Farmington, WA 99128.
Town of Garfield	Town Hall, 405 West California Street, Garfield, WA 99130.
Town of Lamont	Town Hall, 302 8th Street, Lamont, WA 99017.
Town of Malden	Town Hall, 14 West Moreland Avenue, Malden, WA 99149.
Town of Oakesdale	Town Hall, 105 North 1st Street, Oakesdale, WA 99158.
Town of Rosalia	Town Hall, 110 West 5th Street, Rosalia, WA 99170.
Town of Saint John	Town Hall, 1 East Front Street, Saint John, WA 99171.
Town of Uniontown	Town Hall, 110 South Montgomery Street, Uniontown, WA 99179.
Unincorporated Areas of Whitman County	Whitman County Public Works Building, 310 North Main Street, Colfax, WA 99111.

[FR Doc. 2026-17073 Filed 8-20-26; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA-2026-0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone

designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having an effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of November 27, 2026 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at <https://msc.fema.gov> by the date indicated above.

FOR FURTHER INFORMATION CONTACT: David N. Bascom, Acting Director, Engineering and Modeling Division, Federal Insurance Directorate, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the

FEMA Map Service Center at <https://msc.fema.gov>.

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Larimer County, Colorado and Incorporated Areas Docket No.: FEMA-B-2225	
City of Fort Collins	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.
City of Loveland	Public Works Department, 2525 West 1st Street, Loveland, CO 80537.
Town of Estes Park	Town Hall, 170 MacGregor Avenue, Estes Park, CO 80517.
Town of Johnstown	Town Hall, 450 South Parish Avenue, Johnstown, CO 80534.
Town of Timnath	Town of Timnath Map Repository, TST Inc., 748 Whalers Way, Fort Collins, CO 80525.
Town of Wellington	Town Hall, 3735 Cleveland Avenue, Wellington, CO 80549.
Town of Windsor	Town Hall, 301 Walnut Street, Windsor, CO 80550.
Unincorporated Areas of Larimer County	Larimer County Courthouse Offices Building, 200 West Oak Street, Suite 3000, Fort Collins, CO 80521.
Allen County, Kansas and Incorporated Areas Docket No.: FEMA-B-2523	
City of Bassett	Bassett City Hall, 1821 South State Street, Iola, KS 66749.
City of Humboldt	City Hall, 725 Bridge Street, Humboldt, KS 66748.
City of Iola	City Hall, 2 West Jackson Avenue, Iola, KS 66749.
City of La Harpe	City Hall, 902 South Washington Avenue, La Harpe, KS 66751.
Unincorporated Areas of Allen County	Allen County Courthouse, 1 North Washington Avenue, Iola, KS 66749.
Crawford County, Kansas and Incorporated Areas Docket No.: FEMA-B-2540	
City of Arcadia	City Hall, 106 East Race Street, Arcadia, KS 66711.
City of Arma	City Hall, 701 East Washington Street, Arma, KS 66712.
City of Cherokee	City Hall, 210 South Vine Street, Cherokee, KS 66724.
City of Frontenac	City Hall, 313 East McKay Street, Frontenac, KS 66763.
City of Girard	City Hall, 120 North Ozark Street, Girard, KS 66743.
City of Hepler	City Hall, 105 South Prairie Avenue, Hepler, KS 66746.
City of McCune	City Hall, 609 Main Street, McCune, KS 66753.
City of Pittsburg	City Hall, 201 West 4th Street, Pittsburg, KS 66762.
City of Walnut	City Hall, 210 South Main Street, Walnut, KS 66780.
Unincorporated Areas of Crawford County	Crawford County Courthouse, 111 East Forest Street, Girard, KS 66743.
Carroll County, Maryland and Incorporated Areas Docket No.: FEMA-B-2530	
Town of Mount Airy	Town Hall, 110 S Main Street, Mount Airy, MD 21771.
Town of Sykesville	Town House, 7547 Main Street, Sykesville, MD 21784.
Town of Union Bridge	Town Hall, 104 W Locust Street, Union Bridge, MD 21791.
Unincorporated Areas of Carroll County	Carroll County Government, 225 N Center Street, Westminster, MD 21157.
Jefferson County, West Virginia and Incorporated Areas Docket No.: FEMA-B-2530	
City of Charles Town	City Hall, 101 E Washington Street, Charles Town, WV 25414.
City of Ranson	City Hall, 312 S Mildred Street, Ranson, WV 25438.
Town of Bolivar	Bolivar Town Hall, 60 Panama Street, Harpers Ferry, WV 25425.
Town of Harpers Ferry	Town Hall, 1000 W Washington Street, Harpers Ferry, WV 25425.
Town of Shepherdstown	Corporation of Shepherdstown, 104 N King Street, Shepherdstown, WV 25443.

Community	Community map repository address
Unincorporated Areas of Jefferson County	Jefferson County Office of Code Enforcement & Floodplain Management, 116 E Washington Street, Suite 100, Charles Town, WV 25414.

[FR Doc. 2026–17077 Filed 8–20–26; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency**

[Docket ID FEMA–2026–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address

listed in the table below and online through the FEMA Map Service Center at <https://msc.fema.gov>.

FOR FURTHER INFORMATION CONTACT:

David N. Bascom, Acting Director, Engineering and Modeling Division, National Flood Insurance Program, Resilience, FEMA, 400 C Street SW, Washington, DC 20472, or (email) david.bascom@fema.dhs.gov; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Assistant Administrator, Federal Insurance Directorate, Resilience has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

The current effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that

the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at <https://msc.fema.gov>.

(Catalog of Federal Domestic Assistance No. 97.022, “Flood Insurance.”)

Elizabeth Asche,

Assistant Administrator, Federal Insurance Directorate, Resilience Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Florida:					
Bay (FEMA Docket No.: B–2610).	Unincorporated areas of Bay County (25–04–3569P).	Joel Schubert, Manager, Bay County, 840 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 840 West 11th Street, Panama City, FL 32401.	May 26, 2026	120004
Brevard (FEMA Docket No.: B–2610).	Unincorporated areas of Brevard County (25–04–3026P).	Jim Liesenfelt, Interim Manager, Brevard County, 2725 Judge Fran Jamieson Way, Building A, Room 204, Viera, FL 32940.	Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building A, Room 204, Viera, FL 32940.	Jun. 1, 2026	125092
Charlotte (FEMA Docket No.: B–2610).	Unincorporated areas of Charlotte County (25–04–4672P).	The Honorable Bill Truex, Chair, Charlotte County Board of Commissioners, 18500 Murdock Circle, Suite 536, Port Charlotte, FL 33948.	Charlotte County Building Department 18400 Murdock Circle Port Charlotte, FL 33948.	May 13, 2026	120061
Orange (FEMA Docket No.: B–2610).	City of Orlando (25–04–0237P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department Engineering Division, 400 South Orange Avenue, 8th Floor, Orlando, FL 32801.	Jun. 2, 2026	120186
Orange (FEMA Docket No.: B–2610).	City of Orlando (26–04–0146P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	Public Works Department Engineering Division, 400 South Orange Avenue, 8th Floor Orlando, FL 32801.	Jun. 1, 2026	120186

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Orange (FEMA Docket No.: B-2610).	Unincorporated areas of Orange County (26-04-0146P).	The Honorable Jerry L. Demings, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Public Works Department, Stormwater Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	Jun. 1, 2026	120179
Pasco (FEMA Docket No.: B-2610).	Unincorporated areas of Pasco County (25-04-5696P).	Mike Carballa, Pasco County Administrator, 8731 Citizens Drive, New Port Richey, FL 34654.	Pasco County Building Construction Services, 8731 Citizens Drive, Suite 100 New Port Richey, FL 34654.	Jun. 4, 2026	120230
Indiana: Marion (FEMA Docket No.: B-2610).	City of Indianapolis (24-05-1022P).	The Honorable Joe Hogsett, Mayor, City of Indianapolis, 200 East Washington Street, Suite 2501, Indianapolis, IN 46204.	Department of Business and Neighborhood Services, 200 East Washington Street, Suite 107, Indianapolis, IN 46204.	Jun. 8, 2026	180159
Mississippi: DeSoto (FEMA Docket No.: B-2610).	Unincorporated areas of DeSoto County (26-04-0494P).	The Honorable Mark Gardner, President, DeSoto County Board of Supervisors, 365 Loshier Street, Hernando, MS 38632.	DeSoto County Administration Building, 365 Loshier Street, Hernando, MS 38632.	Jun. 5, 2026	280050
New Mexico: Dona Ana (FEMA Docket No.: B-2610).	City of Sunland Park (25-06-1571P).	Mario Juarez-Infante, Manager and Floodplain Administrator, City of Sunland Park, 1000 McNutt Road, Suite A, Sunland Park, NM 88063.	City Hall, 1000 McNutt Road, Sunland Park, NM 88063.	Jun. 5, 2026	350147
Dona Ana (FEMA Docket No.: B-2610).	Unincorporated areas of Dona Ana County (25-06-1571P).	Scott Andrews, Manager, Dona Ana County, 845 North Motel Boulevard, Las Cruces, NM 88007.	Dona Ana County Office of the Flood Commission, 845 North Motel Boulevard, Las Cruces, NM 88007.	Jun. 5, 2026	350012
Ohio: Butler (FEMA Docket No.: B-2610).	City of Trenton (25-05-1454P).	The Honorable Ryan Perry, Mayor, City of Trenton, 11 East State Street, Trenton, OH 45067.	City Hall, 11 East State Street, Trenton, OH 45067.	Jun. 1, 2026	390047
Butler (FEMA Docket No.: B-2610).	Unincorporated areas of Butler County (25-05-1454P).	The Honorable Donald L. Dixon, President, Butler County Board of Commissioners, 315 High Street, Hamilton, OH 45011.	Butler County Administrative Center, 130 High Street, Hamilton, OH 45011.	Jun. 1, 2026	390037
Delaware (FEMA Docket No.: B-2610).	Unincorporated areas of Delaware County (25-05-1319P).	The Honorable Jeff Benton, Chair, Delaware County Board of Commissioners, 91 North Sandusky Street, Delaware, OH 43015.	Delaware County Engineering Building, 1610 State Route 521, Delaware, OH 43015.	Jun. 4, 2026	390146
Franklin (FEMA Docket No.: B-2610).	City of Columbus (25-05-1319P).	The Honorable Andrew J. Ginther, Mayor, City of Columbus, 90 West Broad Street, Columbus, OH 43215.	Sewer Maintenance Operations Control (SMOC), 1250 Fairwood Avenue, Columbus, OH 43206.	Jun. 4, 2026	390170
Franklin (FEMA Docket No.: B-2610).	City of Columbus (26-05-0330P).	The Honorable Andrew J. Ginther, Mayor, City of Columbus, 90 West Broad Street, Columbus, OH 43215.	Sewer Maintenance Operations Control (SMOC) 1250 Fairwood Avenue Columbus, OH 43206.	Jun. 5, 2026	390170
Franklin (FEMA Docket No.: B-2610).	City of New Albany (25-05-1319P).	The Honorable Sloan Spalding, Mayor, City of New Albany, 99 West Main Street, New Albany, OH 43054.	Public Services Building, 7800 Bevelhimer Road, New Albany, OH 43054.	Jun. 4, 2026	390895
Franklin (FEMA Docket No.: B-2610).	Unincorporated areas of Franklin County (25-05-1319P).	The Honorable John O'Grady, Chair, Franklin County Board of Commissioners, 373 South High Street, Columbus, OH 43215.	Franklin County Economic Development and Planning, 150 South Front Street, FSL Suite 10, Columbus, OH 43215.	Jun. 4, 2026	390167
Pennsylvania: Lancaster (FEMA Docket No.: B-2610).	Township of Warwick (25-03-0394P).	Brian Harris, Manager, Township of Warwick, 315 Clay Road, Lititz, PA 17543.	Department of Public Works, 315 Clay Road, Lititz, PA 17543.	Jun. 11, 2026	421786
Washington (FEMA Docket No.: B-2610).	Township of Chartiers (25-03-0224P).	Jodi Noble, Manager, Township of Chartiers, 2 Buccaneer Drive, Houston, PA 15342.	Township Hall, 2 Buccaneer Drive, Houston, PA 15342.	Jun. 2, 2026	422144
Washington (FEMA Docket No.: B-2610).	Township of South Strabane (25-03-0224P).	Jordan Cramer, Interim Manager/Floodplain Administrator, Township of South Strabane, 550 Washington Road, Washington, PA 15301.	Township Hall, 550 Washington Road, Washington, PA 15301.	Jun. 2, 2026	422155
Tennessee: Dyer (FEMA Docket No.: B-2610).	City of Dyersburg (24-04-5388P).	The Honorable John Holden, Mayor, City of Dyersburg, 425 West Court Street, Dyersburg, TN 38025.	City Hall, 425 West Court Street, Dyersburg, TN 38025.	May 29, 2026	470047
Dyer (FEMA Docket No.: B-2610).	Unincorporated areas of Dyer County (24-04-5388P).	The Honorable David Quick, Mayor, Dyer County, 101 West Court Street, Dyersburg, TN 38024.	Dyer County Courthouse, 101 West Court Street, Dyersburg, TN 38024.	May 29, 2026	470284
Maury (FEMA Docket No.: B-2610).	Unincorporated areas of Maury County (25-04-3682P).	The Honorable Sheila K. Butt, Mayor, Maury County, 41 Public Square, Columbia, TN 38401.	Maury County Building and Zoning Office, 5 Public Square, Columbia, TN 38401.	Jun. 1, 2026	470123
Texas: Collin (FEMA Docket No.: B-2610).	City of McKinney (24-06-2633P).	The Honorable Bill Cox, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	Engineering Department, 401 East Virginia Street, McKinney, TX 75069.	Jun. 8, 2026	480135
Collin (FEMA Docket No.: B-2610).	Unincorporated areas of Collin County (24-06-2633P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, 1st Floor, McKinney, TX 75071.	Collin County Engineering Building, 4690 Community Avenue, Suite 200, McKinney, TX 75071.	Jun. 8, 2026	480130

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Dallas (FEMA Docket No.: B-2610).	City of Dallas (25-06-1160P).	Kimberly Bizar Tolbert, Manager, City of Dallas, 1500 Marilla Street, Suite 4EN, Dallas, TX 75201.	Stormwater Operations, 2245 Irving Boulevard, 2nd Floor, Dallas, TX 75207.	Jun. 5, 2026	480171
Dallas (FEMA Docket No.: B-2610).	City of Hutchins (25-06-1160P).	The Honorable Mario Vasquez, Mayor, City of Hutchins, P.O. Box 500, Hutchins, TX 75141.	City Hall, 400 North JJ Lemmon Road, Hutchins, TX 75141.	Jun. 5, 2026	480179
Harris (FEMA Docket No.: B-2610).	City of Houston (25-06-0314P).	The Honorable John Whitmire, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Office, 1002 Washington Avenue, Houston, TX 77002.	May 18, 2026	480296
Harris (FEMA Docket No.: B-2610).	Unincorporated areas of Harris County (25-06-0314P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Office of the Engineer, 1111 Fannin Street, 11th Floor, Houston, TX 77002.	May 18, 2026	480287
Hays (FEMA Docket No.: B-2610).	City of San Marcos (25-06-0411P).	The Honorable Jane Hughson, Mayor, City of San Marcos, 630 East Hopkins Street, San Marcos, TX 78666.	City Hall, 630 East Hopkins Street, San Marcos, TX 78666.	May 21, 2026	485505
Hays (FEMA Docket No.: B-2610).	Unincorporated areas of Hays County (25-06-0411P).	The Honorable Ruben Becerra Hays County Judge 111 East San Antonio Street, Suite 300 San Marcos, TX 78666.	Hays County Development Services Department 2171 Yarrington Road, Suite 100 Kyle, TX 78640.	May 21, 2026	480321
Hill (FEMA Docket No.: B-2610).	City of Hillsboro (24-06-1903P).	The Honorable Scott Johnson, Mayor, City of Hillsboro, P.O. Box 568, Hillsboro, TX 76645.	Administration Building, 214 East Elm Street, Hillsboro, TX 76645.	May 29, 2026	480351
Hill (FEMA Docket No.: B-2610).	Unincorporated areas of Hill County (24-06-1903P).	The Honorable Shane Brassell, Hill County Judge, P.O. Box 457, Hillsboro, TX 76645.	Hill County Courthouse, 1 North Waco Street, Hillsboro, TX 76645.	May 29, 2026	480857
Kaufman (FEMA Docket No.: B-2610).	City of Forney (25-06-2348P).	Charles W. Daniels, Manager, City of Forney, P.O. Box 826, Forney, TX 75126.	City Hall, 101 East Main Street, Forney, TX 75126.	Jun. 5, 2026	480410
Kaufman (FEMA Docket No.: B-2610).	Unincorporated areas of Kaufman County (25-06-2348P).	The Honorable Jakie Allen, Kaufman County Judge, 1902 East U.S. Highway 175, Kaufman, TX 75142.	Kaufman County Development Services Department, 101 North Houston Street, Kaufman, TX 75142.	Jun. 5, 2026	480411
McLennan (FEMA Docket No.: B-2610).	City of Waco (24-06-2440P).	The Honorable Jim Holmes, Mayor, City of Waco, P.O. Box 2570, Waco, TX 76702.	Dr. Mae Jackson Development Center, 401 Franklin Avenue, Waco, TX 76701.	Jun. 10, 2026	480461
McLennan (FEMA Docket No.: B-2610).	Unincorporated areas of McLennan County (24-06-2440P).	The Honorable Scott M. Felton, McLennan County Judge, P.O. Box 1728, Waco, TX 76703.	McLennan County Engineering and Mapping Department, 215 North 5th Street, Suite 130, Waco, TX 76701.	Jun. 10, 2026	480456
Tarrant (FEMA Docket No.: B-2610).	City of Fort Worth (24-06-2181P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 100 Fort Worth Trail, Fort Worth, TX 76102.	Department of Transportation and Public Works Stormwater Management Division, 100 Fort Worth Trail, Fort Worth TX, 76102.	May 26, 2026	480596
Tarrant (FEMA Docket No.: B-2610).	Unincorporated areas of Tarrant County (24-06-2181P).	The Honorable Tim O'Hare, Tarrant County Judge, 100 East Weatherford Street, Suite 501 Fort Worth, TX 76196.	Tarrant County Transportation Services Department 100 East Weatherford Street, Suite 401 Fort Worth, TX 76196.	May 26, 2026	480582
Webb (FEMA Docket No.: B-2610).	City of Laredo (24-06-0825P).	The Honorable Victor D. Treviño, Mayor, City of Laredo, 1110 Houston Street, Laredo, TX 78040.	City Hall, 1110 Houston Street, Laredo, TX 78040.	Jun. 8, 2026	480651
Virginia:					
Independent City (FEMA Docket No.: B-2610).	City of Manassas (25-03-0513P).	The Honorable Michelle Davis-Younger, Mayor, City of Manassas, 9027 Center Street, Manassas, VA 20110.	City Hall, 9027 Center Street, Manassas, VA 20110.	Jun. 12, 2026	510122
Loudoun (FEMA Docket No.: B-2610).	Town of Leesburg (25-03-0571P).	Kaj Dentler, Manager, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Department of Community Development, 222 Catoctin Circle Southeast, Suite 200, Leesburg, VA 20175.	Jun. 1, 2026	510091
Loudoun (FEMA Docket No.: B-2610).	Unincorporated areas of Loudoun County (25-03-0571P).	Tim Hemstreet, Loudoun County Administrator, 1 Harrison Street Southeast, 5th Floor, Leesburg, VA 20175.	Loudoun County Government Center, 1 Harrison Street Southeast, 3rd Floor, MSC #60, Leesburg, VA 20175.	Jun. 1, 2026	510090
Prince William (FEMA Docket No.: B-2610).	Unincorporated areas of Prince William County (25-03-0573P).	The Honorable Christopher Shorter, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, 5 County Complex Court, Suite 170, Prince William, VA 22192.	May 15, 2026	510119
Wisconsin:					
Kenosha (FEMA Docket No.: B-2610).	Village of Pleasant Prairie (26-05-0043P).	The Honorable David J. Klimisch, President, Village of Pleasant Prairie Board, 9915 39th Avenue, Pleasant Prairie, WI 53158.	Village Hall, 9915 39th Avenue, Pleasant Prairie, WI 53158.	Jun. 5, 2026	550613
Sawyer (FEMA Docket No.: B-2610).	City of Hayward (24-05-0121P).	The Honorable Gary Gillis, Mayor, City of Hayward, P.O. Box 862, Hayward, WI 54843.	City Hall, 15889 West 3rd Street, Hayward, WI 54843.	May 21, 2026	550410

[FR Doc. 2026–17070 Filed 8–20–26; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

[Docket No. FR–7107–N–19; OMB Control
No.: 2577–0192]

30-Day Notice of Proposed Information
Collection: Requirements for
Designating Housing Projects

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: Comments due date: September 21, 2026.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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: Anna Guido, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW,

Room 8210, Washington, DC 20410; email at PaperworkReductionActOffice@hud.gov, ATTN: Anna Guido, telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 5, 2026 at 91 FR 24270.

A. Overview of Information Collection

Title of Information Collection:
Requirements for Designating Housing Projects.

OMB Approval Number: 2577–0192.
Type of Request: Reinstatement with change of previously approved collection.

Form Number: N/A.

Description of the need for the information and proposed use:

The information collection burden associated with designated housing is required by statute. Section 10 of the Housing Opportunity and Extension Act of 1996 modified Section 7 of the U.S. Housing Act of 1937 to require public housing agencies (PHAs) to submit a plan for HUD approval before a

project(s) can be designated as either elderly only, disabled only, or elderly and disabled. In this plan, PHAs must document why the designation is needed and provide all of the following information as required by 42 U.S.C. 1437e(d):

“A plan under this subsection for designating a project (or portion of a project) for occupancy under subsection (a)(1) is a plan, prepared by the public housing agency for the project and submitted to the Secretary, that—

(1) establishes that the designation of the project is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 12705 of this title; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the project (or portion of a project) to be designated;

(B) the types of tenants for which the project is to be designated;

(C) any supportive services to be provided to tenants of the designated project (or portion);

(D) how the design and related facilities (as such term is defined in section 1701q(d)(8)1 of title 12) of the project accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the project were not restricted pursuant to this section.”

Information collection	Number of respondents	Frequency of response	Responses per annum	Avg. burden hour per response (hours)	Annual burden hours	Hourly cost per response	Annual cost
New/Amendment Request (2577–0192)	21	1	21	15	315	\$42.50	\$13,387.50
Renewal Request (2577–0192)	22	1	22	3	66	42.50	2,805.00
Total	43	1	43	18	381	42.50	16,192.50

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Anna Guido,

Department PRA Compliance Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2026-17083 Filed 8-20-26; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-6604-N-01]

**Mortgage and Loan Insurance
Programs Under the National Housing
Act—Debenture Interest Rates**

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Administration under the provisions of the National Housing Act (the Act). The interest rate for debentures issued under Section 221(g)(4) of the Act during the 6-month period beginning January 1, 2026, is 4 percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that

the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the 6-month period beginning January 1, 2026, is 4¾ percent.

FOR FURTHER INFORMATION CONTACT:

Eden Teklebrhane, Department of Housing and Urban Development, 451 7th Street SW, Room 5146, Washington, DC 20410-8000; telephone (202) 402-2746 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (12 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. These regulatory provisions state that the applicable rates

of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the Secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 2026, is 4¾ percent; and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 4¾ percent for the 6-month period beginning January 1, 2026. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with insurance commitment or endorsement date (as applicable) within the next 6 months of 2026).

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.

Effective interest rate	On or after	Prior to
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6¾	Jan. 1, 1998	July 1, 1998.
6⅛	July 1, 1998	Jan. 1, 1999.
5½	Jan. 1, 1999	July 1, 1999.
6⅛	July 1, 1999	Jan. 1, 2000.
6½	Jan. 1, 2000	July 1, 2000.
6½	July 1, 2000	Jan. 1, 2001.
6	Jan. 1, 2001	July 1, 2001.
5⅞	July 1, 2001	Jan. 1, 2002.
5¼	Jan. 1, 2002	July 1, 2002.
5¾	July 1, 2002	Jan. 1, 2003.
5	Jan. 1, 2003	July 1, 2003.
4½	July 1, 2003	Jan. 1, 2004.
5⅛	Jan. 1, 2004	July 1, 2004.
5½	July 1, 2004	Jan. 1, 2005.
4⅞	Jan. 1, 2005	July 1, 2005.
4½	July 1, 2005	Jan. 1, 2006.
4⅞	Jan. 1, 2006	July 1, 2006.
5⅞	July 1, 2006	Jan. 1, 2007.
4¾	Jan. 1, 2007	July 1, 2007.
5	July 1, 2007	Jan. 1, 2008.
4½	Jan. 1, 2008	July 1, 2008.
4⅞	July 1, 2008	Jan. 1, 2009.
4⅛	Jan. 1, 2009	July 1, 2009.
4⅛	July 1, 2009	Jan. 1, 2010.
4¼	Jan. 1, 2010	July 1, 2010.
4⅛	July 1, 2010	Jan. 1, 2011.
3⅞	Jan. 1, 2011	July 1, 2011.
4⅛	July 1, 2011	Jan. 1, 2012.
2⅞	Jan. 1, 2012	July 1, 2012.
2¾	July 1, 2012	Jan. 1, 2013.
2½	Jan. 1, 2013	July 1, 2013.
2⅞	July 1, 2013	Jan. 1, 2014.
3⅞	Jan. 1, 2014	July 1, 2014.
3¼	July 1, 2014	Jan. 1, 2015.
3	Jan. 1, 2015	July 1, 2015.
2⅞	July 1, 2015	Jan. 1, 2016.
2⅞	Jan. 1, 2016	July 1, 2016.
2½	July 1, 2016	Jan. 1, 2017.
2¾	Jan. 1, 2017	July 1, 2017.
2⅞	July 1, 2017	Jan. 1, 2018.
2¾	Jan. 1, 2018	July 1, 2018.
3⅛	July 1, 2018	Jan. 1, 2019.
3⅞	Jan. 1, 2019	July 1, 2019.
2¾	July 1, 2019	Jan. 1, 2020.
2¼	Jan. 1, 2020	July 1, 2020.
1¼	July 1, 2020	Jan. 1, 2021.
1¾	Jan. 1, 2021	July 1, 2021.
2¼	July 1, 2021	Jan. 1, 2022.
1⅞	Jan. 1, 2022	July 1, 2022.
3¼	July 1, 2022	Jan. 1, 2023.
4¼	Jan. 1, 2023	July 1, 2023.
3⅞	July 1, 2023	Jan. 1, 2024.
4½	Jan. 1, 2024	July 1, 2024.
4¾	July 1, 2024	Jan. 1, 2025.
4⅞	Jan. 1, 2025	July 1, 2025.
4⅞	July 1, 2025	Jan. 1, 2026.
4¾	Jan. 1, 2026	July 1, 2026.

Section 215 of Division G, Title II of Public Law 108–199, enacted January 23, 2004 (HUD’s 2004 Appropriations Act) amended Section 224 of the Act, to change the debenture interest rate for purposes of calculating certain insurance claim payments made in cash. Therefore, for all claims paid in cash on mortgages insured under Section 203 or 234 of the National Housing Act and

endorsed for insurance after January 23, 2004, the debenture interest rate will be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years, as found in Federal Reserve Statistical Release H–15. The Federal Housing Administration has codified this provision in HUD

regulations at 24 CFR 203.405(b) and 24 CFR 203.479(b).

Similarly, Section 520(a) of the National Housing Act (12 U.S.C. 1735d) provides for the payment of an insurance claim in cash on a mortgage or loan insured under any section of the National Housing Act before or after the enactment of the Housing and Urban Development Act of 1965. The amount

of such payment shall be equivalent to the face amount of the debentures that would otherwise be issued, plus an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary. The implementing HUD regulations for multifamily insured mortgages at 24 CFR 207.259(e)(1) and (e)(6), when read together, provide that debenture interest on a multifamily insurance claim that is paid in cash is paid from the date of the loan default at the debenture rate in effect at the time of commitment or endorsement (or initial endorsement if there are two or more endorsements) of the loan, whichever is higher.

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the “going Federal rate” in effect at the time the debentures are issued. The term “going Federal rate” is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of 8- to 12-year maturities, for the 6-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.255 and 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the 6-month period beginning January 1, 2026, is 4 percent. The subject matter of this notice falls within the categorical exemption from HUD’s environmental clearance procedures set forth in 24 CFR 50.19(c)(6). For that reason, no

environmental finding has been prepared for this notice.

(Authority: Sections 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 1715l, 1715o; Section 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Joseph M. Gormley,

President of the Government National Mortgage Association performing the delegable duties of the Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 2026–17051 Filed 8–20–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7107–N–20; OMB Control No.: 2535–0102]

30-Day Notice of Proposed Information Collection: Electronic Line of Credit Control System (eLOCCS) System Access Authorization Form Collection

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comments from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date: September 21, 2026.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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:

Anna Guido, PRA Compliance Officer, Paperwork Reduction Act Division, PRAD, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; email at PaperworkReductionActOffice@hud.gov, ATTN: Anna Guido, telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 1, 2026 at 91 FR 32416.

A. Overview of Information Collection

Title of Information Collection: Electronic Line of Credit Control System (eLOCCS) System Access Authorization Form Collection.

OMB Approval Number: 2535–0102.

Type of Request: Revision of currently approved collection.

Form Number: HUD Form—27054E.

Description of the need for the information and proposed use:

(A) Establish access to the eLOCCS payment system.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–27054E	2,420.00	1.00	2,420.00	0.17	411.40	\$68.33	\$28,110.96
Total					411.40	68.33	28,110.96

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through

the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Anna Guido,

Department PRA Compliance Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2026–17085 Filed 8–20–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS–R4–ES–2026–2608;
FXES11140400000–267–FF04AL4000]

General Conservation Plan for the Alabama beach mouse; Categorical Exclusion; Baldwin County, AL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of application from each of Randy G. Carter, James W. Vladuchek, Joseph J. Smith, and Four Mile Marker, LLC (applicant/applicants) for four respective incidental take permits (ITP) pursuant to the Endangered Species Act (ESA) and the National Environmental Policy Act under the Service's approved General Conservation Plan (GCP) and final environmental impact statement for the Alabama beach mouse (ABM). A GCP is a mechanism that meets the definition of a conservation plan in the ESA and enables the programmatic permitting and conservation process to address a defined suite of proposed activities over a defined planning area. Each applicant requests an ITP to take the federally listed ABM incidental to the construction associated with residential development. We request public comment on these applications, which include the applicants' proposed habitat conservation plan, as well as on the Service's preliminary determination that the proposed permitting action may qualify under the terms of the ABM GCP. We certify that each of the applications received are statutorily complete and include the necessary information to enroll in the GCP.

DATES: Comments will be accepted on or before September 21, 2026. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

To ensure your comment is received and considered, you must submit it

using one of the methods identified in the **ADDRESSES** section of this document. Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered.

ADDRESSES: Comment submission: All submissions must include the docket number [FWS–R4–ES–2026–2608] for this document. You must submit comments using one of the following methods:

- **Electronic submission:** Federal eRulemaking Portal at: <https://www.regulations.gov>. In the search box enter FWS–R4–ES–2026–2608, which is the docket number for this action. Then click the Search button. On the resulting page, you may submit a comment by clicking on “Comment”. Please ensure that you have found the correct document before submitting your comments.

- **U.S. mail:** Public Comments Processing, Attn: Docket No. FWS–R4–ES–2026–2608; Policy and Regulations Branch, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041–3803.

Comments submitted through any method not authorized in this document, or sent to an address not listed here, will not be considered. We will not accept comments via email, fax, or hand delivery. We are not required to consider comments that are submitted after the comment period ends or that are submitted via a method outside of these instructions. Comments containing profanity, vulgarity, threats, or other inappropriate content will not be considered.

We will post all comments at <https://www.regulations.gov>. You may request that we withhold personal identifying information from public review; however, we cannot guarantee that we will be able to do so. See Public Availability of Comments for more information.

FOR FURTHER INFORMATION CONTACT:

William Lynn, by U.S. mail (see **ADDRESSES**), by telephone at 1–251–538–2065, or via email at william_lynn@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce receipt of applications under the approved General Conservation Plan

(GCP) for the Alabama beach mouse from Randy G. Carter, James W. Vladuchek, Joseph J. Smith, and Four Mile Marker, LLC for an ITP under the Endangered Species Act (ESA), as amended (16 U.S.C. 1531 *et seq.*). Each applicant requests an ITP to take the federally listed Alabama beach mouse (ABM; *Peromyscus polionotus ammobates*). One applicant will take ABM incidental to the construction of a single-family home, one will take ABM due to the construction of a garage with driveway, one will take ABM due to a deck with pool addition to an existing house, and one will take ABM incidental to the tear down and reconstruction of a single-family home in Baldwin County, Alabama. We request public comment on the applications, the applicants' HCPs, and on the Service's preliminary determination that these proposed ITPs may qualify for a categorical exclusion under the GCP and final environmental impact statement (FEIS) for the Alabama beach mouse published on March 28, 2012 (77 FR 18857).

Proposed Projects

Permit Number: PER26827056

Randy G. Carter, applicant, requests a 50-year ITP to take ABM via the conversion of 0.147 acres (ac) of occupied nesting, foraging, and sheltering ABM habitat incidental to the construction of a single-family home on a 0.99-ac parcel located at 2772 W. Beach Blvd., in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of \$14,690.79 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Permit Number: PER31663748

James W. Vladuchek, applicant, requests a 50-year ITP to take ABM via the conversion of 0.02 ac of occupied nesting, foraging, and sheltering ABM habitat incidental to the construction of a garage with driveway on a 0.212-ac parcel located at 369 Kinzallow Lane in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of \$1,968.80 to the Alabama Coastal Heritage Trust's ABM conservation fund.

*Permit Number: PER31737155
(Originally TE42768C–0)*

Joseph J. Smith, applicant, requests a modification of an existing 50-year ITP (TE42768C–0) to take Alabama beach mice via the additional conversion of 0.01 ac of occupied nesting, foraging, and sheltering ABM habitat incidental to the construction of a deck with pool

addition to an existing house on a 0.460-ac parcel located at 5645 Pizarro Avenue in Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of \$1,000.50 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Permit Number: PER32083666

Four Mile Marker, LLC, applicant, requests a 50-year ITP to take ABM via the additional conversion of 0.034 ac of occupied nesting, foraging, and sheltering ABM habitat incidental to the tear down and reconstruction of a single family home on a 0.723 ac lot located at 3802 Ponce de Leon Court, Gulf Shores, Alabama. The applicant proposes to mitigate for the take of ABM through an in-lieu fee of \$3,399.40 to the Alabama Coastal Heritage Trust's ABM conservation fund.

Our Preliminary Determination

The Service has made a preliminary determination that reasonably foreseeable effects of the applicants' proposed projects, including the construction of a single-family home, garage, deck with a pool addition and the tear down and reconstruction of a single-family home, would have a minor effect on ABM and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would meet the requirements of the GCP and FEIS.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We also will conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER26827056 to Randy G. Carter, ITP number PER31663748 to James W. Vladuchek, ITP Number PER31737155 to Joseph J. Smith, and ITP number PER32083666 to Four Mile Marker, LLC.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. If you submit a comment at <https://www.regulations.gov>, your entire

comment, including any personal identifying information, will be posted on the website. If you submit a hard copy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22), National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) as amended, and the Department of the Interior's implementing regulations (43 CFR part 46).

Jeffrey Powell,

Field Supervisor, Alabama Ecological Service Field Office, U.S. Fish and Wildlife Service.

[FR Doc. 2026-17152 Filed 8-20-26; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

**[267A2100DD/AAKC001030/
A0A501010.000000]**

Receipt of Documented Petition for Federal Acknowledgment as an American Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior (Department) gives notice that the group known as the Amah Mutsun Tribal Band of the Mission San Juan Bautista has filed a documented petition for Federal acknowledgment as an American Indian Tribe with the Assistant Secretary-Indian Affairs. The Department seeks comments and evidence from the public on the petition.

DATES: Comments and evidence must be postmarked by December 21, 2026.

ADDRESSES: Copies of the narrative portion of the documented petition, as submitted by the petitioner (with any redactions appropriate under 25 CFR 83.21(b)), and other information are

available at the Office of Federal Acknowledgment's (OFA) website: www.bia.gov/as-ia/ofa. Submit any comments or evidence to: Department of the Interior, Office of the Assistant Secretary-Indian Affairs, Attention: Office of Federal Acknowledgment, Mail Stop 4071 MIB, 1849 C Street NW, Washington, DC 20240, or by email to: Ofa_Info@bia.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Nikki Bass, OFA Director, Office of the Assistant Secretary-Indian Affairs, Department of the Interior, by phone: (202) 513-7650; or by email: Ofa_Info@bia.gov.

SUPPLEMENTARY INFORMATION: On July 31, 2015, the Department's revisions to 25 CFR part 83 became final and effective (80 FR 37861). A key goal of the revisions was to improve transparency through increased notice of petitions and providing improved public access to petitions. Today the Department informs the public that a complete documented petition has been submitted under the current regulations, that portions of that petition are publicly available on the website identified above for easy access, and that we are seeking public comment early in the process on this petition.

Under 25 CFR 83.22(b)(1), the OFA publishes notice that the following group has filed a documented petition for Federal acknowledgment as an American Indian Tribe to the Assistant Secretary-Indian Affairs: Amah Mutsun Tribal Band of the Mission San Juan Bautista. The contact information for the petitioner is Mr. Wayne F. Pierce, 8070 La Jolla Shores Drives, La Jolla, California 92037.

Also, under 25 CFR 83.22(b)(1), OFA publishes on its website the following:

- i. The narrative portion of the documented petition, as submitted by the petitioner (with any redactions appropriate under 25 CFR 83.21(b));
- ii. The name, location, and mailing address of the petitioner and other information to identify the entity;
- iii. The date of receipt;
- iv. The opportunity for individuals and entities to submit comments and evidence supporting or opposing the petitioner's request for acknowledgment within 120 days of the date of the website posting; and
- v. The opportunity for individuals and entities to request to be kept informed of general actions regarding a specific petitioner.

Authority

The Department publishes this notice and request for comment in the exercise of authority delegated by the Secretary

of the Interior to the Assistant Secretary–Indian Affairs by Department Manual part 209, chapter 8.

William Henry Kirkland III,

Assistant Secretary for Indian Affairs.

[FR Doc. 2026–17054 Filed 8–20–26; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[267A2100DD/AAMM001010/
A0A600000.000000]

Ysleta del Sur Pueblo Sale of Alcoholic Beverages Ordinance Amendment

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the amended Ysleta del Sur Pueblo Sale of Alcoholic Beverages Ordinance, which supersedes the previous ordinance published on May 14, 2002.

DATES: This Ordinance shall become effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT:

Sophia J. Torres, Acting Tribal Government Specialist, Southwest Regional Office, Bureau of Indian Affairs, 1001 Indian School Road NW, Albuquerque, NM 87104–2303, Phone: (505) 536–3304, Email: sophia.torres@bia.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. On March 17, 2026, the Ysleta del Sur Pueblo, through Resolution No. TC–007–26, adopted this Tribal Ordinance TO–001–26. The Ordinance amends and reinstates Article 64 of the Ysleta del Sur Pueblo code of laws entitled Sale of Alcoholic Beverages, which regulates and controls the consumption, possession, production, and sale of alcoholic beverages within the Ysleta del Sur Pueblo’s territorial jurisdiction.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary–Indian Affairs. I certify that the Ysleta del Sur Pueblo duly adopted this amendment to the Sale of Alcoholic Beverages Ordinance by Resolution No. TC–007–26 on March 17, 2026.

The Ysleta del Sur Pueblo Sale of Alcoholic Beverages Ordinance shall read as follows:

Tribal Ordinance No. TO–001–26; Amending and Restating Article 64 of the Tigua Tribe’s Code of Laws Entitled: Sale of Alcoholic Beverages

This Ordinance amends and restates Article 64 and supersedes Tribal Ordinance No. 004–02 as published in the **Federal Register** in 2002.

Pursuant to the authority vested in the Tribal Council as the duly constituted traditional governing body of the Ysleta del Sur Pueblo, a federally recognized Indian tribe exercising all inherent governmental powers, fiscal authority and tribal sovereignty as recognized in the Ysleta del Sur Pueblo Restoration Act (Pub. L. 100–89 as codified in 25 U.S.C. 1300g), and its lawful authority to provide for the health, safety, morals, welfare, tribal economic development and self-sufficiency of the Ysleta del Sur Pueblo, the Tribal Council hereby enacts this Amended and Restated Ordinance for the purpose of regulating the sale of alcoholic beverages.

Therefore, be it resolved and ordained by the Tribal Council of the Ysleta del Sur Pueblo: That the following Article entitled Sale of Alcoholic Beverages, which by reference is incorporated herein as if set forth at length, is hereby adopted as the Amended and Restated Article 64 of the Tigua Tribe’s Code of Laws.

Article 64: Sale of Alcoholic Beverages

Section 1—Conformity With State Law

The Pueblo, acting through the Tribal Council, may sell alcohol and alcoholic beverages on the Pueblo’s reservation for on-premises consumption only. In addition, the Tribal Council may authorize and license a person or entity operating on the Pueblo’s reservation by lease, sublease or other appropriate document to sell alcoholic beverages for on-premises/or off-premises consumption on the terms specified in the license granted to such person or entity. Except as otherwise provided herein, the sale and consumption of alcoholic beverages on the Pueblo’s reservation and its lands shall be in conformance with the laws of the State of Texas. Nothing contained herein shall be construed as a grant of jurisdiction to the State of Texas or a waiver of any of the Pueblo’s sovereignty or immunity from suit.

Section 2—Fees

Any and all fees, charges, or income resulting from the sale of alcoholic beverages by the Pueblo shall be due

and payable to the Ysleta del Sur Pueblo rather than the State of Texas. Any and all fees, charges and taxes payable by a third party licensee of the Pueblo may be paid either to the Pueblo or State of Texas as the applicable fee, charge, or tax provides.

Section 3—Enforcement

The Pueblo shall be solely responsible for the enforcement and administration of this Ordinance. The Tigua Tobacco and Alcohol Commission shall issue and enforce such regulations as are reasonably necessary to carry out the purposes of this Article.

Section 4—Tigua Tobacco and Alcohol Commission

4.01

There is hereby created the Tigua Tobacco and Alcohol Commission comprised of a Commissioner and two (2) members. The Commissioner and the members of the Commission shall be tribal members. No person shall be appointed to the Tigua Tobacco and Alcohol Commission unless the Tribal Council is satisfied that he or she has no ownership interest in any company or enterprise which contracts with the Pueblo or its licensee for the sale of alcohol or tobacco, or any activity which may have interests in conflict with the Pueblo’s sale of alcohol or tobacco.

4.02

The Commissioner and the members of the Commission shall serve at the pleasure of the Tribal Council and may be removed at any time by majority vote of the Tribal Council.

4.03

The Commissioner and members, and any employees of the Commission, shall be reasonably compensated, as determined by the Tribal Council.

Section 5—Prohibition

No individual, entity, or organization shall be permitted to sell or dispense alcoholic beverages from or on the Pueblo’s reservation or its lands other than the Pueblo acting by and through the Tribal Council, or an individual, entity or organization licensed by the Tribal Council to sell or dispense alcoholic beverages from or on the Pueblo’s reservation or its lands.

William Henry Kirkland III,

Assistant Secretary-Indian Affairs.

[FR Doc. 2026–17053 Filed 8–20–26; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****[267A2100DD/AAMM001010/
AOA600000.000000]****Caddo Nation Liquor Control Code****AGENCY:** Bureau of Indian Affairs,
Interior.**ACTION:** Notice.

SUMMARY: This notice publishes the Caddo Nation of Oklahoma Liquor Control. The liquor control code is to regulate and control the possession, sale, manufacture and distribution of alcohol in conformity with the laws of the State of Oklahoma for the purpose of generating new Tribal revenues. Enactment of the code will help provide a source of revenue to strengthen Tribal government, provide for the economic viability of Tribal enterprises and improve delivery of Tribal government services.

DATES: This Code shall become effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Sherry Lovin, Tribal Government Services Officer, Southern Plains Regional Office, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma 73005, (405) 247-6673; sherry.lovin@bia.gov.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. On December 10, 2025, the Caddo Nation of Oklahoma Tribal Council duly adopted the Caddo Nation Liquor Control Code.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Caddo Nation Tribal Council duly adopted by Resolution the Caddo Nation Liquor Control Code by Resolution No. 12-2025-01 on December 10, 2025.

The Caddo Nation of Oklahoma Liquor Control Code shall read as follows:

Liquor Control Code*Subchapter 1—General Provisions*

§ 1-101. Short title.

This act shall be known as the “Caddo Nation Liquor Control Code.”

§ 1-102. Authority.

This act is adopted pursuant to the Act of August 15, 1953, Pub. L. 83-277, 67 Stat. 586 (codified at 18 U.S.C. 1161), and Article V, Section 2 of the Caddo Nation Constitution and By-Laws.

§ 1-103. Purpose.

The purpose of this act is to regulate and control the manufacture, distribution, possession, and sale of alcohol, including liquor and beer products, on the Tribal lands of the Caddo Nation of Oklahoma. This enactment will enhance the ability of the Caddo Nation to control all such alcohol-related activities within the jurisdiction of the Nation and will provide an important source of revenue for the continued operation and delivery of governmental services and for strengthening the Nation’s self-governance, economic self-sufficiency, and self-determination.

§ 1-104. Application of federal law.

Federal law prohibits the introduction, possession, and sale of liquor within the Indian country of the Nation (18 U.S.C. 1154 and other statutes), except when in conformity both with laws of the State of Oklahoma and the Nation (18 U.S.C. 1161). As such, compliance with this act shall be in addition to and not a substitute for compliance with federal and state laws.

§ 1-105. Lawful transportation through the Nation not affected. Nothing herein shall pertain to the otherwise lawful transportation of liquor and/or beer across the Nation’s Indian country, as defined by federal law, by persons remaining upon public roads and highways and where such beverages are not delivered, sold or offered for sale to anyone within the Nation’s Indian country.

§ 1-106. Applicability.

The introduction, manufacture, distribution, possession, sale, and consumption of alcoholic beverages shall be regulated under this act only where such activity will be conducted within or upon Tribal lands.

Subchapter 2—Definitions

§ 2-101. Definitions.

As used in this act, the following terms shall have the following meanings unless the context clearly requires otherwise:

“Alcohol” means the product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

“Alcoholic beverage(s)” means, and shall include, alcohol, beer, spirits, and wine, as those terms are defined herein, and also includes every liquid or solid,

patented or not, containing alcohol, beer, spirits, or wine and capable of being consumed as a beverage by human beings, but does not include low-point beer.

“Applicant” means any person who submits an application to the Commission for an alcoholic beverage license and who has not yet received such a license.

“Beer” means any beverage containing more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol by volume and obtained by the alcoholic fermentation of an infusion or decoction of barley or other grain, malt or similar products. Beer may or may not contain hops or other vegetable products. Beer includes, among other things, beer, ale, stout, lager beer, porter, and other malt or brewed liquors, but does not include sake, known as Japanese rice wine.

“Beer outlet” means a retail sale business licensed by the Nation to sell beer within the Nation’s Indian country, including all related and associated facilities under the control of an operator. Where an operator’s business is carried on as part of the operation of an entertainment or recreational facility, the beer outlet shall be deemed to include the entertainment or recreational facility and its associated areas.

“Commission” means the Caddo Nation Tax Commission, as established pursuant to Tribal law, and includes the Commission’s designees to perform administrative functions in accordance with this act.

“Legal age” means twenty-one (21) years of age.

“Light Wine” means any wine containing not more than fourteen percent (14%) alcohol measured by volume at sixty (60) degrees Fahrenheit.

“Liquor” means alcohol, beer, spirits, and wine, and all other fermented, spirituous, vinous or malt liquors or any other intoxicating liquid, solid, semi-solid or other substance patented or not, containing alcohol, beer, spirits or wine, in excess of three and two-tenths percent (3.2%) of alcohol, and that is intended for oral consumption.

“Liquor outlet” or “outlet” means a retail sale business licensed by the Nation to sell within the Nation’s Indian country, including all related and associated facilities under the control of the operator. Moreover, where an operator’s business is carried on as part of the operation of an entertainment or recreational facility, the “liquor outlet” shall be deemed to include the entertainment or recreational facility and its associated areas.

“Low-point beer” means and includes beverages containing more than one-half

of one percent ($\frac{1}{2}$ of 1%) alcohol by volume, and not more than three and two-tenths percent (3.2%) alcohol by weight, including but not limited to beer or cereal malt beverages obtained by the alcoholic fermentation of an infusion of barley or other grain, malt or similar products. Low-point beer is also commonly referred to as three-point-two-beer, light beer, near-beer, and small beer.

“Manufacturer” means any person engaged in the manufacture of alcohol, including, but not limited to the manufacture of alcoholic beverages.

“Nation” means the Caddo Nation of Oklahoma.

“Oklahoma liquor license” means any license or permit issued by the State of Oklahoma, including any agency, subdivision, or county thereof, regulating any form of alcohol, including, but not limited to any form of alcoholic beverage. Any license or permit issued for the sale or distribution of “low-point beer,” as defined under Oklahoma law, shall be considered an Oklahoma liquor license under this act.

“Operator” means a person of legal age who is properly licensed by the Commission to operate a liquor outlet and/or a beer outlet.

“Person” means a natural person, a partnership, an association of persons, a corporation, a firm, a limited liability company, a sole proprietorship, a trust, a joint venture, a consortium, a commercial entity, a Caddo Nation entity, or an Indian tribe.

“Public place” means federal, Tribal, state, or county highways and roads; buildings and grounds used as schools; public dance halls and grounds; soft drink establishments; public buildings; public meeting halls, lobbies, and dining rooms of hotels, restaurants, theaters, gaming facilities, entertainment centers, stores, and garages and filling stations that are open to and/or generally used by the public and to which the public has a right to access; public conveyances of all kinds and character; and all other places of like or similar nature to which the general public has right to access, and which are generally used by the public. For the purpose of this act, public place shall also include any privately owned business property or establishment that is designed for or may be regularly used by more persons other than the owner of the same, but shall not include the private, family residence of any person.

“Sale” or “sell” means any transfer, exchange or barter, in any manner or by any means whatsoever, for a consideration and includes and means all sales made by any person, whether as principal, proprietor or as an agent,

servant, or employee, association, partnership or corporation of liquor or beer products.

“Spirits” means any beverage other than beer, wine or low-point beer that contains more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol measured by volume and obtained by distillation, whether or not mixed with other substances in solution, and includes those products commonly known as brandy, cordials, fortified wines, gin, liqueurs, rum, scotch, vodka, whisky, and similar compounds, but shall not include any alcohol liquid completely denatured in accordance with federal law and regulations applicable thereto.

“Tribal Council” or “Council” means the elected governing body of the Nation, as established under the Nation’s Constitution.

“Tribal Court” means the courts of the Caddo Nation of Oklahoma.

“Tribal land” means and refers to the geographic area that includes all land within the Indian country jurisdiction of the Nation, as established and described by federal law, and including, but not limited to, all lands the title to which is held by the United States in trust or in restricted fee, as are now in existence or that may hereafter be added to such jurisdiction.

“Tribe” and “Tribal” refers to the Nation, or, when the context requires, to any federally recognized Indian tribe.

“Wholesaler” means and includes any person doing any such acts or carrying on any such business or businesses that would require such person to obtain a wholesaler’s license or licenses hereunder.

“Wholesale price” means the established price for which liquor or beer are sold to the Nation or any operator by the manufacturer or distributor.

“Wine” means and includes any beverage containing more than one-half of one percent ($\frac{1}{2}$ of 1%) alcohol by volume and not more than twenty-four percent (24%) alcohol by volume at sixty (60) degrees Fahrenheit obtained by the fermentation of the natural contents of fruits, vegetables, honey, milk or other products containing sugar, whether or not other ingredients are added, and includes vermouth and sake, known as Japanese rice wine.

Subchapter 3—Liquor and Beer Sales

§ 3–101. Prohibition of the unlicensed sale of alcoholic beverages.

This act prohibits the introduction, manufacture, distribution, or sale of alcoholic beverages for commercial purposes, other than where conducted by a licensee in possession of a lawfully issued license in accordance with this

act. Federal liquor laws are intended to remain applicable to any act or transaction that is not authorized by this act, and violators shall be subject to all penalties and provisions of any and all applicable federal, Tribal, and/or state laws.

§ 3–102. License required.

(1) Any and all sales of alcoholic beverages conducted upon Tribal lands shall be permitted only where the seller: (i) holds a current alcoholic beverage license, duly issued by the Commission; and (ii) prominently and conspicuously displays the license on the premises or location designated on the license, as required hereunder.

(2) A licensee has the right to engage only in those activities involving alcoholic beverages expressly authorized by such license issued in accordance with this act.

§ 3–103. Sales for cash.

All sales of alcoholic beverages conducted by any person or commercial enterprise upon Tribal lands shall be conducted on a cash-only basis, and no credit for said purchase and consumption of same shall be extended to any person, organization, or entity, except that this provision does not prohibit the payment of same by use of commercial credit cards acceptable to the seller (including but not limited to VISA, MasterCard, or American Express).

§ 3–104. Personal consumption.

All sales of alcoholic beverages shall be for the personal use and consumption of the purchaser and or his/her/its guest(s) of legal age. The resale of any alcoholic beverage purchased within or upon Tribal lands by any person or commercial enterprise not licensed as required by this act is prohibited.

§ 3–105. Possession for personal use.

Possession of alcohol, beer, spirits or wine products for personal use by persons of legal age shall, unless otherwise prohibited by federal, Tribal, or state laws, be lawful within the Indian country jurisdiction of the Nation, so long as said alcohol, beer, spirits or wine products were obtained or purchased from an establishment duly licensed to sell said beverages or products, whether within or outside the Nation’s Indian country, as defined by federal law, and consumed within a private residence or at a location or facility licensed for the public consumption of such products.

§ 3–106. On-premises consumption.

No employee or operator of a commercial or other enterprise operating pursuant to a license issued hereunder, including an enterprise owned or operated by or for the Nation,

shall sell or permit any person to open or consume any alcoholic beverage on any premises or location, or any premises adjacent thereto, under his or her or its control, unless such activity is properly licensed as provided in this act.

Subchapter 4—Licensure

§ 4–101. Eligibility.

Only applicants operating upon Tribal lands shall be eligible to receive a license for the sale of any alcoholic beverage under this act.

§ 4–102. Classes of licenses.

The Commission shall have the authority to issue licenses in the following classes:

(1) “Retail On-Site General License” authorizing the licensee to sell alcoholic beverages at retail to be consumed by the buyer only on the premises or at the location designated in the license. This class of license includes, but is not limited to, restaurants, hotels, gaming facilities, and other facilities where alcoholic beverages may be sold for consumption on the premises and in the rooms of hotel guests.

(2) “Retail On-Site Beer and Wine license” authorizing the licensee to sell beer and wine at retail to be consumed by the buyer only on the premises or at the location designated in the license. This class of license includes, but is not limited to, restaurants, hotels, gaming facilities, and other facilities where beer and/or wine may be sold for consumption on the premises and in the rooms of bona fide registered guests.

(3) “Retail Off-Site General License” authorizing the licensee to sell alcoholic beverage(s) at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

(4) “Retail Off-Site Beer and Wine License” authorizing the licensee to sell beer and wine at retail to be consumed by the buyer off of the premises or at a location other than the one designated in the license.

(5) “Manufacturers License” authorizing the applicant to manufacture alcoholic beverages in accordance with applicable laws for the purpose of wholesale to retailers on or off Tribal land, but not authorizing the sale of alcoholic beverages at retail.

(6) “Temporary License” authorizing the sale of alcoholic beverages on a temporary basis for premises temporarily occupied by the licensee for an event, picnic, social gathering, or similar occasion. Temporary licenses may not be renewed upon expiration. A new application must be submitted for each such license.

The Commission may establish sub-categories of the classes of licenses authorized hereunder, provided such categories remain consistent with this act and with applicable federal and state law.

§ 4–103. Application process.

(1) The Commission may cause a license to be issued to any applicant in accordance with this act as it may deem appropriate, but not contrary to the best interests of the Nation and its citizens. Any applicant who desires to be licensed to sell alcoholic beverages and who meets the eligibility requirements pursuant to this act must apply to the Commission for a license to sell or to serve alcoholic beverages. An applicant shall fully and accurately complete an application on a form provided by the Commission, shall pay such application fee as may be required by the Commission, and shall submit such application for consideration by the Commission.

(2) All application fees paid to the Commission are nonrefundable upon submission of any such application. Each application shall require the payment of a separate application fee, as established by the Commission. The Commission may waive fees for good cause, in its discretion.

§ 4–104. Licensing requirements.

(1) Any person of legal age or older may apply to the Commission, on his or her behalf or as an authorized representative of qualified entity, for a license hereunder, subject to satisfaction of the requirements for such license hereunder.

(2) A person applying for a license hereunder must make a showing and must satisfy the Commission that he/she/it:

(A) is a person of good moral character;

(B) has not been convicted of any felony or other serious crime involving moral turpitude, any laws relating to regulation of the transportation and sale of alcoholic beverages, or any gaming laws of the Nation; and

(C) has not had any permit or license to sell alcoholic beverage(s) revoked by any other jurisdiction within the previous one (1) year.

§ 4–105. Term of licenses and renewals.

(1) Each license shall be issued for a period not to exceed two (2) years from the original date of issuance and may be renewed thereafter in compliance with this act and any rules and/or regulations hereafter adopted by the Commission.

(2) Each license may be considered for renewal by the Commission upon the licensee’s submission of a new application and payment of all required

fees. Such renewal application shall be submitted to the Commission at least sixty (60) days and not more than ninety (90) days prior to the expiration of an existing license. If a license is not renewed prior to its expiration, the licensee shall cease and desist all activity as permitted under the license, including the sale of any alcoholic beverages, until the renewal of such license is properly approved by the Commission.

§ 4–106. Application form and content.

An application for a license hereunder shall be made to the Commission and shall contain at a minimum the following information, as provided under oath:

(1) The name, address, and age of the applicant, including as applicable the names and addresses of all of the principal officers and directors, and other employees with primary management responsibility related to the sale of alcoholic beverages;

(2) The specific area, location, and/or premise(s) for which the license is applied;

(3) The hours that the applicant will sell alcoholic beverage(s) pursuant to the license;

(4) For Temporary Licenses, the dates for which the license is sought to be in effect;

(5) The class of license applied for;

(6) Whether the applicant has an Oklahoma liquor license or mixed beverage license;

(7) a copy of such license, and any other applicable license, shall be submitted to and retained by the Commission; and

(8) A statement that the applicant satisfies the qualifications for a license hereunder, and that the applicant or, as applicable, none of the applicant’s officers and directors, and employees with primary management responsibility related to the sale of Alcoholic Beverage(s):

(A) has/have not been convicted of any felony or other serious crime involving moral turpitude, any laws relating to regulation of the transportation and sale of alcoholic beverages, or any gaming laws of the Nation;

(B) has/have not had any permit or license to sell alcoholic beverage(s) revoked by any governmental authority within the previous one (1) year; and

(C) has/have not violated and will not violate or cause or permit to be violated any of the provisions of this act.

(9) All applications for licenses hereunder shall be signed and verified under oath by the applicant or a duly

authorized representative, and notarized.

The Commission may require applicants to provide additional information consistent with this act and with applicable law.

§ 4-107. Action on the application.

The Commission shall have the authority to deny or approve the application, consistent with this act and the laws of the Nation. Upon approval of an application, the Commission shall issue a license to the applicant in a form to be approved from time to time by the Commission. The Commission shall have the authority to issue a temporary or provisional license pending completion of the foregoing approval process.

§ 4-108. Denial of license or renewal.

An application for a new license or license renewal may be denied for one or more of the following reasons:

- (1) The applicant has materially misrepresented facts contained in the application; or
- (2) The applicant is presently not in compliance with this act or other Tribal or federal laws; or
- (3) Granting the license (or renewal thereof) would create a threat to the peace, safety, morals, health or welfare of the Nation; or
- (4) The applicant has failed to demonstrate his/her/its satisfaction of the requirements for a license or has failed to complete the application properly or has failed to tender the appropriate fee; or
- (5) A verdict or judgment of guilty has been entered against or a plea of nolo contendere has been entered by the applicant or any of the applicants' officers or directors or employees with primary management responsibility relating to any offense that would otherwise disqualify the applicant for a license hereunder.

§ 4-109. Temporary denial.

If the application is denied solely on the basis of the applicant's failure to demonstrate satisfaction of the requirements or to complete the application properly or to tender the appropriate fee the Commission shall, within fourteen (14) days of receipt of the application, issue a written notice of temporary denial to the applicant. Such notice shall set forth the reasons for denial and shall state that the denial will become permanent if the problem(s) is not corrected within fifteen (15) days following receipt of the notice.

§ 4-110. Cure.

If an applicant is denied a license, the applicant may cure the deficiency and resubmit the application for consideration. Each re-submission will

be treated as a new application for license or renewal of a license.

§ 4-111. Investigation.

Upon receipt of an application for the issuance, transfer, or renewal of a license, the Commission shall make a thorough investigation to determine whether the applicant and the premises for which a license is sought qualify for a license and whether the applicant has complied with the provisions of this act, and shall investigate all matters connected therewith which may affect the public health, welfare, and morals.

§ 4-112. Procedures for appealing a denial or condition of application.

Any applicant for a license or licensee who believes the denial of a license, request for renewal, or condition imposed on their license was wrongfully determined may appeal the decision of the Commission in accordance with the Commission's rules and regulations. For purposes of appeal, an applicant or licensee shall stand in the place of a "taxpayer" as that term is used in the Commission's appeal procedures. For purposes of appeal, the action being complained of shall stand in the place of the term the "tax," where appropriate, as that term is used in the Commission's appeal procedures.

§ 4-113. Revocation of licenses.

(a) Reasons licenses may be revoked.

The Commission may initiate an action to revoke a license whenever it is brought to the attention of the Commission that a licensee:

- (1) has materially misrepresented facts contained in any license application; or
- (2) is no longer qualified to hold such license; or
- (3) is not in compliance with Tribal or federal laws material to the issue of licensing or with other provisions of this act; or
- (4) has failed to comply with any terms or conditions of a license, including failure to pay taxes on the sale of alcoholic beverage(s) or failure to pay a required fee; or
- (5) has had a verdict, or judgment of guilty entered against him or her or any of its officers or directors or managers with primary responsibility over the sale of alcoholic beverage(s), or has had a plea of nolo contendere entered by one of its officers or directors, or managers with primary responsibility over the sale of alcoholic beverage(s), as to any offense that would otherwise disqualify the applicant for a license hereunder; or
- (6) has failed to take reasonable steps to correct objectionable conditions constituting a nuisance on the licensed premises or any adjacent area within a reasonable time after receipt of a notice to make such corrections has been

received from the Tax Administrator or the Commission; or

(7) has had a liquor license suspended or revoked by any other jurisdiction, including the State of Oklahoma.

(b) Initiation of revocation proceedings.

Revocation proceedings may be initiated either (1) by the Commission, on its own motion and through the adoption of an appropriate resolution meeting the requirements of this section, or (2) on the basis of a complaint filed by any person with the Commission. The complaint shall be in writing and signed by the complainant. A resolution or complaint shall state facts showing that there are specific grounds under this act that if proven would authorize the Commission to revoke the license(s). The Commission shall cause the matter to be set for a hearing before the Commission on a date no later than forty-five (45) days from the Commission's receipt of a complaint or adoption of the resolution. Notice of the time, date, and place of the hearing shall be given to the licensee and the public in the same manner as set forth in Section 3-7. The notice shall state that the licensee has the right to file a written response to the complaint or resolution, verified under oath and signed by the licensee, no later than ten (10) days prior to the hearing date.

(c) Hearing.

Any hearing held in a proceeding to revoke a license shall be held under such rules and regulations as the Commission may prescribe. At the hearing, the licensee may present evidence and arguments, as well as documentary evidence, and shall have the right to be represented by legal counsel and to cross-examine the Commission's witnesses. The Commission shall render its decision in writing within sixty (60) days after the date of the hearing.

(d) Appeals.

The decision of the Commission shall be final, except that any person so aggrieved may file an appeal to the Tribal Court clearly stating the reason for appeal within thirty (30) days after being served with the decision of the Commission. The decision of the Commission shall be reversed only for error of law or clear error in factual determinations.

(e) Delivery of license.

Upon entry of a final, nonappealable decision revoking a license, the licensee or the operator shall forthwith deliver the license to the Commission.

§ 4-114. Transferability of licenses.

Alcoholic beverage licenses shall be issued to a specific licensee for use at a single business location (or business

enterprise) and shall not be transferable for use by any business or location. Separate licenses shall be issued for each of the premises of any business establishment having more than one address.

§ 4–115. Posting of licenses.

Every licensee shall post and keep posted its license(s) in a prominent and conspicuous place(s) on the premises or location designated in the license. Any license posted on a premises or location not designated in such license shall not be considered valid and shall constitute a separate violation of this act.

Subchapter 5—Commission Powers and Duties

§ 5–101. Powers and duties of the commission.

The Commission shall have authority to administer and implement this act, and shall have powers necessary and appropriate in furtherance thereof, including the authority to:

(1) adopt, publish, and enforce rules and regulations consistent with this act and other applicable laws governing the sale, distribution, and possession of alcoholic beverage(s) within the Tribal lands of the Nation;

(2) employ, commission, and direct such persons as may be reasonably necessary to perform all administrative and regulatory responsibilities of the Commission hereunder, and to delegate duties to such persons in accordance with this act;

(3) process, issue, and enforce licenses relating to the sale, distribution, and possession of alcoholic beverage(s) within Tribal lands, as provided hereunder;

(4) enforce the provisions of this act, including to conduct hearings on violations of this act and to impose sanctions and penalties as permitted hereunder, and to bring such other actions as may be required to enforce the provisions of this act;

(5) prepare and deliver such reports as may be required by law or regulation; assess and collect taxes, fees, and penalties as may be required, imposed, or allowed by law or regulation, and to keep accurate books, records, and accounts of the same; and

(6) take such other actions as are necessary and appropriate in aid of its jurisdiction hereunder.

§ 5–102. Right of inspection.

Any business premises licensed to distribute, or sell alcohol pursuant to this act shall be open for inspection by the Commission for the purpose of ensuring the compliance or noncompliance of the licensee with all provisions of this act and any applicable Tribal law or regulation.

§ 5–103. Suppliers and wholesalers.

(a) Right of Commission to scrutinize suppliers.

The operator of any liquor outlet shall maintain for inspection by the Commission an accurate record of the identity of the suppliers and/or wholesalers who supply or are expected to supply liquor and/or beer products to such outlet. The Commission may, at its discretion, limit or prohibit the purchase of said products from a supplier or wholesaler for the following reasons: non-payment of Nation taxes, unsound or unlawful business practices, or sale of unhealthy products and supplies. A ten (10) day notice to stop purchases (a “Stop Purchase Order”) shall be given by the Commission whenever purchases from a supplier or wholesaler are to be discontinued hereunder unless there is a health or similar emergency, in which case the Stop Purchase Order may take effect immediately.

(b) Requirement of open information.

With respect to their purchase of alcoholic beverage inventory and their business relations with suppliers and wholesalers, operators shall cooperate with and assist in the free flow of information and data to the Commission relating to such sales and business arrangements. The Commission may, at its discretion, require the licensee to produce for inspection by the Commission documentation reflecting invoices, bills of lading, billings, and documentary receipts relating to purchases of liquor and similar business information. All operator business records shall be kept in accordance with this act.

(c) Maintenance of records.

The originals or accurate electronic copies of all sales slips, invoices and other memoranda covering all purchases of liquor, including beer and wine, by an operator shall be maintained on file at the retail premises of the operator for at least five (5) years after each purchase and shall be filed separately and kept apart from all other records, and as nearly as possible shall be filed in consecutive order and the records for each month maintained separately so as to render the same readily available for inspection and verification. All cancelled checks, bank statements and books of accounting, covering and involving the purchase of liquor and all memoranda, if any, showing payment of money for liquor other than by check shall be likewise preserved for inspection and verification by the Commission. The Commission may issue regulations providing for acceptable means for the storage of

records required to be maintained hereunder.

§ 5–104. Prohibition on gifts and gratuities.

No person, including no alcoholic beverage wholesaler, retailer, or distributor, or any applicant or licensee, shall offer to an officer or employee of the Nation or the Commission any gratuity, compensation or other thing of value. Officers and employees of the Nation and the Commission shall not, whether individually or as a whole, accept any gratuity, compensation or other thing of value from any alcoholic beverage wholesaler, retailer, or distributor, or from any applicant or licensee.

Subchapter 6—Rules, Regulations, and Enforcement

§ 6–101. Manufacture, sale, or distribution without license.

Any person who manufactures, distributes, sells, or offers for sale or distribution, any alcoholic beverage in violation of this act, or who operates any commercial business on Tribal lands that possesses or offers alcoholic beverages for sale without a license duly issued and properly posted, as required hereunder, shall be in violation of this act.

§ 6–102. Unlawful purchase.

Any person who purchases any alcoholic beverage on Tribal lands from a person or commercial business that does not have a license to manufacture, distribute, or sell alcoholic beverages properly posted shall be in violation of this act.

§ 6–103. Intent to sell.

Any person who keeps, or possesses, or causes another to keep or possess, upon his person or any premises within his control, any alcoholic beverage, with the intent to sell or to distribute the same contrary to the provisions of this act, shall be in violation of this act.

§ 6–104. Sale to intoxicated person.

Any person who knowingly sells or serves an alcoholic beverage to a person who is visibly intoxicated shall be in violation of this act.

§ 6–105. Age for consumption; violations.

(1) No person under the legal age shall possess or consume alcoholic beverage(s) on Tribal lands, unless otherwise permitted by applicable law.

(2) No licensee shall serve or sell an alcoholic beverage(s) to a person under the legal age or permit any such person to consume alcohol on the premises or on any premises under the licensee's control. Any licensee violating this section shall be guilty of a separate violation of this act for each and every

drink served and/or consumed by such underage person.

§ 6–106. False identification.

Any person who purchases or who attempts to purchase an alcoholic beverage through the use of false, or altered identification that falsely purports to show the person to be of the legal age or older shall be in violation of this act.

§ 6–107. Documentation of age.

Upon request by an operator or other seller of alcoholic beverages, any person shall be required to present satisfactory documentation of the bearer's identity and age. For purposes of this act, satisfactory documentation may include one or more of the following:

(1) a valid motor vehicle operator's license or a personal identification card issued by any state department of motor vehicles or any Tribal government or federal government agency; or

(2) United States active duty military credentials; or

(3) passport or other official governmental document conclusively establishing a person's identity.

Any seller, server, or person attempting to purchase an alcoholic beverage, who does not comply with the requirements of this section shall be in violation of this act.

§ 6–108. Conduct on licensed premises.

No person who is a licensee shall be disorderly, boisterous, or intoxicated on the licensed premises or any public premises adjacent thereto which are under the operator's control, nor shall an operator permit disorderly, boisterous or intoxicated persons to remain thereon.

Subchapter 7—Penalties

§ 7–101. In general.

(1) Any person or licensee determined by the Commission to be in violation of this act, including any lawful regulation promulgated pursuant thereto, shall be subject to a civil penalty of not more than Five Thousand Dollars (\$5,000.00) for each such violation, except as provided herein. The Commission may adopt by resolution a separate written schedule for fines for each type of violation, taking into account the seriousness and threat the violation may pose to the general public health and welfare, as well as fundamental fairness. Such schedule may also provide, in the case of repeated violations, for imposition of monetary penalties greater than the Five Thousand Dollar (\$5,000.00) per violation limitation set forth above. The civil penalties provided for herein shall be in addition to any criminal penalties that may be

imposed under any other Tribal, federal, or state laws.

(2) Any person or licensee determined by the Commission to be in violation of this act, including any lawful regulation promulgated pursuant thereto, may be subject to ejection or exclusion from any Tribal facility or other establishment.

§ 7–102. Injunctions to prevent violations.

Any violation of this act shall constitute a public nuisance. The Commission may initiate and maintain an action in Tribal Court or any court of competent jurisdiction to abate and permanently enjoin any nuisance declared under this act. Any action taken under this section shall be in addition to any other civil penalties provided for in this act. The Commission shall not be required to post any form of bond in such action.

§ 7–103. Contraband; seizure; forfeiture.

(1) All alcoholic beverages held, owned, or possessed within Tribal lands by any person, licensee, or commercial business operating in violation of this act are hereby declared to be contraband and subject to seizure and forfeiture to the Nation.

(2) Seizure of contraband as defined in this act shall be carried out by the Commission with the assistance of law enforcement, upon request, and all such contraband seized shall be inventoried and maintained by the Commission pending a final order of the Commission. The owner of the contraband seized may alternatively request that the contraband seized be sold and the proceeds received therefrom be maintained by law enforcement pending a final order of the Commission. The proceeds from such a sale are subject to forfeiture in lieu of the seized contraband.

(3) Within ten (10) days following the seizure of such contraband, a hearing shall be held by the Commission, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her or its activities relating to the violation of this act alleged by the Commission.

(4) Notice of the hearing of at least ten (10) days shall be given to the person from whom the property was seized and the owner, if known. If the owner is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at other public places on Tribal lands and required by Commission rules. The notice shall describe the property seized, and the time, place, and cause of seizure, and list the name and place of residence, if known, of the person from

whom the property was seized. If upon the hearing, the evidence warrants, or, if no person appears as a claimant, the Commission shall thereupon enter a judgment of forfeiture, and all such contraband shall become the property of the Nation. If upon the hearing the evidence does not warrant forfeiture, the seized property shall be immediately returned to the owner.

(5) The decision of the Commission shall be final, except that the owner of the seized property may file an appeal to the Tribal Court clearly stating the reason for appeal within thirty (30) days after being served with the decision of the Commission. The decision of the Commission shall be reversed only for error of law or clear error in factual determinations.

Subchapter 8—Nuisance and Abatement

§ 8–101. Nuisance.

Any room, house, building, vehicle, structure, premises, or other location where alcoholic beverages are sold, manufactured, distributed, bartered, exchanged, given away, furnished, or otherwise possessed or disposed of in violation of this act, or of any other Tribal, federal, or state laws related to the transportation, possession, distribution or sale of alcoholic beverages, and including all property kept therein, or thereon, and used in, or in connection with such violation is hereby declared to be a nuisance upon any second or subsequent violation of the same.

§ 8–102. Action to abate nuisance.

Upon a determination by the Commission that any place or activity is a nuisance under any provision of this act, the Nation or the Commission may bring a civil action in the Tribal Court or any other court with jurisdiction to abate and to perpetually enjoin any such activity declared to be a nuisance. Such injunctive relief may include a closure of any business or other use of the property for up to one (1) year from the date of the such injunctive relief, or until the owner, lessee, or tenant shall: (i) give bond of no less than Twenty-Five Thousand dollars (\$25,000) to be held by the Commission subject to the condition that any further violation of this act or other Tribal laws will result in the forfeiture of such bond; and (ii) payment of all fines, costs and assessments against him/her/it. If any condition of the bond is violated, the bond shall be forfeited and the proceeds recoverable by the Commission through an order of the Tribal Court. Any action taken under this section shall be in addition to any other civil penalties provided for in this act.

Subchapter 9. Taxation and Audits

§ 9–101. Taxes imposed on sales and distribution of liquor and beer.

(a) General taxation authority.

The Commission shall have the authority to assess and collect tax on the sale of all liquor and/or beer products to the purchaser or consumer within the jurisdiction of the Nation. The Tribal Council shall determine the rates of such taxes for any class of products, which shall be paid upon or prior to the time of retail sale and delivery thereof, as set forth under the Commission's regulations or other Tribal law.

(b) Excise tax added to retail price.

An excise tax set by the Tribal Council on the wholesale price shall be added to the retail selling price of liquor and/or beer products to be sold to the ultimate consumer or purchaser. All taxes paid pursuant to this section shall be presumed to be direct taxes on the retail consumer pre-collected for the purpose of convenience and facility.

(c) Tax stamps.

Within the time period established by the Commission after receipt of any liquor and/or beer products by any wholesaler or retailer subject to this act, a Caddo Nation tax stamp shall be securely affixed thereto denoting the Nation's tax thereon. Retailers or sellers of liquor and/or beer products within the Nation's jurisdiction may buy and sell or have in their possession only liquor and/or beer products which have the Nation's tax stamp affixed to each package.

(d) Use of tax revenue.

Unless otherwise established by the Nation, all fees, taxes, payments, fines, costs, assessments, and any other revenues collected by the Commission under this act, from whatever sources, shall be expended first for the administrative and regulatory costs incurred in the administration and enforcement of the act. Any excess funds shall be paid to the general fund of the Nation for appropriation by the Tribal Council for governmental and social services.

(e) Payment of taxes.

Taxes imposed on liquor and/or beer products, together with reports on forms to be supplied by the Commission, shall be remitted to the Commission on a monthly basis, unless otherwise specified in regulations of the Commission. An operator may be required to furnish a satisfactory bond to the Commission in an amount to be specified by the Commission guaranteeing his or her or its payment of taxes.

§ 9–102. Required evidence of tax compliance.

As a condition precedent to the conduct of any operations pursuant to a license issued by the Commission, the licensee must obtain from the Commission such licenses, permits, tax stamps, tags, receipts or other documents or things evidencing receipt of any license or payment of any tax or fee administered by the Commission or otherwise showing compliance with the tax laws of the Nation.

§ 9–103. Audits and inspections.

All of the books and other business records of a licensee shall be available for inspection and audit by the Commission or its authorized representative during normal business hours and at all other reasonable times, as may be requested by the Commission.

§ 9–104. Reports.

The Commission shall submit to the Tribal Council a quarterly report and accounting of all fees, taxes, payments, fines, costs, assessments, and all other revenues collected and expended pursuant to this act.

Subchapter 10—Sovereignty and Jurisdiction

§ 10–101. Sovereign immunity.

Nothing in this act shall be construed as a waiver or a limitation of the sovereign immunity of the Nation or its agencies, including but not limited to the Nation's Tax Commission, nor their officers or employees. The Nation expressly retains its sovereign immunity for the purposes of this act.

§ 10–102. Jurisdiction.

Any person who applies for and/or accepts a license hereunder shall, by operation of law, consent to the exclusive jurisdiction of the Caddo Nation of Oklahoma for all matters arising under this act.

§ 10–103. Dram shop actions.

The Tribal courts of the Caddo Nation of Oklahoma shall have exclusive jurisdiction over any dram shop action against an operator hereunder.

Subchapter 11—Miscellaneous

§ 11–101. Liability of operators.

Operators shall hold the Nation harmless from all claims and liability of whatever nature arising from their operations conducted pursuant to licenses issued hereunder. The Commission may revoke an operator's outlet license(s) if an outlet is not operated in accordance with sound business practices or if it does not remain financially solvent or does not pay its operating expenses and bills before they become delinquent. The Nation and the Commission shall have no legal responsibility for any unpaid bills owed by a liquor outlet to a

wholesaler, supplier or any other person.

§ 11–102. Insurance.

Each operator shall maintain at his or her or its own expense adequate insurance covering liability, fire, theft, vandalism, and other insurable risks arising from the licensed business. The Commission may establish as a condition of any license, the minimum insurance coverage levels and any additional coverage deemed advisable, proof of which shall be filed with the Commission.

§ 11–103. Computation of Time.

Unless otherwise provided herein, in computing any period of time prescribed or allowed by this act the day of the action, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. For the purposes of this Ordinance, the term "legal holiday" shall mean all legal holidays under Tribal or federal law. All documents mailed shall be deemed served at the time of mailing.

§ 11–104. Construction of act.

The provisions of this act shall be liberally construed to achieve the purposes set forth, whether clearly stated or apparent from the context of the language used herein. Nothing in this act shall be construed to diminish or impair in any way the rights or sovereign powers of the Caddo Nation of Oklahoma.

§ 11–105. Severability.

In the event that any provision or provisions of this act are determined by the Tribal Courts or any court of competent jurisdiction to be invalid for any reason, the remaining provisions of the act shall be deemed severable from the provision or provisions determined to be invalid and shall remain in full force and effect as though the invalid provisions had never been part of the act.

§ 11–106. Effective Date.

This act shall be effective upon certification by the Secretary of the Interior and publication in the **Federal Register**.

§ 11–107. Prior Law Repealed.

Any and all prior enactments of the Nation that are inconsistent with the provisions of this act, including any prior alcoholic beverage control ordinances, are hereby repealed and rescinded.

§ 11–108. Amendment.

This act may be amended only by written resolution approved by the

Tribal Council, and further approved as required under law.

William Henry Kirkland III,

Assistant Secretary-Indian Affairs.

[FR Doc. 2026–17057 Filed 8–20–26; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–JOTR–40816; PPPWJOTRS0, PPMPSPD1Z.YM0000]

Proposed Plan of Operations; Joshua Tree National Park, CA

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service is giving notice to the public that First Class Miners Inc. has filed a proposed plan to use personal vehicles on two roads within Joshua Tree National Park to reach mining claims located outside the park.

ADDRESSES: The proposed plan is available for inspection via email request to JOTR_Superintendent@nps.gov or during normal business hours at the Office of the Superintendent, 74485 National Park Dr., Twentynine Palms, CA 92277.

FOR FURTHER INFORMATION CONTACT: Superintendent, Jane Rodgers, Joshua Tree National Park, phone 760–367–5500, email JOTR_Superintendent@nps.gov.

SUPPLEMENTARY INFORMATION: As mandated by the Mining in the Parks Act of 1976 (54 U.S.C. 100731 *et seq.*) and the National Park Service (NPS) Organic Act of 1916, and to implement the General Mining Law of 1872 in the National Park System, the NPS promulgated regulations at 36 CFR part 9 Subpart A in 1977. These regulations are applicable to all mineral operations in park units related to unpatented and patented mining claims. Under the regulations, an NPS-approved plan of operations is required for mining-related operations in parks, including access through parks. The plan of operations serves as the blueprint for the operation and explains how and when the proposed operation will occur.

First Class Miners Inc. (FCM) owns placer mining claims outside Joshua Tree National Park. FCM seeks access via existing unimproved dirt roads through the park to its claims. FCM has submitted a proposed plan of operations for this access in accordance with the regulations at 36 CFR part 9A.

Under 36 CFR 9.17(a), the NPS is required to publish a notice in the

Federal Register advising the public of the availability of the proposed plan for public review. This notice is being published to comply with the 36 CFR 9.17(a) requirement.

Aaron Dowe,

Deputy Regional Director, Interior Regions 8, 9, 10, and 12.

[FR Doc. 2026–17052 Filed 8–20–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[N7442; NPS–WASO–NAGPRA–NPS0043545; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University, Chico has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after September 21, 2026.

ADDRESSES: Send written requests for repatriation of the human remains in this notice to Michelle Hansen, California State University, Chico, 400 W 1st Street, Chico, CA 95929, email mcampbell19@csuchico.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the California State University, Chico, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Accession 253–30

Human remains representing at least two individuals have been identified. No associated funerary objects are present. The sole documentation associated with the human remains is an osteology report that reads “Los Molinos-3”.

The University is unaware of the human remains listed above being treated with pesticides, preservatives, or other substances that may pose a hazard to the remains or to those handling them.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

California State University, Chico has determined that:

- The human remains described in this notice represent the physical remains of at least two individuals of Native American ancestry.
- There is a connection between the human remains described in this notice and the Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in this notice to a requestor may occur on or after September 21, 2026. If competing requests for repatriation are received, the California State University, Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The California State University, Chico is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 17, 2026.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2026–17167 Filed 8–20–26; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR**Bureau of Ocean Energy Management**

[OMB Control Number 1010–NEW; Docket ID: BOEM–2026–0958]

Agency Information Collection Activities; Application To Be Recognized as Qualified To Bid On, Hold, or Operate a Lease or Grant on the OCS in Accordance With the Requirements of 30 CFR 556, Subpart D

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing a new information collection request (ICR).

DATES: Comments must be received by BOEM no later than October 20, 2026.

ADDRESSES: Send your comments on this ICR by either of the following methods listed below:

- Visit <http://www.regulations.gov>. In the Search box, enter BOEM–2026–0958 then click search. Follow the instructions to submit public comments and view all related materials.

- Email regulatoryaffairs@boem.gov or mail or hand-carry comments to the Department of the Interior; BOEM Information Collection Clearance Officer, Bureau of Ocean Energy Management, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil by email at regulatoryaffairs@boem.gov, or by telephone at 202–742–0970. 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 of 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, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

BOEM is soliciting comments on the proposed ICR described below. BOEM is especially interested in public comments addressing the following issues: (1) is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information is processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. BOEM will include or summarize each comment in its ICR to OMB for approval of this information collection. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. Even if BOEM withholds your personally identifiable information in the context of this ICR, your comment is subject to the Freedom of Information Act (FOIA) (5 U.S.C. 552). Your information will only be withheld if a determination is made that one of the FOIA exemptions to disclosure applies. Such a determination will be made in accordance with the Department of the Interior's (DOI) FOIA implementing regulations (43 CFR part 2) and applicable law.

In order for BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. Note that BOEM will make available for public inspection, in their entirety, all comments submitted by organizations and businesses, or by individuals identifying themselves as representatives of organizations or businesses.

BOEM protects proprietary information in accordance with FOIA, DOI's implementing regulations (43 CFR part 2), and 30 CFR 580.70, promulgated pursuant to the Outer Continental Shelf Lands Act (OCS Lands Act) (43 U.S.C. 1352(c)).

Title of Collection: “Application to be Recognized as Qualified to Bid On, Hold, or Operate a Lease or Grant on the OCS in Accordance with the Requirements of 30 CFR 556, Subpart D.”

Abstract: This ICR seeks approval for a new form entitled *Application to be Recognized as Qualified to Bid On, Own, Hold, or Operate a Lease or Grant on the OCS in Accordance with the Requirements of 30 CFR 556, Subpart D*. The form establishes a single, standardized method for applicants to submit the information required to obtain a BOEM qualification number under 30 CFR 556. Its purpose is to streamline both applicant submissions and BOEM's review process.

The burden hours associated with collecting this information are already covered under OMB Control Number 1010–0006. However, because that control number is currently associated with a rulemaking under OMB review, BOEM is requesting a separate control number for this form to ensure it receives OMB review and approval.

BOEM seeks to streamline its process for collecting information required under 30 CFR 556, Subpart D. Entities wishing to bid on, own, hold, or operate a lease or grant on the OCS must first obtain a qualification number from BOEM by submitting the evidence required under 30 CFR 556.402. Historically, BOEM has not provided a single standardized format for entities seeking qualification to bid on, own, hold, or operate an OCS lease or grant. Applicants were required to prepare and submit multiple certificates and resolutions to demonstrate eligibility under 30 CFR 556. The new form consolidates all required information into one submission, reducing administrative effort for applicants and enabling more efficient processing of qualification requests.

The collection of information required by this form does not add any new burden hours. All relevant hours are already included under OMB Control Number 1010–0006, which covers the submission of evidence needed for an applicant to qualify to bid on, own, hold, or operate a lease or grant on the Outer Continental Shelf (OCS).

This ICR requests OMB approval for a new BOEM form under a new OMB control number to collect the required information in a single, standardized format, eliminating the need for applicants to prepare, execute, and submit multiple separate certificates and resolutions. This streamlined approach will simplify and expedite the process for applicants seeking to qualify to conduct business on the OCS.

Additionally, consolidating all required information into one uniform submission will enable more efficient processing of initial qualification applications.

In accordance with 30 CFR 556.401 and 556.402, the form collects only the information required by regulation to establish eligibility for an OCS lease or grant and to obtain a qualification number. Applicants must indicate their category—such as U.S. citizens, lawful permanent residents, corporations, associations, States, political subdivisions, or trusts.

The form also collects information required by 556.402, which specifies that certain categories, like businesses, must provide extra documentation, including evidence of operating rules and a list of individuals authorized to bind the entity. By collecting all the information and evidence required in 556.401 and 556.402, the form ensures all regulatory requirements are met for each applicant type.

The submitted statements and supporting evidence are used to determine eligibility and inform BOEM's qualification decisions.

OMB Control Number: 1010–NEW.

Form Number: Form BOEM–0153, Application to Qualify.

Type of Review: New.

Respondents/Affected Public: Potential respondents are OCS applicants for leases and grants on the OCS.

Total Estimated Number of Annual Responses: 50 responses.

Total Estimated Number of Annual Burden Hours: 50 hours, but the submission of this information is already accounted for and collected under OMB Control Number 1010–0006.

Respondent's Obligation: Mandatory.

Frequency of Collection: Once.

Total Estimated Annual Non-Hour Burden Cost: None.

Estimated Reporting and Recordkeeping Hour Burden: BOEM estimates that approximately 50 respondents will submit this form annually, with an estimated burden of 1 hour per response. The total estimated annual burden is 50 hours, which is already accounted for under OMB Control Number 1010–0006. No additional burden hours are associated with this request.

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.*).

Karen Thundiyl,

Director, Office of Regulatory Affairs, Bureau of Ocean Energy Management.

[FR Doc. 2026–17149 Filed 8–20–26; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026–07; Application Number D–12062]

Exemption for Certain Prohibited Transactions Involving Liberty Puerto Rico 401(k) Savings Plan (the Plan or the Applicant) Located in San Juan, Puerto Rico

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption permits the Plan's prior acquisition, holding, and sale of certain stock rights (the Rights) to purchase shares of stock in Liberty Latin America Ltd. (LLA). Absent an exemption, these transactions would be prohibited by the Employee Retirement Income Security Act of 1974 (ERISA) and/or the Internal Revenue Code of 1986 (the Code).

DATES: *Exemption date:* This final exemption is in effect from September 10, 2020, through September 16, 2020.

FOR FURTHER INFORMATION CONTACT: Anna Vaughan, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, *Vaughan.Ann@dol.gov*.

SUPPLEMENTARY INFORMATION:

Background: LLA held a stock rights offering from September 10, 2020 through September 16, 2020 (the Offering), in which all holders of Series A and Series C Liberty Latin America Ltd. common stock (collectively, LLA Stock), including the Plan, received 0.2690 Rights for each share of LLA Stock held. Each Right allowed the holder to purchase one share of Series C LLA Stock for \$7.14 per share, which was a 25% discount to the volume weighted average trading price of the Series C LLA Stock, from August 31, 2020 through September 2, 2020. The Plan fiduciaries directed the sale of the Rights on behalf of Plan participants on the open market prior to the end of the Offering. Plan participants received net proceeds of \$1.062675 per Right which

were allocated proportionally to the relevant participants' accounts based on the number of Rights held by each such participant.

Benefits of the Exemption: The Applicant represents that Plan participants acquired the Rights at no additional cost and received total net proceeds of \$6,550.33 in respect of the sale of such Rights on the open market.

Comments: On June 3, 2026, the Department published a notice of proposed exemption in the **Federal Register** at 91 FR 33195 (the Proposed Exemption). In the Proposed Exemption, the Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the Proposed Exemption by July 10, 2026. The Department received no comments and no requests for a public hearing.¹

Based on the entire record attributable to D–12062, including the representations made by the Applicant, the Department has determined to grant the Proposed Exemption. This exemption provides only the relief specified herein and does not provide relief from violations of any law other than the prohibited transaction provisions of ERISA or the Code. If any material statement in the record attributable to this exemption is not, or may no longer be, completely and factually accurate, the Applicant must immediately alert the Department.

The complete application file (D–12062) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 reachable by telephone at 1–866–444–3272. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Proposed Exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility

¹ All information submitted by the Applicant in connection with this exemption is available through the Department's Public Disclosure Room, by referencing D–12062.

provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interests of affected plans and of their participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries of such plans;

(3) The exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times.

The following exemption is being granted under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures regulation.²

Exemption

Section I. Covered Transactions

Effective September 10, 2020, through September 16, 2020, the restrictions of ERISA sections 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1)(A) and the sanctions resulting from the application of Code section 4975(a) and (b), by reason of Code section 4975(c)(1), shall not apply to the following transactions, provided that the conditions described in Section II are satisfied:

(a) The acquisition by the Liberty Puerto Rico 401(k) Savings Plan (the Plan or the Applicant) of certain stock subscription rights (the Rights), pursuant to a stock rights offering (the Rights Offering) by Liberty Latin America Ltd. (LLA), for the purchase of shares of Series C LLA common stock (Series C LLA Stock);

(b) the holding of the Rights by the Plan during the subscription period of the Rights Offering (the Rights Offering Period); and

(c) the sale of the Rights held by Plan participants, at the direction of the 401(k) Committee of Liberty Communications of Puerto Rico LLC (the Committee), prior to the expiration of the Rights Offering Period.

Section II. Conditions

(a) The Plan's acquisition of the Rights resulted solely from an independent corporate act of LLA as a corporate entity, without the exercise of any discretion on the part of the Committee;

(b) All holders of Series A LLA common stock (Series A LLA Stock) or Series C LLA Stock (individually or together, LLA Stock), including the Plan, were issued the same proportionate number of Rights based on the number of shares of LLA Stock held by each shareholder;

(c) For purposes of the Rights Offering, all holders of Series A LLA Stock or Series C LLA Stock, including the Plan, were treated in a like manner, with the exception that the Plan participants were not permitted to exercise the Rights due to the fact that new investments in LLA Stock were not permitted under the Plan;

(d) The acquisition of the Rights by the Plan was made in a manner that was consistent with provisions of the Plan for the individually directed investment of participant accounts;

(e) The Committee directed the Plan trustee, Oriental Bank and Trust (the Trustee), to sell the Rights and did not exercise any additional discretion with respect to the acquisition and holding of the Rights;

(f) The sale of the Rights was effected in a prudent manner on the open market so that the Plan participants received at least fair market value for the Rights sold;

(g) The Plan did not pay any brokerage fees, commissions, subscription fees, or other charges in connection with the acquisition and holding of the Rights. In connection with the sale of the Rights, the Plan only paid the Securities Exchange Commission fee and a commission paid to National Financial Services, LLC, a

broker that is unrelated to the Trustee or its affiliates, which were charged solely against the price received by the Plan participant for whom the Trustee sold the Right. The Committee's decision to allow this fee and commission must have been prudent, consistent with their duties under ERISA section 404, and the fee and commission must have been reasonable, consistent with ERISA section 408(b)(2);

(h) The Plan did not pay any fees in connection with the Applicant's request for this exemption;

(i) The Committee prudently and loyally determined on behalf of the Plan that: (1) the Plan's acquisition, holding and sale of the Rights could proceed, and (2) the Plan's participants received at least the fair market value for the sale of the Rights;

(j) The LLA maintains for a period of six (6) years from the date of the publication of the exemption, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (k)(1)–(4) below to determine whether conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of LLA, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than LLA shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (k) below;

(k) Notwithstanding any provisions of subsections (a)(2) and (b) of ERISA section 504, the records referred to in paragraph (j) above shall be unconditionally available at their customary location during normal business hours to:

(1) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Liberty Communications of Puerto Rico LLC (LCPR) or any duly authorized representative of LCPR;

(3) the Plan fiduciary or any duly authorized representative of the Plan fiduciary; and

(4) any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary;

(l) For a period of six (6) years from the date of the publication of the exemption, the Plan must provide to the Department the records necessary to demonstrate that the conditions of this exemption, as amended, have been met,

² 29 CFR part 2570, subpart B (76 FR 66637, 66664 (Oct. 27, 2011)). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested by the Applicant to the Secretary of Labor. Therefore, this notice of exemption is issued solely by the Department. For purposes of this exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

within thirty (30) days from the date the Department requests such records; and

(m) All of the material facts and representations made by the Plan that are set forth in the Summary of Facts and Representations in the Proposed Exemption are true and accurate at all times. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described by the Applicant in the application, the exemption will cease to apply as of the date of the change.

Section III. Exemption Date

The exemption is in effect from September 10, 2020, the date that the Plan received the Rights, through September 16, 2020, the last date the Rights were sold on the Nasdaq Global Select Market.

Signed at Washington, DC, this 7th day of August 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026-17143 Filed 8-20-26; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026-06; Application No. L-12103]

Exemption for Certain Prohibited Transactions Involving Mid-America Carpenters Regional Council Apprentice and Training Fund (the Fund or Applicant) Located in St. Louis, Missouri

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption permits the sale by the Fund of real property to the Mid-America Carpenters Regional Council (the Sale). Without this exemption, the Sale would be prohibited by the Employee Retirement Income Security Act of 1974 (ERISA).

DATES: Exemption date: This final exemption will be in effect as of the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed ChukSORJI-Keefe, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, ChukSORJI.Blessed@dol.gov.

SUPPLEMENTARY INFORMATION:

The Exemption: The exemption permits the Sale of 1.13 acres of

improved real property (the Parcel), which is a portion of a 5.67-acre parcel of real property located at 8955 E Terrace, Kansas City, Missouri (the Real Property), by the Fund to the Mid-America Carpenters Regional Council (MACRC).¹ The MACRC will pay the estimated value of both the Parcel and the wellness center (\$3.4 million) to the Fund and the MACRC will receive a credit for approximately \$3.18 million that the MACRC spent on construction costs, resulting in approximately \$220,000 of net proceeds being received by the Fund at closing.²

Benefits of the Exemption: The Sale will permit the Fund to earn \$220,000 for the Parcel, which is at least \$50,000 more in net value (approximately) than originally offered by the MACRC. Furthermore, the Fund and the MACRC entered into a lease agreement (the Lease Agreement) on January 31, 2023, pursuant to which the MACRC leases the Parcel (including the wellness center and any other buildings on the Parcel) from the Fund in exchange for: (1) a one-time payment of past-due rent plus interest and penalties in an amount equal to \$50,666; and (2) the payment of \$252,125 per year subject to annual escalations of two percent per year. By the time the Sale occurs, the Fund will have received \$640,225.62 to \$705,803.34 in rent plus interest and penalties.³

Comments Received

On August 22, 2025, the Department published a notice of proposed exemption in the **Federal Register** at 90 FR 41125, August 22, 2025 (Proposed Exemption). In the Proposed Exemption, the Department invited all interested persons to submit written comments and requests for a public hearing with respect to the Proposed Exemption by October 6, 2025. The Department received two written comments and a request for a public hearing from one individual (the Commenter).⁴

The Department declines to hold a hearing because the Commenter did not raise any factual issues that cannot be fully explored through the submission

¹ The MACRC is an "employee organization" within the meaning of ERISA section 3(4), and it is therefore a party in interest within the meaning of ERISA section 3(14)(D) with respect to the Fund.

² The value of the Parcel will be updated by an independent appraiser on the date of the sale, and the Fund will receive the greater of such price or \$220,000.

³ The potential payments to be received assumes the Sale will occur as soon as August 2026 or as late as November 2026.

⁴ All information submitted by the Applicant to the Department in connection with this exemption is available through the Department's Public Disclosure Room, by referencing Application No. L-12103.

of written evidence, nor did the Commenter provide a statement of how the person would be materially affected by the exemption or a general description of the evidence to be presented at the hearing.⁵ The issues raised by the Commenter and the Applicant's responses are described below.⁶

Structure and Purpose of the Fund.

The Commenter questioned whether the Fund is a training and apprenticeship fund that operates independently for that purpose, or whether it is comprised of a combination of other sources of income and contributions that pays other types of benefits to MACRC members. The Commenter also questioned whether MACRC members' pensions would be affected by the Sale of any assets held by the Fund.

The Applicant states that the "Fund" refers to the Mid-America Carpenters Regional Council Apprentice and Training Fund. The Fund is a trust established pursuant to collective bargaining that is jointly trusted by representatives of both the MACRC and employers of MACRC members. The Fund's purpose is to provide training to carpentry apprentices and trainees.

The Department notes that the Sale will not have any impact on amount of the pension benefits due MACRC members.

Valuation of the Property, Independence of the Appraiser and the Independent Fiduciary. The Commenter raised concerns about the valuation of the Parcel and questioned how the independent appraiser, Newmark Valuation & Advisory (Newmark), and the independent fiduciary, Gallagher Fiduciary Advisors, LLC (Gallagher), were hired to provide services in the covered transactions. The Commenter also questioned whether anyone was compensated for a referral to Newmark or Gallagher or any of their affiliates and the independence of Gallagher, whether any parties involved in the Sale are related to Gallagher, the nature of their fees/compensation, and how such fees are paid. Finally, the Commenter asked whether the work product of Gallagher and Newmark is available to review.

The Applicant responded that the Fund engaged Gallagher after a review of materials submitted by prospective qualified independent fiduciaries in

⁵ See 29 CFR 2570.46(a), (b)(3). 89 FR 4703 (January 24, 2024).

⁶ The Commenter also raised a number of issues that are outside the scope of the exemption, including questions about MACRC members' pension benefits; unspecified concerns about MACRC members' health care coverage; and the general manner by which MACRC business is conducted.

response to a request for proposal, and that Gallagher meets the definition of a “qualified independent fiduciary” under the Department’s exemption procedure. The Applicant states that Gallagher’s independent fiduciary fee is less than 2% of its annual revenue for its prior income tax year, which meets applicable thresholds under the Department’s exemption procedure regulation, and that there are no other fees paid to Gallagher in connection with this transaction. The Applicant states that Newmark was engaged by Gallagher to serve as the qualified independent appraiser in connection with the Settlement and the Sale, and Newmark is not related to any of the parties involved in the transactions described in the exemption. The Applicant explains that Newmark qualifies as a “qualified independent appraiser” as defined under the Department’s exemption procedure regulations. The Applicant states that there was no compensation paid to any individual or entity for referrals for these services.

The Applicant states further that Gallagher, in its role as the independent fiduciary for the Fund, reviewed and approved of the methodology used by Newmark in determining the values of the Property and the Parcel, and that these determinations are explained in the Proposed Exemption and in Gallagher’s report that was reviewed by the Department.

Purpose of the Sale. The Commenter raised questions about the MACRC’s motivations in purchasing the Property and appears to allege members of the MACRC may receive compensation in connection with the Sale.

The Applicant states that no member of the MACRC will receive compensation in connection with the Sale. The Applicant states that the Fund, which was established exclusively to facilitate training for apprentices and trainees, is selling the Property to the MACRC in exchange for revenue to conduct the Fund’s training activities. Further, the MACRC intends to maintain a Wellness Center on the Property to be used to provide more affordable and accessible healthcare services to MACRC members.

Availability of Documentation. The Commenter asked about the availability of the following documents: the Lease Agreement, the Sale Agreement, the Settlement Agreement, and the independent fiduciary’s “Closing Report” required by Section II(j) of the exemption.

The Applicant states that relevant documentation supporting the exemption transaction was provided as

part of the application file and is publicly available upon request from the Department.

The Department also notes that the “Closing Report,” which must be delivered by the independent fiduciary to the Employer Trustees of the Fund and the Department within 60 days of the closing of the Sale, must be provided by the Applicant upon request to any participant or beneficiary of the Fund, in accordance with the terms of the exemption, and that interested persons also have the right to request the public record supporting the exemption from the Department’s Public Disclosure Room, in accordance with the information provided below.

Terms of the Lease. The Commenter asked about the terms of the Lease Agreement, the consequences for a violation of the lease, and whether the parties maintained rental insurance or any other insurance on the Property.

The Applicant states that the Lease Agreement is a part of the application file and is publicly available. According to the Applicant, the Lease refers to the leasing arrangement required by Gallagher, the independent fiduciary, between the Fund and the MACRC regarding the Property for the payment of ground rent, beginning when the MACRC began construction of the Wellness Center on the property in October 2020. The Applicant states that if the tenant defaults on the Lease, the Fund may avail itself of any remedies available to it in the Lease Agreement and under applicable law. Further, the Applicant states that any insurance policies maintained by the Fund on the Property are not a part of the public record and are not relevant to the Sale or the Settlement. The intention of the parties is that the lease will terminate upon the closing of the transaction, when the Fund’s interest in the property will be completely transferred to the MACRC.

Trustee Recusal. The Commenter questioned whether the MACRC Trustees were recused along with the MACRC Council from all matters pertaining to workers’ pay, health, well-being, safety and retirement, in addition to their roles as fiduciaries of the Fund.

The Applicant responded that the MACRC Trustees on the Fund’s Board of Trustees recused themselves from all discussions and voting with respect to the Fund’s decision to enter into the Sale, in accordance with their fiduciary duties as trustees of the Fund. The Applicant states further that whether the MACRC Trustees recused themselves from other matters described by the Commenter not involving the

Sale is outside the scope of the exemption.

Based on the record and representations made by the Applicant, the Department has determined to grant the Proposed Exemption.⁷ The operative language contains certain minor, non-substantive edits that clarify terms or modify formatting.

The Department makes the requisite findings under ERISA section 408(a) that the exemption is: (1) administratively feasible for the Department, (2) in the interest of the Fund and its participants and beneficiaries, and (3) protective of the rights of both the Fund and the participants and beneficiaries of the Fund, based on the Applicants’ adherence to all the conditions and definitions of the exemption at all times. Accordingly, affected parties should be aware that the conditions and definitions incorporated in this exemption, taken individually and as a whole, are necessary for the Department to grant the relief requested by the Applicant. This exemption provides only the relief specified herein and does not provide relief from violations of any law other than the prohibited transaction provisions of ERISA.

The complete application file (L–12103) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 reachable by telephone at (866) 444–3272. For a more complete statement of the facts and representations supporting the Department’s decision to grant this exemption, please refer to the Notice of Proposed Exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) does not relieve a fiduciary or other party in interest from certain other provisions of ERISA, including any prohibited transaction provisions to which the exemption does

⁷ The Representations stated herein are based on the Applicant’s representations provided in its exemption application and do not reflect factual findings or opinions of the Department unless indicated otherwise. The Department notes that the availability of this exemption is subject to the express condition that the material facts and representations contained in application L–12103 are true and complete at all times and accurately describe all material terms of the transactions covered by the exemption. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described in the application, the exemption will cease to apply as of the date of the change.

not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in accordance with ERISA section 404(a)(1) and in a prudent fashion in accordance with ERISA section 404(a)(1)(B);

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interests of the plan and of their participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries of the plan;

(3) The exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times.

Accordingly, after considering the entire record developed in connection with the Applicant's exemption application, the Department has determined to grant the following exemption under the authority of ERISA section 408(a) in accordance with the Department's exemption procedures regulation.⁸

Exemption

Section I. Covered Transactions

The restrictions of ERISA Sections 406(a)(1)(A), 406(b)(1), and (b)(2), do not apply with respect to the sale of the 1.13 acre Parcel by the Fund to the MACRC, provided the following conditions are satisfied at all times:

Section II. Conditions

(a) The MACRC complied with all applicable obligations under the "Settlement and Agreement to Pay ERISA Section 502(i) Amount Involved and Penalty Amount" entered into between the MACRC and the Department, effective January 31, 2024 (the Settlement); and the MACRC paid all back rent, penalties, and interest due to the Fund under the terms of the Lease

Agreement dated January 31, 2024 between the MACRC and the Fund (the Lease) for the period of time that the MACRC improperly accessed the Parcel and commenced construction of the building on the Parcel, from November 15, 2020 through January 31, 2024, the date of the Settlement Agreement.

(b) The MACRC complies with all terms of the Lease, and any violation of or failure to comply with any term of the Lease is corrected as soon as reasonably possible upon discovery.

(c) The Sale is a one-time transaction for cash that must close within ninety (90) days of the issuance of the final exemption.

(d) At the time of the Sale, the Fund receives the greater of (1) \$220,000; or (2) the fair market value of the Parcel as established by an independent appraiser in an updated appraisal of such Parcel on the date of the Sale. The independent appraiser must meet the Department's definition of a "qualified independent appraiser" under the Department's Exemption Procedure in 29 CFR 2570.31(i) and, at all times: the qualified independent appraiser must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the qualified independent appraiser by the Fund, the MACRC, or any other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the qualified independent appraiser's work; or that waives any rights, claims or remedies of the Fund or its participants and beneficiaries under ERISA or other Federal and state laws against the qualified independent appraiser with respect to the Sale.

(e) The Fund pays no fees, commissions, or other expenses associated with the Sale.

(f) The terms and conditions of the Sale are at least as favorable to the Fund as those obtainable in an arm's length transaction with an unrelated third party.

(g) The trustees appointed by the MACRC (the MACRC Trustees) recused themselves, and continue to recuse themselves, from any involvement in the decision-making process with respect to the Fund's decision to enter into the Sale, since September 23, 2020.

(h) Gallagher Advisory Services, LLC (Gallagher), or another "qualified independent fiduciary" as defined under 29 CFR 2570.31(j) (the Independent Fiduciary) is retained to act as the Independent Fiduciary on behalf of the Fund for all purposes in connection with the Sale and the Lease,

and at all times: the Independent Fiduciary must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of such Independent Fiduciary by the Fund, the MACRC, or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Fiduciary's work; or that waives any rights, claims, or remedies of the Fund under ERISA, state, or Federal law against the Independent Fiduciary with respect to the Sale.

(i) The Independent Fiduciary must represent the Fund and its participants and beneficiaries for all purposes in connection with the Sale and the Lease in accordance with its fiduciary duties under ERISA section 404, including taking the following actions:

(1) review relevant materials to evaluate the Sale and determine whether it is in the best interest of the Fund to proceed with the Sale;

(2) determine whether to rely upon the appraisal report used to determine the fair market value of the Parcel for all purposes in connection with the Sale, and review and approve the methodology used in such appraisal in order to determine that the appropriate methodology is applied by the independent appraiser in determining the fair market value of the Parcel on the date of the Sale;

(3) review, negotiate, and modify (as needed) the Sale agreement and related documents;

(4) prepare a report in connection with the application of the exemption request describing the Independent Fiduciary's review and determinations with respect to the Sale, including whether the Sale is in the best interest of the Fund and its participants and beneficiaries;

(5) make a final determination on behalf of the Fund whether to approve the Sale;

(6) ensure that the Fund receives the fair market value of the Parcel as agreed upon under the terms of the purchase and sale agreement; and that the remaining terms of the purchase and sale agreement and any related instruments are complied with; and

(7) ensure that the MACRC has complied with and continues to comply with all applicable terms of the Lease, including that the Fund receives all rent due to it under the terms of the Lease.

(j) The Independent Fiduciary must prepare an "After Closing Report" for the Employer Trustees of the Fund and the Department, which must be delivered to both parties within 60 days

⁸ 29 CFR part 2570, subpart B (89 FR 4662 (January 24, 2024)).

of the closing of the sale of the Parcel. The report must describe the extent to which the conditions of the exemption have been complied with by the parties, the reasons for any non-compliance, and the steps that the Independent Fiduciary took on behalf of the Fund to enforce the rights of the Fund in respect to such non-compliance. The report should describe the documents reviewed or other steps taken in order for the Independent Fiduciary to make its determinations.

(k) The Fund's Trustees and the Independent Fiduciary maintain for a period of six (6) years from the date of any transaction related to the Sale, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (l)(1) below to determine whether conditions of this exemption, if granted, have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Fund's trustees and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Fund's trustees or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination.

(l)(1) Notwithstanding any provisions of sections (a)(2) and (b) of ERISA Section 504, the records referred to in paragraph (k) above shall be unconditionally available at their customary location during normal business hours to: (i) any duly authorized employee or representative of the Department or the Internal Revenue Service; (ii) the Fund's trustees or any duly authorized representative of the Fund's trustees; (iii) the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary; (iv) any participant or beneficiary of the Fund, or any duly authorized representative of such participant or beneficiary; and (2) should the MACRC or any party refuse to disclose information to a person on the basis that such information is exempt from disclosure, such party shall provide a written notice advising that person of the reasons for the refusal and that the Department may request such information by the close of the thirtieth (30th) day following the request.

(m) All the material facts and representations made by the Applicant that are set forth in the Proposed Exemption's Summary of Facts and

Representations are true and accurate at all times. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described by the Applicant in the application, the exemption will cease to apply as of the date of the change.

Exemption Date: This exemption will be in effect as of the date of publication of the final exemption in the **Federal Register**.

Signed at Washington, DC, this 28th day of July 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026-17144 Filed 8-20-26; 8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026-05; Application Number D-12082]

Exemption Involving Hawai'i Pacific Health and Its Subsidiary: Straub Clinic & Hospital Located in Honolulu, Hawaii

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption permits the Hawai'i Pacific Health Retirement Plan (the Plan) to sell property (the Property) to Straub Clinic & Hospital (Straub) for the greater of \$16,247,000 or 110% of the Appraised Value of the Property as of the date of the sale (the Sale). Absent this exemption, the Sale would violate certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and/or the Internal Revenue Code of 1986 (the Code).

DATES: This final exemption is effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Nicholas Schroth, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693-8540 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Hawai'i Pacific Health (the Applicant) requested an exemption pursuant to ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures set forth in 29 CFR part 2570, subpart B.¹ After

reviewing the application, the Department tentatively determined that the Sale would be in the interest of, and protective of, the Plan and its participants and beneficiaries, and would also be administratively feasible, because, among other things: (1) a qualified independent fiduciary (QIF) would protect the Plan's interests with respect to the Sale; and (2) the Plan would receive at least 110% of the Appraised Value for the Property. The term Appraised Value means the greater of the Property's "fair market value" or its "Investment Value,"² as of the date of the Sale, as determined by a Qualified Independent Appraiser (QIA).

On November 26, 2025, the Department proposed an exemption that would permit the Sale, subject to certain conditions (the Proposed Exemption),³ and invited interested persons to submit written comments and/or requests for a public hearing. All comments and requests for a hearing were due to the Department by January 16, 2026. The Department received sixty-five written comments from individuals and one written comment from the Hawai'i Nurses' Association, OPEIU Local 50 (Local 50) (collectively, the Commenters). Discussed below are the issues raised by the Commenters and responses to these issues raised by Central Pacific Bank (CPB), the Plan's QIF. Also discussed below is the Commenters' request for a hearing and the Department's response to that request.

Comment #1. The Proposal does not explain why the Property was not put up for sale on the open market, which could produce a higher or better offer for the Plan than what the appraiser estimated the Property is worth.

CPB Response to Comment #1. The open market option was not preferred because Straub offered to buy the Property at a price that exceeded what the Property is expected to sell for on the open market. CPB's appraiser

procedures regulation was amended at 89 FR 4662, on January 24, 2024, with an effective date of April 8, 2024. However, because the application was submitted on December 5, 2022, the procedures in effect as of that date govern. Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested by the Applicant to the Secretary of Labor. Therefore, this notice of exemption is issued solely by the Department. For purposes of this exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

² For purposes of this exemption, Investment Value means the value of a property to a particular investor or class of investors based on the investor's specific requirements.

³ 90 FR 54387.

¹ 29 CFR part 2570, subpart B (76 FR 66637 (October 27, 2011)). The Department's exemption

estimated that the fair market value of the Property was \$13,030,000 as of April 1, 2024. At the Department's urging, CPB negotiated an increased Sale price of \$14,770,000, based on the Property's appraised Investment Value. CPB further negotiated an additional amount over the Investment Value, which increased the purchase price of the Property to \$16,247,000. CPB's appraiser also opined that an open market buyer would be unlikely to make an offer that exceeds the Property's fair market value due to the Property's features, such as the Property's irregular shape, its existing long-term lease, and its zoning restrictions.

Department Response to Comment #1. The Department considered this issue during its review of the exemption application. After reevaluating the merits of the Sale following the publication of the Proposed Exemption, including the written comment from Local 50, the Department remains of the view that the Sale would provide a greater return to the Plan than a sale of the Property on the open market. Importantly, the Plan will receive a price that is the greater of \$16,247,000 or 110% of the Appraised Value of the Property as of the date of the Sale.

Comment #2. The appraisal relies on assumptions that may exclude strategic value unique to the affiliated buyer, and the Plan owning the land below the yet-to-be-built hospital would increase its value on the open market.

CPB Response #2. The increased value associated with Straub's intention to build a hospital is incorporated into the Investment Value estimate. Further, the assumptions set forth in the Property's appraisal were developed in accordance with recognized valuation methodologies and are consistent with prevailing professional standards. Each assumption in the appraisal reflected established industry norms and accepted analytical practices.

Department's Response #2. The Department considered this issue during its review of the exemption application. As noted above, in order to capture the unique value that the Property holds for Straub, the exemption requires that the Plan receive the greater of \$16,247,000 or 110% of the Appraised Value of the Property as of the date of the Sale. For purposes of this exemption, the Appraised Value of the Property means the greater of the Property's "fair market value" or its "Investment Value," as determined by a QIA. The Property's Investment Value takes into account the Property's unique value to Straub and, presently, increases the Property's value relative to its fair market value. In this way, the Plan will receive the unique

value of the Property with respect to Straub.

Comment #3. The Commenters state that the Proposed Exemption does not show that the Sale is in the best interest of the Plan compared to reasonable alternatives, such as selling through a competitive process or continued ownership by the Plan.

Department's Response #3. The competitive process issue is discussed in Response #1 above. To assess the Commenter's argument that continued ownership of the Property by the Plan would be in the Plan's best interest as opposed to the Sale, the Department reviewed the Property's April 22, 2024, appraisal (2024 Appraisal). One of the valuation methodologies analyzed in the 2024 Appraisal was the Income Capitalization Approach (*i.e.*, valuing the present worth of anticipated future income projected to be derived from the Plan's continued ownership of the Property). To determine the likely highest dollar value to the Plan between continued leasing of the Property and selling the Property, the Department compared: (1) the QIA's estimated present value of future income to the Plan by continued ownership of the Property; with (2) the negotiated purchase price of the Property.

The 2024 Appraisal shows that the negotiated purchase price for the Property (\$16,247,000) would likely be greater than the estimated value to the Plan due to its continued ownership of the Property (\$14,770,000). Thus, the Sale would provide the estimated highest value to the Plan between the two options. The conditions of this exemption further protect the Plan by requiring the purchase price formula for the Sale to be the greater of \$16,247,000 or 110% of the Appraised Value (*i.e.*, the higher of the market value or Investment Value) as of the date of the Sale. Finally, the record shows that CPB determined that the Sale was the most prudent course of action, given the Plan's objectives and financial situation.

Comment #4. The Commenters note that Straub has not paid back all the property expenses the Plan erroneously paid on Straub's behalf, in connection with the Plan's erroneous payment of Property taxes, utilities, and maintenance from 2006 to 2022 (Property Expenses). The Commenters state that this mistake means that Straub should not be trusted with a Sale without testing the open market to confirm the Property's value. Separately, one Commenter suggested that potential collusion exists between the Plan sponsor and related parties and notes that the Plan may be hiding additional operational failures.

CPB's Response #4. CPB notes that Condition (g) of the Proposed Exemption requires Straub (or Hawai'i Pacific Health) to repay the Plan all of the Property Expenses from 2006 to 2022.

Department's Response #4. Prior to publication of the Proposed Exemption: Straub repaid the Property Expenses owed to the Plan, plus interest, for years 2015 to 2022; and the Department confirmed that the amount repaid at least equaled the amount owed the Plan for years 2015 to 2022.

Following publication of the proposed exemption, Hawai'i Pacific Health repaid (on behalf of Straub) the Property Expenses owed to the Plan, plus interest, for years 2006 to 2014. Section III(b)(7) of this exemption requires the QIF to confirm in writing to the Department that the amount repaid at least equaled the amount owed the Plan for years 2006 to 2014.⁴

Comment #5. Local 50 states that by "conducting a closed sale of the land to the plan sponsor the plan is providing a material benefit to the plan sponsor without receiving appropriate compensation" and that the "right of first refusal is a consideration that should require compensation in a transaction that places the Plan participants first." The Commenters further provide that the Sale should be disallowed and an investigation into the Sale, the trustees, and the Plan sponsor should be conducted.

CPB's Response #5. In response to the argument that the proposed Sale constitutes an "uncompensated benefit to the plan sponsor," CPB notes that the proposed price includes both an Investment Value premium (which reflects the Property's enhanced value specifically to Straub due to Straub's unique position as the adjoining landowner) and an additional 10% above the Property's appraised Investment Value.

Department's Response #5. The terms of the Sale were closely evaluated by the Department during its processing of the application, including the Sale price and its component, Investment Value. The Comment did not raise any new facts that would lead the Department to question whether the Plan will receive appropriate compensation. Further, the Department has found no evidence that a right of first refusal exists on this Property—only that the Plan intends to sell the Property to Straub. Finally, the Commenters provided no additional

⁴ Prior to publishing the Proposed Exemption, the Department confirmed that Hawai'i Pacific Health repaid the correct amount of Property Expenses and interest to the Plan for years 2015 to 2022.

facts that support an investigation into the Sale, the Trustees, or the Sponsor.

Hearing Request. Local 50 and the vast majority of the individual commenters requested a hearing to address the concerns above and to ensure the transaction's alignment with the interests of the Plan participants.

Department's Response to the Hearing Request. As noted in the Proposed Exemption, the Department's procedural regulations provide for a hearing when "necessary to fully explore material factual issues identified by the person requesting the hearing."⁵ The Department's regulations also provide that it may decline to hold a hearing if, among other things, "the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form." None of the comments received raised any factual issues that were not already considered by the Department in its evaluation of the exemption application, and no commenter identified any issues that cannot be fully explored through the submission of evidence in written form. The Department therefore declines to hold a hearing.

The Department notes that in processing the Applicant's exemption request, it thoroughly reviewed the application, all materials submitted in support of the application, and all comments received during the comment period. A complete copy of the record supporting this exemption is available in the Department's Public Disclosure Room by referencing Application No. D-12082.

Other Changes

This final exemption also includes minor, non-substantive edits intended to correct scrivener's errors or make non-substantive clarifications.

Statutory Findings

Based on the entire record, including the comments discussed above, the Department has determined to grant the proposed exemption. In this regard, the Department makes the requisite findings under ERISA section 408(a), based on the Applicants' adherence to all the conditions and definitions of the exemption at all times. Accordingly, affected parties should be aware that the conditions and definitions incorporated in this exemption are, taken individually and as a whole, necessary for the Department to grant the relief requested by the Applicant. In granting this exemption, the Department has relied on the representations of the

Applicant. If any material statement in the Application, supporting documents (including the Applicant's comment), Proposed Exemption or final exemption is not, or may no longer be, completely and factually accurate, the Applicant and recipients of the exemptive relief provided herein must immediately alert the Department.

The complete application file (D-12082) will remain available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N-1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 reachable by telephone at (202) 693-8673. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Proposed Exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interests of affected plans and of their participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries of such Plans;

(3) The exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that

the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times.

Accordingly, after considering the entire record developed in connection with the Applicant's exemption application, the Department has determined to grant the following exemption under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the Department's exemption procedures regulation.

Exemption

Section I. Definitions

(a) "Appraised Value" means the greater of the Property's fair market value or its Investment Value, as determined by the QIA.

(b) "Investment Value" means the value of a property to a particular investor or class of investors based on the investor's specific requirements. In the instant case, Leshner, the Qualified Independent Appraiser, considered the potential benefit to Straub for purchasing the Property taking into account the fact that Straub owned an abutting parcel of real estate.

(c) "Plan" means the Hawai'i Pacific Health Retirement Plan, a defined benefit plan that provides retirement benefits to Hawai'i Pacific Health employees and the employees of Straub Clinic & Hospital. Hawai'i Pacific Health appointed the Hawai'i Pacific Health Retirement Plan Finance Committee (the Committee) to serve as the Plan's named fiduciary and plan administrator.

(d) The "Property" means the parcel of real property owned by the Plan and located at 888 South King Street, Honolulu, HI 96813.

(e) "Property Expenses" mean the expenses and costs relating to the Property that Straub was responsible to pay pursuant to several provisions in the lease between Straub and the Plan, dated January 2, 1969. These costs and expenses include taxes, utilities, and maintenance.

(f) "Purchase Price" means the price paid by Straub to the Plan for the Property, which must be the greater of \$16,247,000 or 110% of the Appraised Value as determined by the QIA on the date of Sale. This amount may be further negotiated upwards by the QIF if necessary to determine that the Sale is in the best interest of the Plan.

(g) "Qualified Appraisal Report" means the report appraising the Property as of the Sale date that comports with the requirements of 29 CFR 2570.31(h).

⁵ 29 CFR part 2570, subpart B (75 FR 66637, October 27, 2011).

(h) “QIA” means Leshar Chee Stadlbauer (Leshar), or such other “Qualified Independent Appraiser,” as defined in 29 CFR 2570.31(i), hired by the QIF to determine the Property’s Appraised Value as of the date of the Sale. If the QIF replaces Leshar with a new entity to act as the QIA in connection with the Sale, the new entity must be approved in writing by the Department, and the Department must receive a copy of the new appraiser’s appraisal report for the Property at least 60 days in advance of the Sale.

(i) “QIF” means Central Pacific Bank (CPB), or such other “Qualified Independent Fiduciary,” as defined in 29 CFR 2570.31(j), hired by the Plan to monitor, review, negotiate, and exercise the sole authority to approve the Sale of the Property in accordance with the requirements of ERISA section 404(a) and 404(b), and this exemption, if granted. If the Plan replaces CPB with a new entity to serve as the QIF in connection with the Sale, the new entity must be approved in writing by the Department at least 90 days in advance of the Sale.

(j) “Straub” means Straub Clinic & Hospital, a wholly controlled subsidiary of Hawai’i Pacific Health, the employees of which are participants in the Plan.

Section II. Transactions

This exemption provides relief from the prohibited transactions provisions of ERISA sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2), and Code sections 4975(c)(1)(A), (D), and (E) for Hawai’i Pacific Health and the Committee in connection with the sale of the Property by the Plan to Straub in exchange for a lump sum payment of cash equal to the Purchase Price (the Sale). To receive this relief, the conditions in Section III must be met in conformance with the definitions in Section I.

Section III. Conditions

(a) The Sale must be a lump sum payment in cash equal to the Purchase Price, and the Sale must take place within 60 days of the date of publication of the exemption in the **Federal Register**.

(b) The QIF must have the sole authority to approve the Sale and take any other fiduciary action on behalf of the Plan with respect to the Sale; and the QIF must take the following actions in accordance with its fiduciary responsibilities under ERISA Section 404(a) and (b):

(1) Determine whether it is prudent to go forward with the Sale and make a final determination on the record whether or not to proceed with the Sale;

(2) Approve the terms and conditions of the Sale;

(3) Retain the services of a QIA, review the Qualified Appraisal Report, approve the methodology used by the QIA, and ensure that such methodology is properly applied in determining the Property’s fair market value and Investment Value on the date of the Sale;

(4) Negotiate a higher price than the current Purchase Price, if necessary, in order to determine that the Sale is in the best interest of the Plan and its participants and beneficiaries;

(5) Monitor the Sale throughout its duration on behalf of the Plan to ensure the parties’ compliance with the terms of applicable sale agreements and related documents and enforce the rights of the Plan and its participants and beneficiaries in connection with such agreements;

(6) Monitor compliance with the conditions for this exemption and take any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries;

(7) Review and approve in writing, prior to approving the Sale, that the amounts of Property Expenses erroneously paid by the Plan from 2006 through 2014, with associated lost interest as calculated using the Department’s VFCEP Calculator, have been repaid on behalf of Straub to the Plan to make the Plan whole, using the Department’s applicable correction procedures;⁶

(8) Create and deliver to the Department a report (i) justifying its conclusion that the Sale is, or is not, in the best interest of the Plan and its participants and beneficiaries, and was conducted in accordance with the terms of this exemption, (ii) confirming that the calculation and repayment of the Property Expenses described in the preamble to the notice of proposed exemption⁷ and associated lost interest were, or were not, accurately repaid, and (iii) confirming that the conditions of the exemption have, or have not, been satisfied with copies of any applicable reports needed to make the confirmations. The report must be delivered to the Department within 60 days after the Sale, or the date the QIF determines that the Sale is not in the interest of the Plan, at *e-OED@dol.gov*.

⁶ See 29 CFR parts 2560 and 2570, most recently amended in the **Federal Register** at 90 FR 4192 (January 15, 2025). The Department’s VFCEP Calculator can be found online at <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/correction-programs/vfcep/calculator>.

⁷ 90 FR 54387, 54388 (November 26, 2025).

(c) The Plan does not pay any costs associated with the Sale, including brokerage commissions, fees, appraisal costs, or any other expenses.

(d) The terms and conditions of the Sale are at least as favorable to the Plan as those it would have obtained in an arm’s length transaction with an unrelated party.

(e) The QIF must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIF by the Plan or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the QIF’s work; and the QIF may not seek or receive any waiver of any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against the QIF with respect to the subject matter of the exemption;

(f) The QIA must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIA by the Plan or any other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the QIA’s work; and the QIA may not seek or obtain any waiver of any rights, claims or remedies of the Plan or its participants and beneficiaries under ERISA, the Code, or other Federal and state laws against the QIA with respect to the subject matter of the exemption;

(g) Prior to the Sale, Hawai’i Pacific Health (on behalf of Straub) must pay back to the Plan the Property Expenses the Plan erroneously paid from 2006 through 2014, including lost interest, in violation of the Lease and PTE 81–71.⁸ Straub or Hawai’i Pacific Health must pay the IRS the legally required excise tax for all prohibited transactions conducted by the Plan from 2006 until 2022;

(h) Straub and Hawai’i Pacific Health maintains for a period of six (6) years from the date of Sale, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (i)(1) below to determine whether conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred merely

⁸ As noted above, Straub previously repaid the Plan the Property Expenses the Plan erroneously paid from 2015 through 2022, including lost interest.

because, due to circumstances beyond the control of Straub, Hawai'i Pacific Health, and/or the QIF, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than Straub, Hawai'i Pacific Health or the QIF shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (i) below;

(i)(1) Except as provided in Section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of ERISA section 504, the records referred to in paragraph (h) above shall be unconditionally available at their customary location during normal business hours to:

(i) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) Straub, Hawai'i Pacific Health or any duly authorized representative of Straub or Hawai'i Pacific Health;

(iii) the QIF or any duly authorized representative of the QIF;

(iv) any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary;

(j) Straub, Hawai'i Pacific Health and/or QIF must provide to the Department the records necessary to demonstrate that the conditions of the exemption have been met, within 30 days from the date the Department requests such records; and

(k) All the material facts and representations made by the Applicant that are set forth in the proposed exemption and this grant notice must be true and accurate at all times.

Exemption date: The exemption will be in effect as of the date the grant notice is published in the **Federal Register**.

Signed at Washington, DC, this 28th day of July 2026.

Christopher Motta,

Acting Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor
[FR Doc. 2026-17142 Filed 8-20-26; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2023-0009]

NASA Neutral Buoyancy Laboratory Operations Contract; Grant of Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA grants a permanent variance to NASA's Neutral Buoyancy Laboratory Operations Contract (NOC or the applicants) from a provision of the OSHA standard that regulates commercial diving operations.

DATES: The permanent variance specified by this notice becomes effective on August 21, 2026 and shall remain in effect until it is modified or revoked, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693-1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

Copies of this Federal Register notice: Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information are also available at OSHA's web page at <http://www.osha.gov>.

I. Overview

OSHA's standards in subpart T of 29 CFR 1910 govern commercial diving operations. On April 6, 2022, the eight companies comprising NASA's Neutral Buoyancy Laboratory Operations Contract, Vertex TTS, Oceaneering International Inc., Bastion Technologies, Inc., Rothe Enterprises, Rothe Development, International Preparedness Associates, Inc., MRI, and EPro (collectively NOC or the applicants), submitted an application for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C.

655) and 29 CFR 1905.11 (Variances and other relief under section 6(d)), from a provision of OSHA's commercial diving operations (CDO) standard that regulates the use of decompression chambers (Docket No. OSHA-2023-0009-0001). NOC's application also requested an interim order pending OSHA's decision on the variance application. NOC is located at 13000 Space Center Boulevard, Houston, Texas 77059.

This notice addresses NOC's application for a permanent variance and interim order from the provision of OSHA's CDO standard at 29 CFR 1910.423(b)(2) that requires the employer to instruct divers engaged in commercial diving operations to remain awake and in the vicinity of the decompression chamber at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) for any dive outside the no-decompression limits, deeper than 100 feet of sea water (fsw), or using mixed gas as a breathing mixture.

OSHA reviewed NOC's application for the variance and interim order based on the alternate standard OSHA granted NASA on June 30, 2021, and determined that NOC were appropriately submitted in compliance with the applicable variance procedures in Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act, 29 U.S.C. 655(d)) and OSHA's regulations at 29 CFR 1905.11 (Variances and other relief under section 6(d)), including the requirement that the applicant inform workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

OSHA additionally reviewed the alternative procedures in NOC's application, along with the alternate standard granted to NASA on June 30, 2021, and preliminarily determined that NOC's proposed alternative, subject to the conditions in the request and imposed by the interim order, provides measures that are as safe and healthful as those required by the cited OSHA standard. On November 20, 2023, OSHA published a **Federal Register** notice announcing NOC's application for a permanent variance, stating the preliminary determination along with the basis of that determination, and granting the interim order (88 FR 80764). OSHA requested comments on each.

OSHA did not receive any comments or other information disputing the preliminary determination that the alternative was at least as safe as OSHA's standard, nor any objections to

OSHA granting a permanent variance. Accordingly, through this notice, OSHA grants NOC a permanent variance subject to the conditions set out in this document.

II. NASA's Alternate Diving Standard and NOC's Variance Application

A. Background on NASA Alternate Standard

On December 15, 2020, NASA submitted a request to OSHA proposing one alternate standard to 29 CFR 1910.423(b)(2), Subpart T, and included with their request extensive introductory, background, and explanatory information in support of the request (OSHA–2023–0009–0003). NASA sought an alternate standard that would permit the NBL to conduct post-dive health monitoring that is tailored to NASA's specific dive operations and medical surveillance capabilities.

The alternate standard request stated that NASA operates training and simulation activities for space operations that routinely involve underwater diving operations in preparation for upcoming missions. NASA described the NBL as a large, indoor tank of water, where astronauts perform simulated extravehicular activities (EVAs), also known as spacewalks, in preparation for upcoming space missions. The NBL is a controlled environment with a maximum depth of 40 feet. Its primary purpose is to provide a large-scale underwater environment where NASA personnel can simulate a weightless environment by balancing the buoyancy of a suited subject submerged in the water. Astronaut trainees, suited in Extravehicular Mobility Units (EMUs) adapted for use in water, can then perform a variety of specialized activities on spacecraft and Space Station analogs in the water. The NBL uses nitrox (46% enriched air nitrox (EAN₄₆)) as the standard breathing gas for self-contained underwater breathing apparatus (SCUBA) while working in the tank.

NASA asserted in its request for the alternate standard that diving on nitrox in the NBL is safer and less likely to cause decompression sickness (DCS) than diving on compressed air due to the lower partial pressure of nitrogen in the gas mixture, giving a shallower equivalent air depth (EAD). The EAD formula can accurately estimate the depth allowing for DCS risk calculation based on equivalent nitrogen pressures and dive durations used in air diving. In other words, breathing EAN₄₆ at 40 feet is like breathing air at 17 feet,

essentially eliminating the risk of DCS in nominal operations.

Additionally, the alternate standard request examined the use of nitrox in the water, and the risk of oxygen toxicity, specifically the risk of seizure resulting from central nervous system (CNS) oxygen toxicity. NASA asserted in the alternate standard request that with the hard floor at 40 feet in the tank, there are no cases in medical or diving literature of seizure in water at pressures of PO₂ of 1.0 ata. Further, NASA asserted that there have been no instances of CNS oxygen toxicity with NBL operations to date.

The alternate standard request asserted that the proposed alternate standard provides equivalent protection to the OSHA standard. First, NASA stated that the fixed diving depth of the pool has eliminated the risk of decompression sickness. As a result, the need to remain in the vicinity of the chamber is for the control and treatment of arterial gas embolism only. Second, NASA asserted that a shorter observation period would be sufficient: "At the NBL, a ten-minute observation provides the equivalent protection as a one-hour observation in the outside environment. Moreover, implementation of this standard will provide greater protection for divers by allowing them to dive on Nitrox rather than air routinely. This will reduce recurrent decompression stress experienced by the divers, along with the resulting long-term health problems that occur from repetitive decompression stress, such as the risk of dysbaric osteonecrosis (bone death)." Additionally: "NBL divers operate under no-decompression limits that are more conservative than the U.S. Navy. The OSHA regulations for mixed gas diving enhance safety when applied to gas mixtures used on long, deep, complex dives because of increased risk of DCS and oxygen toxicity. However, diving with nitrox at shallower depths, such as the NBL, is in fact safer than diving on air." Further: "The NBL adheres to strict oxygen clean handling and compatibility requirements that exceed the industry standard for concentrations greater than 40% by volume. The alternate standard allows divers to breathe a safer gas during all NBL events, in addition to allowing for fewer total diving events."

NASA's alternate standard request also explained that NASA employees working within the NBL work together to ensure the availability of qualified personnel and certified systems to meet NASA's EVA requirements. NASA stated that safety and utility divers support suited trainees at all times in

the water. Suited crew utilize surface-supplied nitrox via an umbilical, and support divers breathe nitrox via self-contained underwater breathing apparatus (SCUBA) while working in the tank. NBL activities routinely involve dozens of trainees and divers, requiring hundreds of dive hours per week. NASA asserted in the alternate standard request that the NBL medical officer or a human test support group medical technician physically examines all divers for fitness prior to entering the water. Only the medical officer performs fitness to dive exams for suited subjects. These exams include obtaining vital signs and information on any changes to medical history, including but not limited to, medications; physical fitness; and cardiopulmonary and ear, nose, and throat examinations. Divers and suited subjects may be disqualified pending treatment or further evaluation and management if there are any concerning abnormalities. NASA also certified that it will apply and use the alternate standard only at the NBL and that NASA will not apply or use the alternate standard at any other location or during the other underwater activities that NASA performs.

After fully considering NASA's application and its responses to OSHA's follow-up questions (OSHA–2023–0009–0004), OSHA approved the alternate standard that NASA proposed for use solely at NASA's NBL (OSHA–2023–0009–0005). NOC now seeks a permanent variance covering its employees conducting commercial diving operations at the NBL based on NASA's approved alternate standard.

B. NOC Variance Application

The information that follows about NOC comes from the NOC variance application.

NOC is a team of contractors for NASA, a federal government agency that is responsible for science and technology related to air and space. NOC is comprised of prime contractor Vertex TTS and sub-contractors Oceaneering International Inc. (Oll); Bastion Technologies, Inc.; Rothe Enterprises; Rothe Development; International Preparedness Associates, Inc. (IPA); MRI; and EPro; a group of companies working at NASA's Neutral Buoyancy Laboratory, within the NASA Space Center in Houston, Texas. On June 30, 2021, OSHA approved an alternate standard ¹ for NASA regulating

¹ Federal agency heads may seek and obtain approval for alternate standards from OSHA pursuant to the procedures described in 29 CFR 1960.17. According to 29 CFR 1960.17(b), the Secretary will not approve an alternate standard, "unless it unless it provides equivalent or greater

its use of decompression chambers during diving operations at NASA's National Buoyancy Laboratory (NBL) (OSHA–2023–0009–0002), OSHA's Comments and Decisions to NASA's Request for an Alternate Standard on Diving (NASA Alternate Diving Standard). To account for technological advances in the use of elevated oxygen levels in nitrox breathing-gas mixtures and the use of the equivalent-air-depth (EAD) formula (see OSHA's 2004 Final Rule amending 29 CFR part 1910, subpart T, Appendix C (69 FR 7351, 7356)), the NASA alternate standard provides NASA with modified requirements regarding the use of decompression chambers, including requiring the diver to remain awake and in the vicinity of the decompression chamber at the dive location for at least 10 minutes after the dive.

NOC's divers conduct diving operations for NASA at the NBL facility in Houston, Texas. NASA requires all divers to follow all their internal requirements, including the NBL Diving Program and the NASA alternate standard, which only cover NASA employees. To permit NOC's divers to dive under the same standards as their NASA-employed colleagues, NOC seeks a permanent variance from 29 CFR 1910.423(b)(2) based on the same conditions that apply to NASA divers under the NASA alternate standard.

NOC contends that the proposed variance conditions outlined in the application provide NOC's workers with a place of employment that is at least as safe and healthful as they would obtain under the provisions of OSHA's CDO standard. NOC has also certified that they are not contesting any citations involving the standards that are the subject of this application. As a NASA contractor, NOC asserts that their divers must strictly follow the requirements of the NBL, which include following the conditions of the NASA alternate standard. However, the NASA alternate standard's coverage does not include NOC-employed divers, even though they work side-by-side with NASA-employed divers during NBL operations. NOC states that their divers undergo the same training as NASA NBL employees, and that there are no differences between NASA and NOC divers regarding medical clearance procedures and standards, training materials, equipment used, equipment maintenance, and diving procedures used. Accordingly, NOC seeks permission from OSHA to conduct dive activities for NASA at the NBL under

the same standard regulating the time required for NASA employees diving at the NBL, on nitrox and within the no-decompression limits, pursuant to the NASA alternate standard rather than the requirements of 29 CFR 1910.423(b)(2).

C. Variance From 29 CFR 1910.423(b)(2), Requirements for Decompression Chambers²

OSHA's standards regulating the availability and use of decompression chambers require that for any dive within the no-decompression limits, deeper than 100 fsw, or using mixed gas as a breathing mixture, the employer must instruct the diver to remain awake and in the vicinity of the decompression chamber that is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) (29 CFR 1910.423(b)(2)).

In adopting the conditions of the NASA alternate standard, NOC's application proposes deviating from the decompression chamber availability and capability requirements in OSHA's CDO standard. As OSHA explained when it granted the NASA Alternate Diving Standard, the purpose of having a decompression chamber available and ready for use at a dive site is to treat DCS and arterial gas embolism (AGE). DCS may occur from breathing air or mixed gases at diving depths and durations that require decompression, while AGE may result from over-pressurizing the lungs, usually following a rapid ascent to the surface without proper exhalation. If DCS or AGE develops, a decompression chamber, oxygen or treatment gas mixtures, and treatment tables and instructions must be readily available to treat these conditions effectively. Decompression chambers provide the most effective therapy—recompression—for DCS and AGE.

NOC's proposed variance would adopt the conditions of the NASA alternate standard that permit NASA to deviate from the requirement that the employer instruct all divers who dive deeper than 100 fsw or who dive using mixed breathing gas to remain awake and in the vicinity of a decompression chamber for one hour after the dive. The NASA alternate standard allows divers at NASA's NBL who are diving on nitrox, within the no-decompression limits, to be instructed to remain awake and in the vicinity of the decompression chamber at the dive location for at least 10 minutes after the dive. In other

words, the NASA alternate Section 1910.423(b)(2) requires that any NASA diver at NASA's NBL who dives using nitrox within the no-decompression limits will be instructed to remain awake and in the vicinity of the decompression chamber for at least ten minutes after the completion of the dive.

When approving NASA's request for an alternate standard to 29 CFR 1910.423(b)(2), OSHA explained that the CDO standard sets the 100 fsw limit based on the increased risk of developing DCS and AGE on dives deeper than 100 fsw. However, OSHA explained that the agency amended the CDO standard in 2004 to permit employers of recreational diving instructors and diving guides to comply with an alternative set of decompression chamber requirements (see 69 FR 7351 (February 17, 2004)).³ Under the conditions articulated in Appendix C to Subpart T, OSHA does not require eligible employers to provide a decompression chamber at the dive site when engaged in SCUBA diving to 130 fsw while breathing a nitrox gas mixture within the no-decompression limits.

OSHA explained in the NASA alternate standard that it created this exemption for diving guides because the agency determined that the elevated levels of oxygen in nitrox breathing-gas mixtures reduced the incidence of DCS compared to breathing air at the same depths, and therefore found that the risk of DCS was minimal.

After considering the statistics and information regarding NBL operations that NASA submitted, OSHA concluded that NASA's proposed alternate standard would provide equivalent protection to the CDO standard when NBL divers use nitrox breathing-gas mixtures. NOC's proposed variance would adopt conditions identical to those for which OSHA approved NASA's alternate standard to 29 CFR 1910.423(b)(2).

D. Technical Review

OSHA conducted a review of NOC's variance application and the supporting technical documentation. After completing the review of the variance application, the NASA alternate standard, and related supporting materials, OSHA concludes that:

1. The proposed conditions would provide NOC's divers with protection equivalent to the CDO standard;

protection for affected employees" as compliance with the OSHA standard.

² A decompression chamber is "a pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system used to decompress divers and to treat decompression sickness" (29 CFR 1910.402).

³ Appendix C incorporated into the CDO standard essentially the same terms as those used in a variance that OSHA granted to Dixie Divers, Inc., a diving school that employed several recreational diving instructors, in 1999 (see 64 FR 71242, December 20, 1999).

2. There are no differences in the training requirements, medical clearance procedures and standards, equipment use and maintenance requirements, or diving procedures that apply to NASA-employed and NOC-employed divers who dive at the NBL; and

3. Diving safety for the NBL will be maximized when the diving practices of NOC-employed divers are identical to those of NASA-employed divers.

III. Decision

After reviewing the proposed alternative, OSHA determined that NOC proposed to implement effective alternative means of protection that will protect its employees as effectively as the requirements of paragraph 29 CFR 1910.423(b)(2) of the standard governing commercial diving operations. Further, under section 6(d) of the OSH Act (29 U.S.C. 655(d)), and based on the record discussed above, OSHA finds that when the employer complies with the conditions of the variance, the working conditions of the employer's workers are at least as safe and healthful as if the employer complied with the working conditions specified by paragraph 29 CFR 1910.423(b)(2) OSHA's standard for commercial diving operations. Therefore, under the terms of this variance, NOC must: (1) comply with the conditions listed below under section V of this notice (Order) for the period between the effective date of this notice and until the agency modifies or revokes this final order in accordance with 29 CFR 1905.13; (2) comply fully with all other applicable provisions of 29 CFR part 1910; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions using the same means they used to inform these employees of the application for a permanent variance.

IV. Description of the Conditions Specified by the Permanent Variance

The conditions for the variance are set out in the Order at the end of this document. This section provides additional detail regarding the conditions in the permanent variance that OSHA is granting to NOC.

Condition A: Scope

The scope of the permanent variance limits coverage only to the commercial diving operations performed at NASA's NBL. Clearly defining the scope of the permanent variance provides NOC, NOC's employees, potential future applicants, other stakeholders, the

public, and OSHA with necessary information regarding the work situations to which the permanent variance applies. To the extent that NOC exceeds the defined scope of this variance, they must comply with OSHA's standards.

OSHA's grant of a permanent variance applies only to the applicants that comprise the NOC (Vertex TTS, Oll, Bastion Technologies Inc., Rothe Enterprises, Rothe Development, IPA, MRI, and EPro), and only to work performed at NASA's Neutral Buoyancy Laboratory. The permanent variance does not apply to any other employers or any other worksite. Additionally, coverage is limited to the work situations specified under the "Scope and Application" section of Subpart T, Commercial Diving Operations (1910.401(a)), and does not apply to commercial diving operations that are already exempted under 1910.401(a)(2).⁴ When implementing the conditions of the permanent variance, NOC must comply fully with all safety and health provisions that are applicable to commercial diving operations as specified by 29 CFR 1910, Subpart T, except for the requirements specified by 29 CFR 1910.423(b)(2). The permanent variance only applies to NOC's employees when they conduct diving operations at NASA's Neutral Buoyancy Laboratory.

Condition B: List of Abbreviations

Condition B defines abbreviations used in the permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their use, thereby enhancing the applicants' and their employees' understanding of the conditions specified by the permanent variance.

Condition C: Requirements for Decompression Chambers

This condition requires that, for any dive within the no-decompression limits and using nitrox as a breathing mixture, NOC will instruct the diver to remain awake and in the vicinity of the

⁴ Section 1910.401(a)(2) provides that the CDO standard does not apply to any dive (i) performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits; (ii) performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; (iii) governed by 45 CFR part 46 (Protection of Human Subjects, U.S. Department of Health and Human Services) or equivalent rules or regulations established by another federal agency, which regulate research, development, or related purposes involving human subjects; or (iv) fitting the standard's definition of "scientific diving."

decompression chamber at the dive location for at least ten minutes after the dive (including decompression or treatment as appropriate). When using a nitrox breathing-gas mixture, NOC must meet the no-decompression provisions of Appendix C to the CDO standard (Use of No-Decompression Limits).

Condition D: Communication

This condition requires the applicants to implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. This condition also requires the applicants to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during diving activities. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during diving activities at NASA's NBL.

Proposed Condition E: Worker Qualification and Training

This condition requires NOC to follow the requirements of the NASA NBL Safety Program, including the NBL Safe Practices Manual, and any instruction NASA's Dive Safety Board (DSB) provides, to qualify their employees to perform diving activities at the NBL. Further, NOC must ensure that the NBL medical officer of the day or a human test support group medical technician physically examines all employees conducting dives at the NBL for fitness to dive prior to entering the water. This condition specifies actions an affected worker must be able to perform safely during diving activities, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing the required dive tasks ensures that they recognize and respond appropriately to underwater safety and health hazards. These qualification and training requirements enable NOC divers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Proposed Condition F: Recordkeeping

Under OSHA's existing recordkeeping requirements in 29 CFR part 1904 regarding Recording and Reporting Occupational Injuries and Illnesses, NOC must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904) resulting from exposure of an employee to hyperbaric conditions, or any other work conditions, by completing the OSHA Form 301, Injury and Illness Incident Report, and OSHA Form 300 Log of Work-Related Injuries and Illnesses. NOC did not seek a variance from this standard and therefore must comply fully with those requirements.

Proposed Condition G: Notifications

Under this condition, the applicants must, within specified periods of time: (1) notify OSHA of any recordable injury, illness, in-patient hospitalization, amputation, loss of an eye, or fatality that occurs as a result of diving operations within eight (8) hours of the incident; (2) provide OSHA's Office of Technical Programs and Coordination Activities (OTPCA) and the Houston South Texas OSHA Area Office within twenty-four (24) hours of the incident with a copy of the incident investigation report (using OSHA Form 301, Injury and Illness Incident Report) of the event; (3) include on OSHA Form 301, Injury and Illness Incident Report, information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide the certification that affected workers were informed of the incident and the results of the incident investigation; (5) notify OTPCA and the Houston South Texas OSHA Area Office at least 15 working days in advance should the applicants need to revise the dive procedures to accommodate changes in diving operations that affect NOC's ability to comply with the conditions of the permanent variance; (6) obtain OSHA's written approval prior to implementing the revision in their dive procedures to accommodate changes in their diving operations that affect NOC's ability to comply with the conditions in the permanent variance; and (7) by January 31 of each calendar year provide OTPCA and the Houston South Texas OSHA Area Office with a report summarizing the dives completed during the previous calendar year and evaluating the effectiveness of the variance conditions in providing a safe and healthful work environment and in preventing dive-related incidents.

OSHA notes that the requirement for completing and submitting the hyperbaric exposure-related (recordable) incident investigation report (OSHA Form 301, Injury and Illness Incident Report) is more restrictive than the current recordkeeping requirement of completing the form within seven (7) calendar days of the incident (1904.29(b)(3)). This modified, more stringent incident investigation and reporting requirement is restricted to intervention-related (recordable) incidents only. Providing rapid notification to OSHA is essential because time is a critical element in OSHA's ability to determine the continued effectiveness of the variance conditions in preventing injuries and illnesses, and NOC's identification and implementation of appropriate corrective and preventive actions.

Further, these notification requirements also enable the applicants, NOC's employees, and OSHA to assess the effectiveness of the permanent variance in providing the requisite level of safety to the NOC's workers and, based on this assessment, decide whether to revise or revoke the conditions of the permanent variance. Timely notification permits OSHA to take whatever action may be necessary and appropriate to prevent possible further injuries and illnesses. Providing notification to employees informs them of the precautions NOC has taken to prevent similar incidents in the future.

Additionally, this condition requires NOC to notify OSHA if it ceases to do business, has a new address or location for the main office, or transfers the operations covered by the permanent variance to a successor company. In addition, the condition specifies that OSHA must approve any potential transfer of the permanent variance to a successor company. These requirements allow OSHA to communicate effectively with the applicants regarding the status of the permanent variance, and expedite the agency's administration and enforcement of the permanent variance. Stipulating that an applicant must have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions the permanent variance specifies, thereby ensuring the safety of workers involved in performing the operations covered by the permanent variance.

V. Order

As of the effective date of this final order, OSHA is revoking the interim order granted to the employer on November 20, 2023 (88 FR 80764).

OSHA issues this final order authorizing NASA's Neutral Buoyancy Laboratory Operations Contract (NOC or the applicants) to comply with the following condition instead of complying with the requirements of paragraphs 29 CFR 1910.423(b)(2) of OSHA's commercial diving standard. This final order applies to all NOC employees located at 13000 Space Center Boulevard, Houston, Texas, 77059.

A. Scope

The permanent variance applies only to NOC's diving operations conducted for NASA and performed at NASA's NBL; and

Performed in compliance with all applicable conditions of Subpart T of 29 CFR 1910 except for the requirement specified by 29 CFR 1910.423(b)(2) when conducting commercial diving operations.

B. List of Abbreviations

The following abbreviations apply to this permanent variance:

ATA—Atmosphere Absolute
BCD—Buoyancy Compensator Device
CDO—Commercial Diving Operations
CFR—Code of Federal Regulations
DCS—Decompression Sickness
DSB—Dive Safety Board
EAD—Equivalent Air Depth
EAN_x—Enriched Air Nitrox (where X denotes percentage of oxygen)
EVA—Extravehicular Activities
fsw—feet of seawater
NBL—NASA Neutral Buoyancy Laboratory
NOC—NASA's Neutral Buoyancy Laboratory Operations Contract
OSHA—Occupational Safety and Health Administration
OTPCA—OSHA's Office of Technical Programs and Coordination Activities
PO₂—Partial Pressure of Oxygen in ATA
SCUBA—Self-Contained Underwater Breathing Apparatus

C. Requirements for Decompression Chambers

For any dive at the NBL that is within the no-decompression limits and using nitrox as a breathing mixture, NOC must instruct the diver to remain awake and in the vicinity of the decompression chamber at the dive location for at least ten (10) minutes after the dive (including decompression or treatment as appropriate).

D. Communication

This condition requires the applicants to implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and

incidents, and corrective actions taken, prior to the start of each shift. This condition also requires the applicants to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during diving activities. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during diving activities at NASA's NBL.

E. Worker Qualification and Training

This permanent variance requires NOC to:

1. Follow the requirements of the NASA NBL Safety Program, including the NBL Safe Practices Manual, as well as any instruction provided by NASA's DSB;
2. Ensure that prior to entering the water, the NBL medical officer of the day or a human test support group medical technician physically examines all NOC employees conducting dives at the NBL for fitness to dive.

F. Recordkeeping

In addition to completing OSHA Form 301, Injury and Illness Incident Report, and OSHA Form 300, Log of Work-Related Injuries and Illnesses, NOC must maintain records of recordable injuries that occur as a result of diving operations conducted for NASA under the NBL.

Information gathered and recorded under this provision, in concert with the information provided under condition G (using OSHA Form 301, Injury and Illness Incident Report Form) to investigate and record dive-related recordable injuries as defined by 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12, will enable NOC and OSHA to determine the effectiveness of the permanent variance in preventing DCS and other dive-related injuries and illnesses.

G. Notifications

1. To assist OSHA in administering the conditions specified herein, NOC must:

- (a) Notify OTPCA and the Houston South Texas OSHA Area Office at www.osha.gov/contactus/byoffice of any recordable injury illness or fatality (by submitting the completed OSHA Form 301, Injury and Illness Incident Report) ⁵

that occurs as a result of diving operations, or meets the recordable injury or illness criteria of 29 CFR 1904. NOC must ensure the notification occurs within eight (8) hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality; NOC must submit a copy of the incident investigation (OSHA Form 301, Injury and Illness Incident Report) to OSHA within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information the OSHA Form 301, Injury and Illness Incident Report, requires, the incident-investigation report must include a root-cause determination, and the preventive and corrective actions identified and implemented.

(b) Provide OTPCA and the Houston South Texas OSHA Area Office within twenty-four (24) hours of the incident with a copy of the incident investigation report (using OSHA Form 301, Injury and Illness Incident Report);

(c) Provide certification to OTPCA and the Houston South Texas OSHA Area Office within 15 working days of the incident that NOC informed affected workers of the incident and the results of the incident investigation (including the root-cause determination, and preventive and corrective actions identified and implemented).

(d) Include on the OSHA Form 301, Injury and Illness Incident Report, information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented;

(e) Provide certification that NOC informed affected divers of the incident and the results of the incident investigation;

(f) Notify OTPCA and the Houston South Texas OSHA Area Office within fifteen (15) working days should NOC need to revise their dive procedures to accommodate changes in their diving operations that affect NOC's ability to comply with the conditions of the permanent variance;

(g) Obtain OSHA's written approval prior to implementing the revision in their dive procedures to accommodate changes in their diving operations that affect NOC's ability to comply with the conditions in the permanent variance;

(h) By the fifteenth (15th) of January, at the beginning of each new calendar year, provide OTPCA and Houston South Texas OSHA Area Office, with a report summarizing the dives completed during the previous year and evaluating the effectiveness of the variance conditions in providing a safe and

healthful work environment and in preventing dive-related incidents;

(i) Notify the OTPCA and the Houston South OSHA Area Office as soon as possible, but no later than seven (7) days, after NOC has knowledge that they will:

- a. Cease doing business;
- b. Change the location and address of the main office for managing the diving operations specified herein; or
- c. Transfer the operations specified herein to a successor company.

(j) Notify all affected employees of this permanent variance by the same means required to inform them of its application for a permanent variance.

2. This permanent variance cannot be transferred to another company.

OSHA hereby grants a permanent variance to NOC, subject to the conditions outlined above.

VII. Authority and Signature

David L. Keeling, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 655(d), Secretary of Labor's Order No. 7-2025 (90 FR 27878, June 30, 2025), and 29 CFR 1905.11.

Signed at Washington, DC, on July 29, 2026.

David L. Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-17136 Filed 8-20-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2007-0043]

TUV SUD America, Inc.: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV SUD America, Inc. (TUVAM), for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application. TUVAM requests the addition of five test standards to the NRTL scope of recognition.

⁵ See 29 CFR 1904 (Recording and Reporting Occupational Injuries and Illnesses) (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631); recordkeeping forms and instructions <https://www.osha.gov/recordkeeping/forms>.

Additionally, OSHA proposes to add four test standards to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 8, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA–2007–0043). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the

comment period on or before September 8, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone: (202) 693–1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that TUV SUD America, Inc. (TUVAM) is applying for expansion of the current recognition as a NRTL. TUVAM requests the addition of five test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the

product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at: <https://www.osha.gov/nationally-recognized-testing-laboratory-program>.

II. General Background on the Application

TUVAM submitted an application to OSHA for expansion of the NRTL scope of recognition on December 17, 2024 (OSHA–2007–0043–0073), requesting the expansion of the NRTL scope of recognition to include seven additional test standards. This application was revised on February 6, 2026 (OSHA–2007–0043–0072) to remove two standards from the original request. This expansion covers the remaining five standards. OSHA did not perform any on-site reviews with respect to this application.

Table 1 below lists the appropriate test standards found in TUVAM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVAM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1564	Industrial Battery Chargers.
UL 1004–6*	Servo and Stepper Motors.
UL 1004–8*	Inverter Duty Motors.
UL 61010–2–011*	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–011: Particular Requirements for Refrigerating Equipment.
UL 61010–2–012*	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–012: Particular Requirements for Climatic and Environmental Testing and Other Temperature Conditioning Equipment.

* In this notice, OSHA also proposes to add these test standards to the NRTL Program's List of Appropriate Test Standards

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to: (1) verify it represents a product category for which OSHA requires certification by a NRTL; (2) verify the document represents a product and not a component; and (3) verify the document defines safety test

specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new

test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes adding four new test standards to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determines that these test standards are appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 1004-6	Servo and Stepper Motors.
UL 1004-8	Inverter Duty Motors.
UL 61010-2-011	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2-011: Particular Requirements for Refrigerating Equipment.
UL 61010-2-012	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2-012: Particular Requirements for Climatic and Environmental Testing and Other Temperature Conditioning Equipment.

IV. Preliminary Findings on the Application

TUVAM submitted an acceptable application for expansion of the NRTL scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that TUVAM can meet the requirements prescribed by 29 CFR 1910.7 for expanding their recognition to include the addition of five additional testing standards for NRTL testing and certification. This preliminary finding does not constitute an interim or temporary approval of TUVAM's application. OSHA seeks comment on this preliminary determination.

V. Public Participation

OSHA welcomes public comment as to whether TUVAM meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL, and whether OSHA should add the four test standards specified above to the NRTL Program's list of appropriate test standards. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA-2007-0043 (for further information, see the "Docket" heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant TUVAM's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No.

7-2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on August 5, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-17141 Filed 8-20-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2007-0039]

Intertek Testing Services NA, Inc.: Grant of Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for Intertek Testing Services NA, Inc. as a Nationally Recognized Testing Laboratory (NRTL).

DATES: The expansion of the scope of recognition becomes effective August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693-

1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA is providing notice of the expansion of the scope of recognition of Intertek Testing Services NA, Inc. (ITSNA) as a NRTL. ITSNA's expansion covers the addition of one test standard to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government

authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including ITSNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

ITSNA submitted an application to OSHA for expansion of the NRTL scope of recognition on October 11, 2024 (OSHA–2007–0039–0075), requesting the addition of two standards to the NRTL scope of recognition. This application was amended on March 11, 2026 to remove one standard from the original application. (OSHA–2007–0039–0076). OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an

on-site review in response to this application. OSHA staff preliminarily determined that OSHA should grant the application for test standard expansion.

OSHA published the preliminary notice announcing ITSNA's expansion application in the **Federal Register** on May 22, 2026 (91 FR 30328). The agency requested comments by June 8, 2026, however no comments were received in response to this notice. OSHA is now proceeding with this expansion of ITSNA's NRTL scope of recognition.

To obtain or review copies of all public documents pertaining to the ITSNA's expansion application, go to www.regulations.gov or contact the Docket Office at (202) 693–2350 (TTY (877) 889–5627. Docket No. OSHA–2007–0039 contains all materials in the record containing ITSNA's recognition.

II. Final Decision and Order

OSHA staff examined ITSNA's expansion application and examined other pertinent information. Based on a review of this evidence, OSHA finds that ITSNA meets the requirements of 29 CFR 1910.7 for expansion of recognition, subject to the specified limitations and conditions. OSHA, therefore, is proceeding with this final notice to grant expansion of ITSNA's scope of recognition. OSHA limits the expansion of ITSNA's recognition to testing and certification of products for demonstration of compliance to the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN ITSNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 6200	Controllers for Use in Power Production.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, ITSNA also must abide by the following conditions of recognition:

1. ITSNA must inform OSHA as soon as possible, in writing, of any change in ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. ITSNA must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. ITSNA must continue to meet the requirements for recognition, including all previously published conditions on ITSNA's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope

of recognition of ITSNA as a NRTL, subject to the limitations and conditions specified above.

III. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on August 4, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–17137 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0010]

KBR Wyle Services, LLC; Grant of Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA grants a permanent variance to KBR Wyle Services, LLC (KBR) from a provision of the OSHA standard that regulates commercial diving operations.

DATES: The permanent variance specified by this notice becomes effective on August 21, 2026 and shall remain in effect until it is modified or revoked, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information:

Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693-1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

Copies of this Federal Register notice: Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This **Federal Register** notice, as well as news releases and other relevant information are also available at OSHA's web page at <http://www.osha.gov>.

I. Overview

OSHA's standards in subpart T of 29 CFR 1910 govern commercial diving operations. On June 20, 2022, KBR Wyle Services, LLC (KBR or the applicant), submitted an application for a permanent variance under Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 655) and 29 CFR 1905.11 (Variances and other relief under section 6(d)), from a provision of OSHA's commercial diving operations (CDO) standard that regulates the use of decompression chambers (Docket No. OSHA-2022-0010-0002). KBR's application also requested an interim order pending OSHA's decision on the variance application. KBR's corporate offices are located at 601 Jefferson Street, Houston, Texas 77002, and KBR identified an additional place of employment involved in the variance application: NASA's Neutral Buoyancy Laboratory, 13000 Space Center Boulevard, Houston, Texas 77059.

This notice addresses KBR's application for a permanent variance and interim order from the provision of OSHA's CDO standard at 29 CFR 1910.423(b)(2) that requires the employer to instruct divers engaged in commercial diving operations to remain awake and in the vicinity of the decompression chamber at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) for any dive outside the no-decompression limits, deeper than 100 feet of sea water (fsw), or using mixed gas as a breathing mixture.

OSHA reviewed KBR's application for the variance and interim order based on the alternate standard OSHA granted NASA on June 30, 2021, and determined that KBR appropriately submitted in compliance with the applicable variance procedures in Section 6(d) of the Occupational Safety and Health Act of 1970 (OSH Act, 29 U.S.C. 655(d)) and OSHA's regulations at 29 CFR 1905.11 (Variances and other relief under section 6(d)), including the requirement that the applicant inform workers and their representatives of their rights to petition the Assistant Secretary of Labor for Occupational Safety and Health for a hearing on the variance application.

OSHA additionally reviewed the alternative procedures in KBR's application, along with the alternate standard granted to NASA on June 30, 2021, and preliminarily determined that KBR's proposed alternative, subject to the conditions in the request and imposed by the interim order, provides measures that are as safe and healthful as those required by the cited OSHA standard. On November 20, 2023, OSHA published a **Federal Register** notice announcing KBR's application for a permanent variance, stating the preliminary determination along with the basis of that determination, and granting the interim order (88 FR 80771). OSHA requested comments on each.

OSHA did not receive any comments or other information disputing the preliminary determination that the alternative was at least as safe as OSHA's standard, nor any objections to OSHA granting a permanent variance. Accordingly, through this notice, OSHA grants KBR a permanent variance subject to the conditions set out in this document.

II. NASA's Alternate Diving Standard and KBR's Variance Application*A. Background on NASA Alternate Standard*

On December 15, 2020, NASA submitted an application (Docket No. OSHA-2022-0010-0001) to OSHA proposing one alternate standard to 29 CFR 1910.423(b)(2), Subpart T, and included with its application extensive supporting introductory, background, and explanatory information (Docket No. OSHA-2022-0010-0003). NASA sought an alternate standard that would permit the NBL to conduct post-dive health monitoring tailored to NASA's specific dive operations and medical surveillance capabilities.

The alternate standard application stated that NASA operates training and

simulation activities for space operations that routinely involve underwater diving operations in preparation of upcoming missions. NASA described the NBL as a large, indoor tank of water, where astronauts perform simulated extravehicular activities (EVAs), also known as spacewalks, in preparation for upcoming space missions. The NBL is a controlled environment with a maximum depth of 40 feet. Its primary purpose is to provide a large-scale underwater environment where NASA personnel can simulate a weightless environment by balancing the buoyancy of a suited subject submerged in the water. Astronaut trainees, suited in Extravehicular Mobility Units (EMUs) adapted for use in water, can then perform a variety of specialized activities on spacecraft and Space Station analogs in the water. The NBL uses nitrox (46% enriched air nitrox (EAN₄₆)) as the standard breathing gas for self-contained underwater breathing apparatus (SCUBA) while working in the tank.

NASA asserted in its request for the alternate standard that diving on nitrox in the NBL is safer and less likely to cause decompression sickness (DCS) than diving on compressed air due to the lower partial pressure of nitrogen in the gas mixture, giving a shallower equivalent air depth (EAD). The EAD formula can accurately estimate the depth allowing for DCS risk calculation based on equivalent nitrogen pressures and dive durations used in air diving. In other words, breathing EAN₄₆ at 40 feet is like breathing air at 17 feet, essentially eliminating the risk of DCS in nominal operations.

Additionally, the alternate standard application examined the use of nitrox in the water, and the risk of oxygen toxicity, specifically the risk of seizure resulting from central nervous system (CNS) oxygen toxicity. NASA asserted in the alternate standard application that with the hard floor at 40 feet in the tank, there are no cases in medical or diving literature of seizure in water at pressures of PO₂ of 1.0 ata. Further, NASA asserted that there have been no instances of CNS oxygen toxicity with NBL operations to date.

The alternate standard application asserted that the proposed alternate standard provides equivalent protection to the OSHA standard. First, NASA stated that the fixed diving depth of the pool has eliminated the risk of decompression sickness. As a result, the need to remain in the vicinity of the chamber is for the control and treatment of arterial gas embolism only. Second, NASA asserted that a shorter

observation period would be sufficient: “At the NBL, a ten-minute observation provides the equivalent protection as a one-hour observation in the outside environment. Moreover, implementation of this standard will provide greater protection for divers by allowing them to dive on Nitrox rather than air routinely. This will reduce recurrent decompression stress experienced by the divers, along with the resulting long-term health problems that occur from repetitive decompression stress, such as the risk of dysbaric osteonecrosis (bone death).” Additionally: “NBL divers operate under no-decompression limits that are more conservative than the U.S. Navy. The OSHA regulations for mixed gas diving enhance safety when applied to gas mixtures used on long, deep, complex dives because of increased risk of DCS and oxygen toxicity. However, diving with nitrox at shallower depths, such as the NBL, is in fact safer than diving on air.” Further: “The NBL adheres to strict oxygen clean handling and compatibility requirements that exceed the industry standard for concentrations greater than 40% by volume. The alternate standard allows divers to breathe a safer gas during all NBL events, in addition to allowing for fewer total diving events.”

NASA’s alternate standard application also explained that NASA employees working within the NBL work together to ensure the availability of qualified personnel and certified systems to meet NASA’s EVA requirements. NASA stated that safety and utility divers support suited trainees at all times in the water. Suited crew use surface-supplied nitrox via an umbilical, and support divers breath nitrox via self-contained underwater breathing apparatus (SCUBA) while working in the tank. NBL activities routinely involve dozens of trainees and divers, requiring hundreds of dive hours per week. NASA asserted in the alternate standard application that the NBL medical officer or a human test support group medical technician physically examines all divers for fitness prior to entering the water. Only the medical officer performs fitness to dive exams for suited subjects. These exams include obtaining vital signs and information on any changes to medical history, including but not limited to, medications; physical fitness; and cardiopulmonary and ear, nose, and throat examinations. Divers and suited subjects may be disqualified pending treatment or further evaluation and management if there are any concerning abnormalities. NASA also certified that

it will apply and use the alternate standard only at the NBL and that NASA will not apply or use the alternate standard at any other location or during the other underwater activities NASA performs.

After fully considering NASA’s application and its responses to OSHA’s follow-up questions (Docket No. OSHA–2022–0010–0004), OSHA approved the alternate standard that NASA proposed for use solely at NASA’s NBL (Docket No. OSHA–2022–0010–0002). KBR now seeks a permanent variance covering its employees conducting commercial diving operations at the NBL based on NASA’s approved alternate standard.

B. KBR Variance Application

The information that follows about KBR comes from the KBR variance application. KBR is a contractor for NASA, a federal government agency that is responsible for science and technology related to air and space. On June 30, 2021, OSHA granted an alternate standard¹ for NASA regulating its use of decompression chambers during diving operations at NASA’s National Buoyancy Laboratory (NBL) (Docket No. OSHA–2022–0010–0002), OSHA’s Comments and Decisions to NASA’s Request for an Alternate Standard on Diving (NASA Alternate Diving Standard). To account for technological advances in the use of elevated oxygen levels in nitrox breathing-gas mixtures and the use of the equivalent-air-depth (EAD) formula (see OSHA’s 2004 Final Rule amending 29 CFR part 1910, subpart T, Appendix C (69 FR 7351, 7356)), the NASA alternate standard provides NASA with modified requirements regarding the use of decompression chambers, including requiring the diver to remain awake and in the vicinity of the decompression chamber at the dive location for at least 10 minutes after the dive.

KBR’s divers conduct diving operations for NASA at the NBL facility in Houston, Texas. NASA requires all divers to follow all their internal requirements, including the NBL Diving Program and the NASA alternate standard, which can only cover NASA employees. To permit KBR’s divers to dive under the same standards as their NASA-employed colleagues, KBR seeks a permanent variance from 29 CFR 1910.423(b)(2) based on the same

¹ Federal agency heads may seek and obtain approval for alternate standards from OSHA pursuant to the procedures described in 29 CFR 1960.17. According to 29 CFR 1960.17(b), the Secretary will not approve an alternate standard, “unless it provides equivalent or greater protection for affected employees” as compliance with the OSHA standard.

conditions that apply to NASA divers under the NASA alternate standard.

KBR contends that the proposed variance conditions outlined in its application provide KBR’s workers with a place of employment that is at least as safe and healthful as they would obtain under the provisions of OSHA’s CDO standard. KBR also certified that it is not contesting any citations involving the standards that are the subject of this application. As a NASA contractor, KBR asserts that its divers must strictly follow the requirements of the NBL, which include following the conditions of the NASA alternate standard. However, the NASA alternate standard’s coverage does not, and cannot, include KBR-employed divers, or any private-sector employees, even though they work side-by-side with NASA-employed divers during NBL operations. KBR states that its divers undergo the same training as NASA NBL employees, and that there are no differences between NASA and KBR divers regarding medical clearance procedures and standards, training materials, equipment used, equipment maintenance, and diving procedures. Accordingly, KBR seeks permission from OSHA to conduct dive activities for NASA at the NBL under the same standard regulating the time required for NASA employees diving at the NBL, on nitrox and within the no-decompression limits, pursuant to the NASA alternate standard rather than the requirements of 29 CFR 1910.432(b)(2).

C. Variance From 29 CFR 1910.423(b)(2), Requirements for Decompression Chambers²

OSHA’s standards regulating the availability and use of decompression chambers require that: for any dive within the no-decompression limits, deeper than 100 fsw, or using mixed gas as a breathing mixture, the employer must instruct the diver to remain awake and in the vicinity of the decompression chamber that is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate) (1910.423(b)(2)).

In adopting the conditions of the NASA alternate standard, KBR’s application proposes deviating from the decompression chamber availability and capability requirements in OSHA’s CDO standard. As OSHA explained when it granted the NASA Alternate Diving Standard, the purpose of having a decompression chamber available and

² A decompression chamber is “a pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system used to decompress divers and to treat decompression sickness” (29 CFR 1910.402).

ready for use at a dive site is to treat DCS and arterial gas embolism (AGE). DCS may occur from breathing air or mixed gases at diving depths and durations that require decompression, while AGE may result from over-pressurizing the lungs, usually following a rapid ascent to the surface without proper exhalation. If DCS or AGE develops, a decompression chamber, oxygen or treatment gas mixtures, and treatment tables and instructions must be readily available to treat these conditions effectively. Decompression chambers provide the most effective therapy—recompression—for DCS and AGE.

KBR's proposed variance would adopt the conditions of the NASA Alternate Diving Standard that permit NASA to deviate from the requirement of 1910.423(b)(2) that the employer instruct all divers who dive deeper than 100 fsw or who dive using mixed breathing gas to remain awake and in the vicinity of a decompression chamber for one hour after the dive. The NASA alternate standard allows divers at NASA's NBL who are diving on nitrox, within the no-decompression limits, to be instructed to remain awake and in the vicinity of the decompression chamber at the dive location for at least 10 minutes after the dive. In other words, the NASA alternate Section 1910.423(b)(2) requires that any NASA diver at NASA's NBL who dives using nitrox within the no-decompression limits will be instructed to remain awake and in the vicinity of the decompression chamber for at least ten minutes after the completion of the dive.

When granting NASA's request for an alternate standard to 29 CFR 1910.423(b)(2), OSHA explained that the CDO standard sets the 100 fsw limit based on the increased risk of developing DCS and AGE on dives deeper than 100 fsw. However, OSHA explained that the agency amended the CDO standard in 2004 to permit employers of recreational diving instructors and diving guides to comply with an alternative set of decompression chamber requirements (see 69 FR 7351 (February 17, 2004)).³ Under the conditions articulated in Appendix C to Subpart T, OSHA does not require eligible employers to provide a decompression chamber at the dive site when engaged in SCUBA diving to 130

fsw while breathing a nitrox gas mixture within the no-decompression limits.

OSHA explained in the NASA Alternate Diving Standard that it created this exemption for diving guides because the agency determined that the elevated levels of oxygen in nitrox breathing-gas mixtures reduced the incidence of DCS compared to breathing air at the same depths, and therefore found that the risk of DCS was minimal.

After considering the statistics and information regarding NBL operations that NASA submitted, OSHA concluded that NASA's proposed alternate standard would provide equivalent protection to the CDO standard when NBL divers use nitrox breathing-gas mixtures. KBR's proposed variance would adopt conditions identical to those for which OSHA approved NASA's alternate standard to 29 CFR 1910.423(b)(2).

D. Technical Review

OSHA conducted a review of KBR's variance application and the supporting technical documentation. After completing the review of the variance application, the NASA alternate standard, and related supporting materials, OSHA concludes that:

1. The proposed conditions would provide KBR's divers with protection equivalent to the CDO standard;
2. There are no differences in the training requirements, medical clearance procedures and standards, equipment use and maintenance requirements, or diving procedures that apply to NASA-employed and KBR-employed divers who dive at the NBL; and
3. Diving safety for the NBL will be maximized when the diving practices of KBR-employed divers are identical to those of NASA-employed divers.

III. Decision

After reviewing the proposed alternative, OSHA has determined that KBR proposed to implement effective alternative means of protection that will protect its employees as effectively as the requirements of paragraph 29 CFR 1910.423(b)(2) of the CDO standard. Further, under section 6(d) of the OSH Act (29 U.S.C. 655(d)), and based on the record discussed above, OSHA finds that when the employer complies with the conditions of the variance, the working conditions of the employer's workers are at least as safe and healthful as if the employer complied with the working conditions specified by paragraph 29 CFR 1910.423(b)(2) of OSHA's CDO standard. Therefore, under the terms of this variance, KBR must: (1) comply with the conditions listed below

under section V of this notice (Order) for the period between the effective date of this notice and until the agency modifies or revokes this final order in accordance with 29 CFR 1905.13; (2) comply fully with all other applicable provisions of 29 CFR part 1910; and (3) provide a copy of this **Federal Register** notice to all employees affected by the conditions using the same means it used to inform these employees of the application for a permanent variance.

IV. Description of the Conditions Specified by the Permanent Variance

The conditions for the variance are set out in the Order at the end of this document. This section provides additional detail regarding the conditions in the permanent variance that OSHA is granting to KBR.

Condition A: Scope

The scope of the permanent variance limits coverage only to the commercial diving operations performed at NASA's NBL. Clearly defining the scope of the permanent variance provides KBR, KBR's employees, potential future applicants, other stakeholders, the public, and OSHA with necessary information regarding the work situations to which the permanent variance applies. To the extent that KBR exceeds the defined scope of this variance, it must comply with OSHA's standards.

OSHA's grant of a permanent variance applies only to KBR, and only to work performed at NASA's Neutral Buoyancy Laboratory. The permanent variance does not apply to any other employers or any other worksite. Additionally, coverage is limited to the work situations specified under the "Scope and Application" section of Subpart T, Commercial Diving Operations (1910.401(a)), and does not apply to commercial diving operations that are already exempted under 1910.401(a)(2).⁴ When implementing the conditions of the permanent variance, KBR must comply fully with all safety and health provisions that are applicable to commercial diving operations as 29 CFR 1910, Subpart T specifies, except for the requirements

⁴ Section 1910.401(a)(2) provides that the CDO standard does not apply to any dive (i) performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits; (ii) performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; (iii) governed by 45 CFR part 46 (Protection of Human Subjects, U.S. Department of Health and Human Services) or equivalent rules or regulations established by another federal agency, which regulate research, development, or related purposes involving human subjects; or (iv) fitting the standard's definition of "scientific diving."

³ Appendix C incorporated into the CDO standard essentially the same terms as those used in a variance that OSHA granted to Dixie Divers, Inc., a diving school that employed several recreational diving instructors, in 1999 (see 64 FR 71242, December 20, 1999).

described in 29 CFR 1910.423(b)(2). The permanent variance only applies to KBR's employees when they conduct diving operations at NASA's Neutral Buoyancy Laboratory.

Condition B: List of Abbreviations

Condition B defines abbreviations used in the permanent variance. OSHA believes that defining these abbreviations serves to clarify and standardize their usage, thereby enhancing the applicant's and its employees' understanding of the conditions specified by the permanent variance.

Condition C: Requirements for Decompression Chambers

This condition requires that, for any dive within the no-decompression limits and using nitrox as a breathing mixture, KBR will instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least ten minutes after the dive (including decompression or treatment as appropriate). When using a nitrox breathing-gas mixture, KBR will be required to meet the no-decompression provisions of Appendix C to the CDO standard (Use of No-Decompression Limits).

Condition D: Communication

This condition requires the applicant to implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. This condition also requires the applicants to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during diving activities. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during diving activities at NASA's NBL.

Proposed Condition E: Worker Qualification and Training

This condition requires KBR to follow the requirements of the NASA NBL Safety Program, including the NBL Safe Practices Manual, and any instruction provided by NASA's Dive Safety Board (DSB) to qualify their employees to perform diving activities at the NBL. Further, KBR must ensure that the NBL medical officer of the day or a human

test support group medical technician physically examines all employees conducting dives at the NBL for fitness to dive prior to entering the water. This condition specifies actions an affected worker must be able to perform safely during diving activities, including how to enter, work in, and exit from hyperbaric conditions under both normal and emergency conditions. Having well-trained and qualified workers performing the required dive tasks ensures that they recognize and respond appropriately to underwater safety and health hazards. These qualification and training requirements enable KBR divers to cope effectively with emergencies, as well as the discomfort and physiological effects of hyperbaric exposure, thereby preventing worker injury, illness, and fatalities.

Proposed Condition F: Recordkeeping

Under OSHA's existing recordkeeping requirements in 29 CFR part 1904 regarding Recording and Reporting Occupational Injuries and Illnesses, KBR must maintain a record of any recordable injury, illness, or fatality (as defined by 29 CFR part 1904) resulting from exposure of an employee to hyperbaric conditions, or any other work conditions, by completing the OSHA Form 301, Injury and Illness Incident Report, and OSHA Form 300, Log of Work-Related Injuries and Illnesses. KBR did not seek a variance from this standard and therefore must comply fully with those requirements.

Proposed Condition G: Notifications

Under this condition, the applicant must, within specified periods of time: (1) notify OSHA of any recordable injury, illness, in-patient hospitalization, amputation, loss of an eye, or fatality that occurs as a result of diving operations within eight (8) hours of the incident; (2) provide OSHA's Office of Technical Programs and Coordination Activities (OTPCA) and the Houston South Texas OSHA Area Office within twenty-four (24) hours of the incident with a copy of the incident investigation report (using OSHA Form 301, Injury and Illness Incident Report) of these events; (3) include on OSHA Form 301, Injury and Illness Incident Report, information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented; (4) provide the certification that affected workers were informed of the incident and the results of the incident investigation; (5) notify OTPCA and the Houston South Texas OSHA Area Office at least 15 working

days in advance should the applicant need to revise their dive procedures to accommodate changes in their diving operations that affect their ability to comply with the conditions of the permanent variance; (6) obtain OSHA's written approval prior to implementing the revision in their dive procedures to accommodate changes in their diving operations that affect their ability to comply with the conditions in the permanent variance; and (7) provide OTPCA and the Houston South Texas OSHA Area Office, by January 31 of each calendar year, with a report summarizing the dives completed during the previous calendar year and evaluating the effectiveness of the variance conditions in providing a safe and healthful work environment and in preventing dive-related incidents.

OSHA notes that the requirement for completing and submitting the hyperbaric exposure-related (recordable) incident investigation report (OSHA Form 301, Injury and Illness Incident Report) is more restrictive than the current recordkeeping requirement of completing the form within seven (7) calendar days of the incident (1904.29(b)(3)). However, OSHA has restricted this modified, more stringent incident investigation and reporting requirement to intervention-related (recordable) incidents only. Providing rapid notification to OSHA is essential because time is a critical element in OSHA's ability to determine the continued effectiveness of the variance conditions in preventing injuries and illnesses, and KBR's identification and implementation of appropriate corrective and preventive actions.

Further, these notification requirements also enable the applicant, its employees, and OSHA to assess the effectiveness of the permanent variance in providing the requisite level of safety to the KBR's workers and, based on this assessment, whether to revise or revoke the conditions of the permanent variance. Timely notification permits OSHA to take whatever action may be necessary and appropriate to prevent possible further injuries and illnesses. Providing notification to employees informs them of the precautions KBR has taken to prevent similar incidents in the future.

Additionally, this condition requires the applicant to notify OSHA if it ceases to do business, has a new address or location for the main office, or transfers the operations the permanent variance covers to a successor company. In addition, the condition specifies that OSHA must approve the potential transfer of the permanent variance to a successor company. These requirements

allow OSHA to communicate effectively with the applicant regarding the status of the permanent variance and expedite the agency's administration and enforcement of the permanent variance. Stipulating that an applicant is required to have OSHA's approval to transfer a variance to a successor company provides assurance that the successor company has knowledge of, and will comply with, the conditions specified by this permanent variance, thereby ensuring the safety of workers involved in performing the operations covered by the permanent variance.

V. Order

As of the effective date of this final order, OSHA is revoking the interim order granted to the employer on November 20, 2023 (88 FR 80771).

OSHA issues this final order authorizing KBR Wyle Services LLC (KBR or the applicant) to comply with the following condition instead of complying with the requirements of paragraphs 29 CFR 1910.423(b)(2) of OSHA's commercial diving standard. This final order applies to all KBR employees located at 13000 Space Center Boulevard, Houston, Texas 77059.

A. Scope

The permanent variance applies only to KBR's diving operations conducted for NASA and performed at NASA's NBL; and

Performed in compliance with all applicable conditions of Subpart T of 29 CFR 1910 except for the requirement specified by 29 CFR 1910.423(b)(2) when conducting commercial diving operations.

B. List of Abbreviations

The following abbreviations apply to this permanent variance:

ATA—Atmosphere Absolute
BCD—Buoyancy Compensator Device
CDO—Commercial Diving Operations
CFR—Code of Federal Regulations
DCS—Decompression Sickness
DSB—Dive Safety Board
EAD—Equivalent Air Depth
EAN_x—Enriched Air Nitrox (where X denotes percentage of oxygen)
EVA—Extravehicular Activities
fsw—feet of seawater
KBR—KBR Wyle Services, LLC
NBL—NASA Neutral Buoyancy Laboratory
OSHA—Occupational Safety and Health Administration
OTPCA—OSHA's Office of Technical Programs and Coordination Activities
PO₂—Partial Pressure of Oxygen in ATA
SCUBA—Self-Contained Underwater Breathing Apparatus

C. Requirements for Decompression Chambers

For any dive at the NBL that is within the no-decompression limits and using nitrox as a breathing mixture, KBR must instruct the diver to remain awake and in the vicinity of the decompression chamber at the dive location for at least ten (10) minutes after the dive (including decompression or treatment as appropriate).

D. Communication

This condition requires the applicant to implement an effective system of information sharing and communication. Effective information sharing and communication are intended to ensure that affected workers receive updated information regarding any safety-related hazards and incidents, and corrective actions taken, prior to the start of each shift. This condition also requires the applicant to ensure that reliable means of emergency communications are available and maintained for affected workers and support personnel during diving activities. Availability of such reliable means of communications enables affected workers and support personnel to respond quickly and effectively to hazardous conditions or emergencies that may develop during diving activities at NASA's NBL.

E. Worker Qualification and Training

This permanent variance requires KBR to:

1. Follow the requirements of the NASA NBL Safety Program, including the NBL Safe Practices Manual, as well as any instruction provided by NASA's DSB;
2. Ensure that prior to entering the water, the NBL medical officer of the day or a human test support group medical technician physically examines all KBR employees conducting dives at the NBL for fitness to dive.

F. Recordkeeping

In addition to completing OSHA Form 301, Injury and Illness Incident Report, and OSHA Form 300, Log of Work-Related Injuries and Illnesses, KBR must maintain records of recordable injuries that occur as a result of diving operations conducted for NASA under the NBL. Information gathered and recorded under this provision, in concert with the information provided under condition G (using OSHA Form 301, Injury and Illness Incident Report) to investigate and record dive-related recordable injuries as 29 CFR 1904.4, 1904.7, 1904.8 through 1904.12 define, will enable KBR and OSHA to determine the effectiveness of the

permanent variance in preventing DCS and other dive-related injuries and illnesses.

G. Notifications

1. To assist OSHA in administering the conditions specified herein, KBR must:

a. Notify OTPCA and the Houston South Texas OSHA Area Office at www.osha.gov/contactus/byoffice of any recordable injury illness or fatality (by submitting the completed OSHA Form 301, Injury and Illness Incident Report)⁵ that occurs as a result of diving operations, or meets the recordable injury or illness criteria of 29 CFR 1904. The notification must be made within eight (8) hours of the incident or 8 hours after becoming aware of a recordable injury, illness, or fatality; KBR must submit a copy of the incident investigation (OSHA Form 301, Injury and Illness Incident Report) to OSHA within 24 hours of the incident or 24 hours after becoming aware of a recordable injury, illness, or fatality. In addition to the information that the OSHA Form 301, Injury and Illness Incident Report, requires, the incident-investigation report must include a root-cause determination, and the preventive and corrective actions identified and implemented.

b. Provide OTPCA and the Houston South Texas OSHA Area Office within twenty-four (24) hours of the incident with a copy of the incident investigation report (using OSHA Form 301, Injury and Illness Incident Report);

c. Provide certification to OTPCA and the Houston South Texas OSHA Area Office within 15 working days of the incident that KBR informed affected workers of the incident and the results of the incident investigation (including the root-cause determination and preventive and corrective actions identified and implemented).

d. Include on the OSHA Form 301, Injury and Illness Incident Report, information on the diving conditions associated with the recordable injury or illness, the root-cause determination, and preventive and corrective actions identified and implemented;

e. Provide their certification that they informed affected divers of the incident and the results of the incident investigation;

f. Notify OTPCA and the Houston South Texas OSHA Area Office within fifteen (15) working days should the

⁵ See 29 CFR 1904 (Recording and Reporting Occupational Injuries and Illnesses) (http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9631); recordkeeping forms and instructions <https://www.osha.gov/recordkeeping/forms>.

KBR need to revise their dive procedures to accommodate changes in their diving operations that affect their ability to comply with the conditions of the permanent variance;

g. Obtain OSHA's written approval prior to implementing the revision in their dive procedures to accommodate changes in their diving operations that affect KBR's ability to comply with the conditions in the permanent variance;

h. By the fifteenth (15th) of January, at the beginning of each new calendar year, provide OTPCA and Houston South Texas OSHA Area Office with a report summarizing the dives completed during the previous year and evaluating the effectiveness of the variance conditions in providing a safe and healthful work environment and in preventing dive-related incidents;

i. Notify the OTPCA and the Houston South OSHA Area Office as soon as possible, but no later than seven (7) days, after KBR has knowledge that it will:

a. Cease doing business;

b. Change the location and address of the main office for managing the diving operations specified herein; or

c. Transfer the operations specified herein to a successor company.

j. Notify all affected employees of this permanent variance by the same means required to inform them of its application for a permanent variance.

2. This permanent variance cannot be transferred to another company.

OSHA hereby grants a permanent variance to KBR, subject to the conditions outlined above.

VII. Authority and Signature

David L. Keeling, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 655(d), Secretary of Labor's Order No. 7-2025 (90 FR 27878, June 30, 2025), and 29 CFR 1905.11.

Signed at Washington, DC, on July 29, 2026.

David L. Keeling,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-17138 Filed 8-20-26; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2012-0005]

Cadmium in General Industry Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Cadmium in General Industry Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by October 20, 2026.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to <https://www.regulations.gov>. Documents in the docket are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the websites. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2012-0005) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Belinda Cannon, Directorate of

Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-1950.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to protect workers from the health effects associated with occupational exposure to cadmium. Such exposure to cadmium may cause lung cancer, prostate cancer, non-malignant respiratory disease, acute pneumonitis, fever and chest pain, severe weakness, coughing and tightness of the chest, and kidney disease.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;

- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;

- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Cadmium in General Industry Standard. The agency is seeking an adjustment decrease in burden of 38,575 hours going from 115,626 to 77,051 hours. The decrease is due to an error in the labor time per response for the notification of the monitoring results in the previous ICR. The labor time per response for this collection requirement is 5 minutes instead of the 30 minutes that was taken in the previously approved paperwork package. Additionally, the agency is requesting an increase in capital cost going from \$5,483,542 to 6,480,423, a total increase of \$996,881.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Cadmium in General Industry Standard (29 CFR 1910.1027).

OMB Control Number: 1218-0185.

Affected Public: Business or other for-profits.

Number of Respondents: 56,355.

Number of Responses: 248,931

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 77,051.

Estimated Cost (Operation and Maintenance): \$6,480,423.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at 202-693-1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA-2012-0005). You may supplement electronic submissions by uploading document files electronically.

Comments and submissions are posted without change at <https://www.regulations.gov>.

www.regulations.gov. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the <https://www.regulations.gov> index, some information (e.g., copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <https://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link.

Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627 for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 7-2025 (90 FR 27878).

Signed at Washington, DC, on August 19, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026-17151 Filed 8-20-26; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2006-0040]

SGS North America, Inc.: Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of SGS North America, Inc. for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the applications.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 8, 2026.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at <http://www.regulations.gov>, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency's name and the docket number for this rulemaking (Docket No. OSHA-2006-0040). All comments, including any personal information you provide, are placed in the public docket without change and may be made available online at <https://www.regulations.gov>. Therefore, OSHA cautions commenters about submitting information they do not want made available to the public, or submitting materials that contain personal information (either about themselves or others), such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY) (877) 889-5627 for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before September 8, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-3653, Washington, DC 20210, or by fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693-1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202)

693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Applications for Expansion

OSHA is providing notice that SGS North America, Inc. (SGS), is applying for expansion of the current recognition as a NRTL. SGS requests the addition of two test standards to the NRTL scope of recognition.

OSHA's recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards

within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including SGS, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

II. General Background on the Applications

SGS submitted two applications to OSHA for expansion of the NRTL scope of recognition: the first application dated January 9, 2025 (OSHA–2006–0040–0097) requested the addition of one test standard, and the second application dated July 18, 2025 (OSHA–2006–0040–0096) requesting the addition of another test standard. In total, the expansion applications requested the addition of two test standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform an on-site review in response to these applications. OSHA staff has preliminarily determined that OSHA should grant the applications for test standard expansion.

Table 1, below, lists the appropriate test standards found in SGS's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1340	Hoists.
UL 2056	Power Banks.

III. Preliminary Findings on the Applications

SGS submitted acceptable applications for expansion of the scope of recognition. OSHA's review of the application files and pertinent documentation indicates that SGS has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the two test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of SGS's applications.

OSHA seeks comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether SGS meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a

longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA–2006–0040 (for further information, see the “*Docket*” heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant SGS's applications for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the applications. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878; June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on August 7, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–17140 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR**Occupational Safety and Health Administration****[Docket No. OSHA–2013–0016]****Nemko North America, Inc.:
Application for Expansion of
Recognition****AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Notice.

SUMMARY: In this notice, OSHA announces the application of Nemko North America, Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before September 8, 2026.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2013–0016). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers and birth dates.

Submission of comments: You may submit comments and attachments, identified by Docket No. OSHA–2013–0016, electronically at www.regulations.gov, which is the Federal e-Rulemaking Portal. Follow the online instructions for making electronic submissions. The Federal e-Rulemaking Portal at www.regulations.gov is the only way to submit comments on this Notice.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office. All documents in the docket (including this **Federal Register** notice) are listed in the <http://www.regulations.gov> index;

however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before September 8, 2026 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:**I. Notice of the Application for Expansion**

OSHA is providing notice that Nemko North America, Inc. (NNA), is applying for expansion of the current recognition as a NRTL. NNA requests the addition of one test site to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables

employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including NNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

NNA currently has four facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: Nemko North America, Inc., 2210 Faraday Avenue, Suite 150, Carlsbad, California 92008. A complete list of NNA's scope of recognition is available at <https://www.osha.gov/nationally-recognized-testing-laboratory-program/nna>.

II. General Background on the Application

NNA submitted an application on July 19, 2024 (OSHA–2013–0016–0036), to expand recognition as a NRTL to include one additional test site located at: Philip Pedersens Vei 11, 1366 Lysaker, Norway. OSHA staff performed a review of NNA's testing facilities at Nemko Norway on August 25–26, 2025 in which assessors found some nonconformances with the requirements of 29 CFR 1910.7. NNA has addressed these issues sufficiently, and OSHA staff has preliminarily determined that OSHA should grant the application.

III. Preliminary Findings on the Application

NNA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that NNA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include one additional test site. This preliminary finding does not constitute an interim or temporary approval of NNA's application.

OSHA seeks public comment on this preliminary determination.

IV. Public Participation

OSHA welcomes public comment as to whether NNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA–2013–0016 (for further information, see the “Docket” heading in the section of this notice titled **ADDRESSES**).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant NNA’s application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor’s Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on August 4, 2026.

Amanda Laihow,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2026–17134 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Grant of Expansion of Recognition and Modification to the NRTL Program’s List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the final decision to expand the scope of recognition for UL LLC, as a Nationally Recognized Testing Laboratory (NRTL). Additionally, OSHA announces the final decision to add one test standard to the NRTL Program’s List of Appropriate Test Standards.

DATES: The expansion of the scope of recognition becomes effective on August 21, 2026.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, phone: (202) 693–1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–1911 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of UL LLC (UL) as a NRTL. UL’s expansion covers the addition of three test standards to the NRTL scope of recognition.

OSHA’s recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL’s scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards

within the NRTL’s scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL’s scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details the NRTL’s scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

UL submitted an application to OSHA for expansion of the NRTL scope of recognition on August 8, 2025 (OSHA–2009–0025–0082), requesting the addition of three test standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform an on-site review in response to this application. OSHA staff preliminarily determined that OSHA should grant the application for test standard expansion.

OSHA published the preliminary notice announcing UL’s expansion application in the **Federal Register** on May 22, 2026 (91 FR 30326). The agency requested comments by June 8, 2026, but it received no comments in response to this notice.

To obtain or review copies of all public documents pertaining to the UL’s application, go to <http://www.regulations.gov> or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, Docket No. OSHA–2009–0025 contains all materials in the record concerning UL’s recognition. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

II. Final Decision and Order

OSHA staff examined UL’s expansion application and examined other pertinent information. Based on its review of this evidence, OSHA finds that UL meets the requirements of 29 CFR 1910.7 for expansion of its

recognition, subject to the limitations and conditions listed in this notice. OSHA, therefore, is proceeding with this final notice to grant UL's expanded

scope of recognition. OSHA limits the expansion of UL's recognition to include the three additional testing standards. OSHA grants UL expansion

of the NRTL scope of recognition to include the test standards listed below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1004–9	Form Wound and Medium Voltage Rotating Electrical Machines.
UL 979	Water Treatment Appliances.
UL 2683 *	Electric Heating Systems for Floor and Ceiling Installation.

* Represents the standard that OSHA will add to the NRTL Program's List of Appropriate Test Standards.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for

which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

In this notice, OSHA also announces the final decision to add one new test standard to the NRTL Program's List of

Appropriate Test Standards. Table 2 below lists the standard that is new to the NRTL Program. OSHA has determined that this test standard is an appropriate test standard and will add it to the NRTL Program's List of Appropriate Test Standards.

TABLE 2—STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 2683	Electric Heating Systems for Floor and Ceiling Installation.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, we may use the designation of the standards-developing organization for the standard as opposed to the ANSI designation. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, UL must abide by the following conditions of the NRTL recognition:

1. UL must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. UL must meet all the terms of its recognition and comply with all OSHA policies pertaining to this recognition; and

3. UL must continue to meet the requirements for recognition, including all previously published conditions on UL's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of UL as a NRTL, subject to the limitations and conditions specified above. Additionally, OSHA will add one standard to the NRTL Program's List of Appropriate Test Standards.

III. Authority and Signature

Amanda Laihow, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 7–2025 (90 FR 27878, June 30, 2025), and 29 CFR 1910.7.

Signed at Washington, DC, on August 5, 2026.

Amanda Laihow,
Principal Deputy Assistant Secretary of Labor
for Occupational Safety and Health.

[FR Doc. 2026–17139 Filed 8–20–26; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–3334]

Draft Regulatory Guide: Assessing Public Health Risk Associated With Chemical Hazards of Licensed Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft Regulatory Guide (DG), DG–1444, proposed Regulatory Guide (RG) 1.264, “Assessing Public Health Risk Associated with Chemical Hazards of Licensed Material.” This DG describes a methodology that is acceptable to the staff of the NRC to meet regulatory requirements assessing public health risk associated with chemical hazards of licensed material.

DATES: Submit comments by September 21, 2026. 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.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

• *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–3334. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the “For Further Information Contact” section of this document.

• *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN–5–A85, U.S. Nuclear

Regulatory Commission, Washington, DC 20555-0001, ATTN: Guidance and Publications Branch.

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:

Anders Gilbertson, Office of Nuclear Reactor Regulation, telephone: 301-415-1541; email: Anders.Gilbertson@nrc.gov and Stanley Gardocki, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1067; email: Stanley.Gardocki@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2026-3334 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-2026-3334.
- *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. DG-1444, proposed RG 1.264, titled, “Assessing Public Health Risk Associated with Chemical Hazards of Licensed Material Under 10 CFR part 53,” is available in ADAMS under Accession No. ML25043A094.

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

B. Submitting Comments

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

Please include Docket ID NRC-2026-3334 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. Additional Information

The NRC is issuing for public comment a DG in the NRC's “Regulatory Guide” series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

Proposed RG 1.264 entitled “Assessing Public Health Risk Associated with Chemical Hazards of Licensed Material Under 10 CFR part 53,” is temporarily identified by its task number, DG-1444.

This DG is being issued to provide guidance on an acceptable approach for meeting the regulation under paragraph 53.440(k) of title 10 of the *Code of Federal Regulations* (10 CFR), which requires defining design features and related functional design criteria such that analyses demonstrate a low risk of permanent injury to public health due to the health effects of chemical hazards of licensed material.

The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML26091A264). The staff developed a regulatory analysis to assess the value of issuing or revising an RG as well as alternative courses of action.

III. Backfitting, Forward Fitting, and Issue Finality

Issuance of DG-1444, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in MD 8.4, because, as explained in this DG, licensees would not be required to comply with the positions set forth in this DG.

IV. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

V. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that this DG is not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 19, 2026.

For the Nuclear Regulatory Commission.

Nicholee Valentine,

Chief, Guidance and Publication Branch, Division of Guidance, Rulemaking, Economic Analysis, and Technical Editing, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2026-17093 Filed 8-20-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-1849]

Draft NUREG: Training Review Criteria and Procedures

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft report; extension of comment period.

SUMMARY: On July 22, 2026, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on draft NUREG-1220, Revision 2, “Training Review Criteria and Procedures.” The public comment period was originally scheduled to close on August 21, 2026.

The NRC has decided to extend the public comment to September 21, 2026, to allow more time for members of the public to prepare and submit their comments.

DATES: The August 21, 2026, due date for comments on the draft NUREG published July 22, 2026 (91 FR 46175), is extended. Comments should be filed no later than September 21, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-1849. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN-5-A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Guidance and Publications Branch.

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: Maggie Chauhan, telephone: 301-415-0365; email: Maggie.C Chauhan@nrc.gov and Jeff Correll, telephone: 301-415-2414; email: Jeffrey.Correll@nrc.gov. Both are staff of the Office of Advanced Reactors at the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2026-1849 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-2026-1849.
- *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. Draft NUREG-1220, Revision 2, "Training Review Criteria and Procedures" is available in ADAMS under Accession No. ML26195A017.

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

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2026-1849 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. Discussion

On July 22, 2026, the NRC published a notice in the **Federal Register** (91 FR 46175) which provided members of the public an opportunity to submit comments on the draft NUREG-1220, Revision 2, "Training Review Criteria and Procedures". This NUREG provides guidance to the NRC staff for reviewing training programs at nuclear power plants to verify that they are developed

and maintained using a Systems Approach to Training (SAT). It describes the review criteria and evaluation methods used by the NRC staff for both initial training program reviews and ongoing training program inspections, and it summarizes the five SAT elements consistent with the framework outlined in ANSI/ANS-3.1-2014, as endorsed by Regulatory Guide 1.8, "Qualification and Training of Personnel for Nuclear Power Plants."

The public comment period was originally scheduled to close August 21, 2026. The NRC is extending the public comment period on this document until September 21, 2026, to ensure meaningful public participation and uphold the agency's commitment to openness and transparency. Given overlapping and complex rulemakings currently open for comment, additional time prevents stakeholder fatigue, enables thorough technical and policy reviews, and allows for coordinated responses across related dockets. This extension supports high-quality, complete feedback and facilitates robust engagement from all interested parties, including public groups, industry experts, and tribal nations.

Comments should be filed no later than September 21, 2026.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: August 19, 2026.

For the Nuclear Regulatory Commission.

Michael Brown,

*Chief, Advanced Reactor Oversight Branch,
Division of Advanced Reactor Programs,
Office of Advanced Reactors.*

[FR Doc. 2026-17132 Filed 8-20-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Meeting Notice

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene a meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on September 9, 2026, to discuss and provide recommendations from the subcommittee on reducing barriers to medical use licensing rulemaking. Topic is tentative based on its rulemaking schedule. Meeting information, including a copy of the agenda and handouts, will be available on the ACMUI's Meetings and Related Documents web page at <https://www.nrc.gov/reading-rm/doc->

collections/acmui/meetings/2026 or by emailing Ms. Sarah Hoenig at the contact information below.

DATES:

Date and Time for Open Session:
September 9, 2026, from 1:00 p.m. to 3:00 p.m. EST.

Date	Webinar information (Microsoft Teams)
September 9, 2026	Link: https://teams.microsoft.com/meet/246083786721656?p=IzF9cEIF5raCITSY0O . Meeting ID: 246 083 786 721 656. Passcode: WC9Ac6cH. Call in number (audio only): +1 301-576-2978, United States, Silver Spring. Phone conference ID: 969 086 535 #.

Public Participation: Any member of the public who wishes to participate in the meeting via Microsoft Teams or via phone should contact Ms. Sarah Hoenig using the information below.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Hoenig, email: sarah.hoenig@nrc.gov phone: 301-415-3284.

SUPPLEMENTARY INFORMATION:

Purpose: Discuss recommendations from the subcommittee on reducing barriers to medical use licensing rulemaking.

Conduct of the Meeting

The ACMUI Chair, Hossein Jadvar, M.D., Ph.D., will preside over the meeting. Dr. Jadvar will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Sarah Hoenig using the contact information listed above. All submittals must be received by the close of business on September 4, 2026, and must only pertain to the topics on the agenda.
2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chair.
3. The draft transcript and meeting summary will be available on ACMUI's website <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2026> on or about October 9, 2026.
4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Sarah Hoenig of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10 of the *Code of Federal Regulations*, Part 7.

Dated at Rockville, Maryland, this 19 day of August 2026.

For the U.S. Nuclear Regulatory Commission.

Russell E. Chazell,

Federal Advisory Committee Management Officer.

[FR Doc. 2026-17161 Filed 8-20-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-3268]

**Draft Interim Staff Guidance:
Evaluations of Risk Assessments for
Risk-Informed Decision-Making for
Regulatory Applications**

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG), OAR/DARP-ISG-2026-XX, "Evaluations of Risk Assessments for Risk-Informed Decision-Making for Regulatory Applications." If finalized, this ISG will provide guidance to the staff for reviewing systematic risk assessment methods, including probabilistic risk assessments (PRAs) and other systematic risk evaluations (SREs). This ISG will supplement existing guidance to facilitate the staff's understanding of the uses of risk information in regulatory applications and application of principles of risk-informed decision-making.

DATES: Submit comments by September 21, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods, however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2026-3268. Address

questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301-415-1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN-5-A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Guidance and Publications Branch.

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: Jack Minzer Bryant, Office of Advanced Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0610; email: Jack.Minzerbryant@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC-2026-3268 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-2026-3268.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The draft ISG, "Evaluations of Risk Assessments for Risk-Informed Decision-Making for Regulatory Applications" is available in

ADAMS under Accession No. ML26162A452.

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

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC 2026-3268 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. Discussion

The NRC is anticipating a high volume of license applications for new and advanced reactors. Many new applications are expected to leverage risk assessments to establish the safety of facility designs that can be operated without undue risk to the health and safety of the public. This ISG will supplement existing guidance to support staff in assessing how risk information is used in applications, determining the acceptability of risk assessments, and integrating risk insights into licensing decisions.

The NRC has historically recognized the value of risk assessment in regulatory decision making, as reflected in the Commission's Final Policy Statement on Use of Probabilistic Risk Assessment Methods in Nuclear Regulatory Activities (60 FR 42622). Many of the concepts and terms related to using PRAs, risk insights, and risk-

informed processes in regulatory activities are described in the Commission Staff Requirements Memorandum, SRM-SECY-98-144, "Staff Requirements—SECY-98-144—White Paper on Risk-Informed and Performance-Based Regulation." Implementing the use of PRA methods has been supported by the issuance of regulatory guidance, including Regulatory Guide (RG) 1.174, which describes an approach for using PRA in risk-informed decisions on plant-specific changes to the licensing basis, and RGs 1.200 and 1.247 (for trial use), which provided guidance on acceptability of PRAs for light-water reactors (LWRs) and non-LWRs, respectively.

This ISG provides staff guidance on evaluating risk assessment methods, including PRAs and SREs. This ISG provides guidance on evaluating the characteristics and attributes of a risk assessment using a flexible approach that can accommodate a range of risk-informed applications. This ISG builds upon, and aligns with, the risk-informed decision-making principles of RG 1.174 to consider a risk assessment along with other factors to determine its acceptability in the context of its uses to support an application. This ISG leverages the high-level approach discussed in RGs 1.200 and 1.247 (for trial use) and considers acceptability of a risk assessment in terms of establishing the analysis scope, providing an adequate level of detail, demonstrating use of acceptable methods, and ensuring representation of the facility. While these considerations were identified in the context of development of a PRA guided by a consensus standard, the same considerations can be broadly applied to other risk assessment methods.

This ISG is applicable to the review of applications for permits and licenses that submit risk-informed, performance-based applications for construction permits (CPs) or operating licenses (OLs) under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR); for combined operating licenses (COLs), standard design approvals (SDAs), design certifications (DCs) or manufacturing licenses (MLs) under 10 CFR part 52; or CP, OL, COL, custom COL, SDA, DC, or ML under 10 CFR part 53.

III. Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs determined that draft ISG, "Acceptability of Risk Assessments for Risk-Informed Decision-Making for Regulatory Applications," is not a

significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: August 19, 2026.

For the Nuclear Regulatory Commission.

Mehdi Reisi Fard,

Director, Division of Advanced Reactor Engineering, Office of Advanced Reactors.

[FR Doc. 2026-17092 Filed 8-20-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-325, 50-324, 50-400, 50-261, and 72-3; NRC-2026-3928]

Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2, Shearon Harris Nuclear Power Plant, Unit 1, H.B. Robinson Steam Electric Plant, Unit 2, H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation; Consideration of Approval of Transfer of Licenses and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for direct transfer of licenses; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received and is considering approval of an application filed by Duke Energy Progress, LLC (DEP) and Duke Energy Carolinas, LLC (DEC) on March 20, 2026. The application seeks NRC approval of the direct transfer of Renewed Facility Operating License Nos. DPR-71 and DPR-62 for Brunswick Steam Electric Plant, Units 1 and 2, respectively; Renewed Facility Operating License No. NPF-63 for Shearon Harris Nuclear Power Plant, Unit 1; Subsequent Renewed Facility Operating License No. DPR-23 for H.B. Robinson Steam Electric Plant, Unit 2; and Renewed Materials License No. SNM-2502 for the H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation, currently held by DEP, to DEC and issuance of conforming license amendments.

DATES: Submit comments by September 21, 2026. A request for a hearing must be filed by September 10, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website*: Go to <https://www.regulations.gov> and search

for Docket ID NRC–2026–3928. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:*

Hearing.Docket@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact the Office of the Secretary at 301–415–1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Eastern Time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Robert Fisher, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6328; email: Robert.Fisher@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–3928 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–2026–3928.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The license transfer application is available in ADAMS under Accession No. ML26079A150.

- *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. ET, Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–3928 in your comment submission.

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

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

II. Introduction

The NRC is considering the issuance of an order under sections 50.80 and 72.50 of title 10 of the *Code of Federal Regulations* (10 CFR), approving the direct transfer of control of Renewed Facility Operating License Nos. DPR–71 and DPR–62 for Brunswick Steam Electric Plant, Units 1 and 2, respectively; Renewed Facility Operating License No. NPF–63 for Shearon Harris Nuclear Power Plant, Unit 1; Subsequent Renewed Facility Operating License No. DPR–23 for H.B. Robinson Steam Electric Plant, Unit 2; and Renewed Materials License No. SNM–2502 for the H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation, currently held by DEP. The transfer would be to DEC. The NRC is also considering issuing conforming amendments to reflect the proposed transfer.

No physical changes to the facilities or operational changes are being

proposed in the license transfer application.

The NRC’s regulations at 10 CFR 50.80 and 10 CFR 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, and the Commission’s regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an independent spent fuel storage installation that does no more than conform the license to reflect the transfer action involves, respectively, no significant hazards consideration, or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in

accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 20 days from the date of publication of this notice in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 20 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (<https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053>) and the NRC's public website (<https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate>).

V. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the "Guidance for Electronic Submissions to the NRC" (ADAMS Accession No. ML13031A056), and on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals.html>).

To comply with the procedural requirements of E-Filing, at least 10

days prior to the filing deadline, the participant should contact the Office of the Secretary by email at Hearing.Docket@nrc.gov, or by telephone at 301-415-1677, to: (1) request a digital identification (ID) certificate which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals/getting-started.html>). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in the Portable Document Format. Guidance on submissions is available on the NRC's public website (<https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>). A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website (<https://www.nrc.gov/site-help/e-submittals.html>), by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC

Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available on the NRC's public website (<https://ehd.nrc.gov>), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC issued digital ID certificate as previously described, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated March 20, 2026 (ADAMS Accession No. ML26079A150).

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: August 19, 2026.

For the Nuclear Regulatory Commission.
Robert Fisher,
Project Manager, Operating Licensing Projects
Branch II, Division of Licensing Project 1,
Office of Nuclear Reactor Regulation.
 [FR Doc. 2026-17147 Filed 8-20-26; 8:45 am]
BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of August 24, 31, and September 7, 14, 21, 28, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of August 24, 2026—Tentative

Wednesday, August 26, 2026

9:00 a.m. Proposed Changes to the Design Basis Threat (Closed Ex. 1)

Week of August 31, 2026—Tentative

There are no meetings scheduled for the week of August 31, 2026.

Week of September 7, 2026—Tentative

There are no meetings scheduled for the week of September 7, 2026.

Week of September 14, 2026—Tentative

There are no meetings scheduled for the week of September 14, 2026.

Week of September 21, 2026—Tentative

There are no meetings scheduled for the week of September 21, 2026.

Week of September 28, 2026—Tentative

Tuesday, September 29, 2026

10:00 a.m. All Employees Meeting (Public Meeting) (Contact: Wesley Held: 301-287-3591)

Additional Information: The meeting will be held in the TWFN Auditorium, 11545 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 19, 2026.

For the Nuclear Regulatory Commission.

Yanely Malave Velez,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2026-17187 Filed 8-19-26; 4:15 pm]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026-349 and K2026-343; MC2026-350 and K2026-344]

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:* August 26, 2026.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's

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).

acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s)*: MC2026–349 and K2026–343; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1507 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 18, 2026; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative*: Kenneth Moeller; *Comments Due*: August 26, 2026.

III. Summary Proceeding(s)

1. *Docket No(s)*: MC2026–350 and K2026–344; *Filing Title*: USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 1071, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 18, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–17110 Filed 8–20–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106156; File No. SR–MEMX–2026–26]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 13.4(a) To Reflect the Operation of TXSE Exchange

August 18, 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 August 12, 2026, MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the Texas Stock Exchange LLC (“TXSE Exchange”) as a registered national securities exchange⁵ beginning on July 6, 2026.⁶ The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange’s website at <https://info.memxtrading.com/regulation/rules-and-filings/>.

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.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4.

⁵ *See* Securities Exchange Act Release No. 104146 (September 30, 2025), 90 FR 47880 (October 2, 2025).

⁶ *See* Texas Stock Exchange launches trading in test of upstart’s challenge to Wall Street (dated July 3, 2026) at: <https://www.texastribune.org/2026/07/03/texas-stock-exchange-launch-trading/>.

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 Rule 13.4(a) (Usage of Data Feeds) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the TXSE Exchange as a registered national securities exchange.⁷ On September 30, 2025, the Commission approved TXSE Exchange’s application to register as a national securities exchange.⁸ On July 6, 2026, TXSE Exchange launched its initial trading operations.⁹ The Exchange, therefore, proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of TXSE Exchange as a registered national securities exchange beginning on July 6, 2026. Specifically, the Exchange proposes to amend Rule 13.4(a) to include TXSE Exchange by stating it will utilize TXSE Exchange market data from the Consolidated Quotation System (“CQS”)/UTP Quotation Data Feed (“UQDF”) for purposes of order handling, routing, execution, and related compliance processes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁰ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market

⁷ The Exchange notes that all the rules of Chapter 13 of MEMX, including Rule 13.4, are incorporated by reference into the rulebook of MX2, LLC.

⁸ *See supra* note 5.

⁹ *See supra* note 6.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposal to update Rule 13.4(a) to include TXSE Exchange will ensure that the Rule publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(6)¹³ thereunder. Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (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 Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately upon filing. In support of its request, the Exchange states that the proposed rule change is being submitted solely to provide specificity regarding the Exchange's use of data feeds, and it is in the public interest for the Exchange's rulebook to be specific, clear, and transparent. Waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal provides clarity and avoids potential confusion by updating MEMX Rule 13.4(a) to specify which data feeds would be used for the TXSE Exchange for purposes of order handling, routing, execution, and related compliance processes, and does not introduce any novel regulatory issues. Accordingly, the Commission designates the proposed rule change to be operative upon filing.¹⁸

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:

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.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MEMX-2026-26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-MEMX-2026-26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MEMX-2026-26 and should be submitted on or before September 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-17062 Filed 8-20-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106158; File No. SR-ISE-2026-46]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Rules at Options 7, Section 4 (Complex Order Fees and Rebates) and Section 6 (Other Options Fees and Rebates)

August 18, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,²

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on August 6, 2026, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Rules at Options 7, Section 4 (Complex Order Fees and Rebates) and Section 6 (Other Options Fees and Rebates).³

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/ise/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the complex order⁴

rebates in the Exchange's Pricing Schedule (Options 7). Specifically, the Exchange proposes to amend its Pricing Schedule at Section 4 (Complex Order Fees and Rebates) and Section 6 (Other Options Fees and Rebates).

Options 7, Section 4 (Complex Order Fees and Rebates)

Currently, the Exchange offers tiered complex order rebates for Select Symbols⁵ and Non-Select Symbols⁶ based on the Priority Customer⁷ Complex Tier achieved.⁸ The schedule of tiered complex order Priority Customer rebates for Select Symbols and Non-Select Symbols is currently as follows:

Priority customer complex tier	Total affiliated member or affiliated entity complex order volume (excluding crossing orders and responses to crossing orders) calculated as a percentage of customer total consolidated volume	Rebate for select symbols	Rebate for non-select symbols
Tier 1	0.000%–0.200%	(\$0.25)	(\$0.50)
Tier 2	Above 0.200%–0.400%	(0.30)	(0.60)
Tier 3	Above 0.400%–0.600%	(0.40)	(0.80)
Tier 4	Above 0.600%–0.900%	(0.49)	(0.90)
Tier 5	Above 0.900%–1.350%	(0.53)	(0.99)
Tier 6	Above 1.350%–1.750%	(0.54)	(1.00)
Tier 7	Above 1.750%–2.250%	(0.56)	(1.11)
Tier 8	Above 2.250%–4.500%	(0.58)	(1.13)
Tier 9	Above 4.500%	(0.59)	(1.16)

The above rebates are provided per contract, per leg, if the order trades with Non-Priority Customer⁹ orders in the complex order book. This rebate will be reduced by \$0.20 per contract in Select Symbols where the largest leg of the Complex Order is under fifty (50) contracts and trades with quotes and orders on the regular order book. No Priority Customer Complex Order

rebates are provided in Select Symbols if any leg of the order that trades with interest on the regular order book is fifty (50) contracts or more. No Priority Customer Complex Order rebates are provided in Non-Select Symbols if any leg of the order trades with interest on the regular order book, irrespective of order size.

The Exchange also offers additional tiered rebates, in addition to the existing Priority Customer Complex Tier rebates, for Select Symbols and for Non-Select Symbols, provided the Member has also transacted an average daily volume of greater than 10,000 contracts of FLEX

³ The Exchange initially filed this proposal on August 3, 2026 (SR-ISE-2026-45). On August 6, 2026, the Exchange withdrew SR-ISE-2026-45 and submitted this filing.

⁴ A "Complex Order" is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, as provided in Options 3, Section 14, as well as Stock-Option Orders, as that term is defined in Options 3, Section 14(a)(2). See Options 7, Section 1(c).

⁵ "Select Symbols" are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Interval Program. See Options 7, Section 1(c).

⁶ "Non-Select Symbols" are options overlying all symbols excluding Select Symbols. No Priority Customer complex order rebates will be paid for orders in NDX, XND or MNX. See Options 7, Section 4, note 4.

⁷ The term "Priority Customer" is a person or entity that is not a broker/dealer in securities, and

does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Options 1, Section 1(a)(38). Unless otherwise noted, when used in the Pricing Schedule, the term "Priority Customer" includes "Retail". See Options 7, Section 1(c). A "Retail" order is a Priority Customer order that originates from a natural person, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. See *id.*

⁸ Priority Customer Complex Tiers are based on Total Affiliated Member or Affiliated Entity Complex Order Volume (Excluding Crossing Orders and Responses to Crossing Orders) Calculated as a Percentage of Customer Total Consolidated Volume. "Customer Total Consolidated Volume" means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month. See Options

7, Section 1(c). All Complex Order volume executed on the Exchange, including volume executed by Affiliated Members, is included in the volume calculation, except for volume executed as Crossing Orders and Responses to Crossing Orders. Affiliated Entities may aggregate their Complex Order volume for purposes of calculating Priority Customer Rebates. An "Appointed OFP" would receive the rebate associated with the qualifying volume tier based on aggregated volume. See Options 7, Section 4, note 16. As set forth in Options 7, Section 1(c), an Appointed OFP is an Order Flow Provider who has been appointed by a Market Maker for purposes of qualifying as an Affiliated Entity, and an Order Flow Provider is any Member, other than a Market Maker, that submits orders, as agent or principal, to the Exchange.

⁹ "Non-Priority Customers" include Market Makers, Non-Nasdaq ISE Market Makers, Firm Proprietary/Broker-Dealers, and Professional Customers. See Options 7, Section 1(c).

Orders¹⁰ in a given month. As is the case with the Priority Customer Complex Tier rebates, these additional tiered rebates are provided per contract, per leg, if the order trades with Non-Priority Customer orders in the complex order book. For purposes of calculating this threshold, eligible volume from Affiliated Members and Affiliated Entities is aggregated.

The additional tiered rebate, in addition to the Priority Customer Complex Tier rebates, for Select Symbols is currently as follows:

Tier 1	(\$0.00)
Tier 2	(0.02)
Tier 3	(0.03)
Tier 4	(0.06)
Tier 5	(0.02)
Tier 6	(0.01)
Tier 7	(0.00)
Tier 8	(0.00)
Tier 9	(0.00)

The additional tiered rebate, in addition to the Priority Customer Complex Tier rebates, for Non-Select Symbols is currently as follows:

Tier 1	(\$0.00)
Tier 2	(0.05)
Tier 3	(0.10)
Tier 4	(0.20)
Tier 5	(0.12)
Tier 6	(0.12)
Tier 7	(0.03)
Tier 8	(0.01)
Tier 9	(0.00)

The Exchange proposes to add a note 18 to Section 4 that would read as follows: “Members whose Total Affiliated Member or Affiliated Entity Complex Order Volume (excluding Crossing Orders and Responses to Crossing Orders) calculated as a percentage of Customer Total Consolidated Volume would otherwise qualify them for Priority Customer

¹⁰ A “FLEX Order” is an order submitted in a FLEX Option pursuant to Options 3A. *See* Options 3, Section 7(z). *See also* Options 3A, Section 1(b)(2). A “FLEX Option” is a flexible exchange option. *See* Options 3A, Section 1(b)(1). A FLEX Order can also be a Complex Order. Therefore, it is possible for a single order to count both towards the Priority Customer complex tier qualification, as well as the additional tiered rebates for Members who have also transacted an average daily volume of greater than 10,000 contracts of FLEX Orders.

Complex rebates below Tier 4 will receive the Tier 4 Priority Customer Complex rebates if such Members have Total Affiliated Member or Affiliated Entity Volume of 1.2% or more as a percentage of Customer Total Consolidated Volume. Those Members would also be eligible to receive the Tier 4 additional rebates in notes ** and ## of this Section.” In other words, Members whose complex order volume might only qualify them for Tiers 1, 2, or 3 of the Priority Customer Complex rebates, would now qualify for Tier 4 of the Priority Customer Complex rebates if they have Total Affiliated Member¹¹ or Affiliated Entity Volume¹² of 1.2% or more as a percentage of Customer Total Consolidated Volume.¹³ Furthermore, those Members would now also be eligible to receive the additional rebates available to Members that have also transacted an average daily volume of greater than 10,000 contracts of FLEX Orders in a given month.

The composition of national options order flow can vary significantly from month to month. Therefore, on a given month a Member may not execute sufficient Priority Customer Complex order flow on the Exchange to qualify for Tier 4 or higher of the Priority Customer Complex rebates, even if the Member has Total Affiliated Member or Affiliated Entity Volume of 1.2% or more as a percentage of Customer Total Consolidated Volume. This new provision would incentivize Members that transact a large overall amount of order flow on the Exchange to transact more of their Priority Customer Complex order flow to the Exchange, by providing them with the more attractive Priority Customer Complex pricing provided by Tier 4 of the Priority Customer Complex rebates, even if their Priority Customer Complex order flow might otherwise only qualify them for Tiers 1, 2, or 3.

¹¹ An “Affiliated Member” is a Member that shares at least 75% common ownership with a particular Member as reflected on the Member’s Form BD, Schedule A. *See* Options 7, Section 1(c).

¹² An “Affiliated Entity” is a relationship between an Appointed Market Maker and an Appointed OFP for purposes of qualifying for certain pricing specified in the Schedule of Fees. *See* Options 7, Section 1(c).

Section 6 (Other Options Fees and Rebates)

Currently, the Exchange offers a PIM¹⁴ rebate of \$0.11 per contract to Electronic Access Members¹⁵ that utilize PIM to execute more than 0.75% of Priority Customer volume in Regular Orders,¹⁶ calculated as a percentage of Customer Total Consolidated Volume per day in a given month.¹⁷ The rebate is paid for Priority Customer Regular Orders under 250 contracts that are submitted to PIM.¹⁸

The Exchange proposes to modify the amount of this rebate, from \$0.11 per contract, to \$0.105 per contract.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,²⁰ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹³ “Customer Total Consolidated Volume” means the total national volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month. *See* Options 7, Section 1(c).

¹⁴ PIM is the Exchange’s Price Improvement Auction as described in Options 3, Section 13. A PIM is comprised of the order the Electronic Access Member represents as agent (the “Agency Order”) and a counter-side order for the full size of the Agency Order (the “Counter-Side Order”). Responses, including the Counter-Side Order, and Improvement Orders may be entered during the exposure period. *See* Options 3, Section 13.

¹⁵ The term “Electronic Access Member” or “EAM” means a Member that is approved to exercise trading privileges associated with EAM Rights. *See* General 1, Section 1(a)(6).

¹⁶ A “Regular Order” is an order that consists of only a single option series and is not submitted with a stock leg.

¹⁷ Eligible volume from Affiliated Members will be aggregated in calculating the percentage.

¹⁸ The rebate is paid to the Agency Order as that term is defined within Options 3, Section 13. In the event a Crossing Transaction consists of two Priority Customer Orders, the Exchange would not pay this rebate.

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(4) and (5).

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”²¹

Likewise, in *NetCoalition v. Securities and Exchange Commission*²² (“NetCoalition”) the D.C. Circuit upheld the Commission’s use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.²³ As the court emphasized, the Commission “intended in Regulation NMS that ‘market forces, rather than regulatory requirements’ play a role in determining the market data . . . to be made available to investors and at what cost.”²⁴

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”²⁵ Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that its proposal to add new note 18 to Options 7, Section 4 is reasonable because it is designed to incentivize Members who have Total Affiliated Member or Affiliated Entity Volume of 1.2% or more as a percentage of Customer Total Consolidated Volume to transact more of their Priority Customer complex order flow on the Exchange in order to qualify for the more attractive Tier 4

Priority Customer Complex rebates. As explained above, the composition of national options order flow can vary significantly from month to month, so a Member may not always execute sufficient Priority Customer complex order flow on the Exchange in a given month to qualify for Tier 4 or higher of the Priority Customer Complex rebates, even if the Member has Total Affiliated Member or Affiliated Entity Volume of 1.2% or more as a percentage of Customer Total Consolidated Volume. The proposed 1.2% Total Affiliated Member or Affiliated Entity Volume qualification is set at a level that requires a meaningful commitment of overall order flow to the Exchange, and the Exchange believes that offering the Tier 4 rebates on this basis will help attract additional Priority Customer complex order flow to the Exchange, which will benefit all market participants.

The Exchange’s proposal to add new note 18 to Section 4 is equitable and not unfairly discriminatory because the new incentive will be uniformly applied to all Members that meet or exceed the objective, transparent 1.2% Total Affiliated Member or Affiliated Entity Volume threshold, and any Member may qualify by transacting sufficient volume on the Exchange. All Members qualifying under note 18 will receive the same Tier 4 Priority Customer Complex rebates (and, where applicable, the same Tier 4 additional rebates in notes ** and ## of Section 4). Offering the note 18 incentive only to Priority Customer orders is equitable and not unfairly discriminatory because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants, particularly in response to pricing, facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange’s proposal to reduce the PIM rebate in Options 7, Section 6.C from \$0.11 per contract to \$0.105 per contract is reasonable. The Exchange has limited resources to allocate to its incentive programs and periodically assesses its fee structure to ensure that its rebates continue to attract order flow while remaining sustainable. The proposed rebate of \$0.105 per contract represents only a modest reduction from the current \$0.11 per contract level; the Exchange believes that this rebate remains attractive and will continue to incentivize qualifying Electronic Access Members to submit smaller-sized Priority Customer Regular Orders to PIM

for price improvement, which benefits all market participants.

The Exchange’s proposal to reduce the PIM rebate is equitable and not unfairly discriminatory because the modified rebate will apply uniformly to all Electronic Access Members that satisfy the objective volume qualification (utilizing PIM to execute more than 0.75% of Priority Customer volume in Regular Orders, calculated as a percentage of Customer Total Consolidated Volume per day in a given month) with respect to all Priority Customer Regular Orders under 250 contracts submitted to PIM. Any Electronic Access Member is able to qualify for the rebate by meeting the applicable volume threshold, and all qualifying Members will receive the same \$0.105 per contract rebate on such orders. Paying this rebate only for Priority Customer Regular Orders is equitable and not unfairly discriminatory because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers, and increased Market Maker activity facilitates tighter spreads that may cause an additional corresponding increase in order flow from other market participants.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this

²¹ Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²² *NetCoalition v. SEC*, 615 F.3d 525 (D.C. Cir. 2010).

²³ See *NetCoalition*, at 534–535.

²⁴ *Id.* at 537.

²⁵ *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (File No. SR–NYSEArca–2006–21)).

market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange's proposal to add new note 18 to Options 7, Section 4 will not impose an undue burden on intra-market competition. The new incentive will be applied uniformly to all Members that meet or exceed the objective, transparent 1.2% Total Affiliated Member or Affiliated Entity Volume threshold as a percentage of Customer Total Consolidated Volume, and any Member may qualify by transacting sufficient volume on the Exchange. All Members qualifying under note 18 will receive the same Tier 4 Priority Customer Complex rebates (and, where applicable, the same Tier 4 additional rebates in notes ** and ## of Section 4). Moreover, offering the note 18 incentive only to Priority Customer orders does not impose an undue burden on intra-market competition because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants, particularly in response to pricing, facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to reduce the PIM rebate in Options 7, Section 6.C from \$0.11 per contract to \$0.105 per contract likewise will not impose an undue burden on intra-market competition. The modified rebate will apply uniformly to all Electronic Access Members that satisfy the same objective volume qualification, with respect to all Priority Customer Regular Orders under 250 contracts submitted to PIM. Any Electronic Access Member is able to qualify for the rebate by meeting the applicable volume threshold. While the rebate is targeted at Priority Customer Regular Orders, this does not impose an undue burden on intra-market competition because Priority Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers, and increased Market Maker activity facilitates tighter spreads that may cause an additional corresponding increase in order flow from other market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.²⁶ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ISE-2026-46 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-ISE-2026-46. 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-ISE-2026-46 and should be submitted on or before September 11, 2026.

²⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-17064 Filed 8-20-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106153; File No. SR-GEMX-2026-30]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Connectivity Schedule and Discontinue a Previously Proposed Offering

August 18, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 17, 2026, Nasdaq GEMX, LLC ("GEMX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand ("POD") offering that was previously proposed but not implemented. The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/gemx/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

²⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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 (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand ("POD") offering³ that was previously proposed but not implemented.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than the Exchange, and the Exchange has provided existing customers with 90-days' notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange's rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data

feeds delivered to the Nasdaq Data Center via a wireless network, including microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions.⁵ The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days' notice of their termination prior to the offerings' effective termination date.

Finally, the Exchange proposes to discontinue the POD offering described in SR-GEMX-2024-16. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of virtual or dedicated servers in the colocation space. The Exchange stated in SR-GEMX-2024-16 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR-GEMX-2024-16. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and not proceed with implementation of POD as described in SR-GEMX-2024-16.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the availability of any currently offered Exchange service. The proposal also would thus update the Exchange's rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange's rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange's rulebook. The Exchange has provided existing customers with 90-days' notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than the Exchange. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025. Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR-GEMX-2024-16 will make clear that the Exchange does not offer, and will not proceed with implementing, those services.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90-days' notice to existing customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those wireless connectivity services, which terminated effective August 31, 2025. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may

³ See Securities Exchange Act Release No. 100485 (July 10, 2024), 89 FR 57971 (July 16, 2024) (SR-GEMX-2024-16).

⁴ See proposed Rule General 8, Section 1(b).

⁵ See Proposed Rule General 8, Section 1(b).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange's rulebook by ensuring that the offerings reflected in the rulebook are currently available or otherwise accurately described.

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 proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90-days' notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90-days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. And the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current

availability of its services and removes obsolete provisions that no longer reflect operative offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-GEMX-2026-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-GEMX-2026-30. 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-GEMX-2026-30 and should be submitted on or before September 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-17059 Filed 8-20-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0049]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Form ADV

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("PRA"), the Securities and Exchange Commission (the "SEC" or "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

The title for the collection of information is "Form ADV" (17 CFR 279.1). Form ADV is the investment adviser registration form and exempt reporting adviser reporting form filed electronically with the Commission pursuant to rules 203-1 (17 CFR 275.203-1), 204-1 (17 CFR 275.204-1)

¹⁰ 17 CFR 200.30-3(a)(12).

and 204–4 (17 CFR 275.204–4) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*) (“Advisers Act”) by advisers registered with the Commission or applying for registration with the Commission or by exempt reporting advisers filing reports with the Commission. The information collected takes the form of disclosures to the adviser’s clients and potential clients. The purpose of this collection of information is to provide advisory clients, prospective clients, and the Commission with information about the adviser, its business, its conflicts of interest and personnel. Clients and prospective clients use certain of the information to determine whether to hire an adviser and, if hired, how to manage that relationship.

The information collected provides the Commission with knowledge about the adviser, its business, its conflicts of interest and personnel. The Commission uses the information to determine eligibility for registration with the Commission and to manage its regulatory, examination, and enforcement programs. Part 1 of Form ADV contains information used primarily by the Commission staff and Part 2 is the client brochure. Part 3 requires registered investment advisers that offer services to retail investors to prepare and file with the Commission a relationship summary.

The Commission recently updated the data sources and methodology that it generally uses for calculating occupational hourly rates that are used in estimating certain PRA burdens.¹

¹ To calculate the occupational hourly rates, the Commission uses occupational mean hourly wage data from the Occupational Employment and Wage Statistics (“OEWS”) program of the Bureau of Labor Statistics (“BLS”) for “Securities, Commodity Contracts, and Other Financial Investments and Related Activities” (“NAICS 523”); *see* Occupational Employment and Wage Statistics, U.S. Bureau of Labor Statistics, <https://www.bls.gov/oes/>; *see also* Standard Occupational Classification, U.S. Bureau of Labor Statistics, <https://www.bls.gov/soc/> (describing occupational classification system used by BLS); Exec. Off. of the President, Off. of Mgmt. & Budget, North American Industry Classification System (2022), available at https://www.census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf (describing the industry classification system used by BLS and other agencies); the mean hourly wage for each occupation is adjusted for changes in the seasonally adjusted employment cost index for private wages and salaries between the data reference period and when the data are released by BLS. *See* Employment Cost Index, U.S. Bureau of Labor Statistics, <https://www.bls.gov/eci/>; the adjusted mean hourly wage is then multiplied by a factor that accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead; this factor is calculated as an average over the 10 most recently available years of data of the ratio of the Bureau of Economic Analysis’s annual gross output data for NAICS 523 to total annual wages across all occupations for NAICS 523 in the OEWS

Respondents to this information collection are investment advisers registered with the Commission or applying for registration with the Commission and exempt reporting advisers. Our latest data indicate that there were approximately 16,442 advisers registered with the Commission and 6,389 exempt reporting advisers as of December 31, 2025. The Commission estimates that the total annual reporting and recordkeeping burden of the collection of information for each respondent is 10.85 hours. Based on this figure, the Commission estimates a total annual burden of 251,851.53 hours for this collection of information.

This collection of information is found at 17 CFR 279.1, and is mandatory.

The information collected pursuant to Form ADV are filings with the Commission. These disclosures are not kept confidential and must be preserved until at least three years after termination of the enterprise.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202605-3235-003 or email comment to MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov within 30 days of the day after publication of this notice, by September 21, 2026.

Dated: August 18, 2026.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–17067 Filed 8–20–26; 8:45 am]

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data. *See* Gross Output by Industry, U.S. Bureau of Economic Analysis, <https://www.bea.gov/data/industries/gross-output-by-industry>; Occupational Employment and Wage Statistics, U.S. Bureau of Labor Statistics, <https://www.bls.gov/oes/>; the final product is the occupational hourly rate; *see generally* Updated Methodology for Calculating Occupational Hourly Rates (Dec. 19, 2025), available at <https://www.sec.gov/files/method-occupational-hourly-rates.pdf>.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106157; File No. SR–MEMX–2026–27]

Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend Rule 20.6 (Nullification and Adjustment of Options Transactions Including Obvious Errors) Regarding the Roster Requirements for the Obvious Error Panel

August 18, 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 August 13, 2026, MEMX LLC (“MEMX” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b–4(f)(6) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend Exchange Rule 20.6 (Nullification and Adjustment of Options Transactions including Obvious Errors) to eliminate the requirement regarding the maintenance of a minimum roster of representatives eligible to serve on the Exchange’s Obvious Error Panel. The text of the proposed rule change is provided in Exhibit 5 and is available on the Exchange’s website at <https://info.memxtrading.com/regulation/rules-and-filings/>.

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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b–4.

places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 20.6 (Nullification and Adjustment of Options Transactions including Obvious Errors) to simplify the representative requirement for the Obvious Error Panel. Specifically, as described below, the Exchange proposes to eliminate the requirement regarding the maintenance of a minimum roster of representatives eligible to serve on the Exchange's Obvious Error Panel to avoid an unnecessary administrative burden on the Exchange and its Options Members.

Under Rule 20.6(l), an Options Member affected by a determination made under Rule 20.6 may request review by an Obvious Error Panel. Under Rule 20.6(l)(1), each Obvious Error Panel must be comprised of the Exchange's Chief Regulatory Officer ("CRO"), or a designee of the CRO; one representative of an Options Member engaged in market making (any such representative, a "MM Representative"); and two representatives of Options Members that satisfy specified criteria designed to ensure that such representatives are not engaged principally in options market making (any such representative, a "Non-MM Representative").

Under current Rule 20.6(l)(2), the Exchange must designate at least ten MM Representatives and at least ten Non-MM Representatives to be called upon to serve on the Obvious Error Panel as needed. That rule further provides that an Obvious Error Panel may not include a person affiliated with a party to the trade in question and that, to the extent reasonably possible, the Exchange must call upon designated representatives to participate on panels on an equally frequent basis.

The Exchange believes that the requirement to designate at least ten MM Representatives and at least ten Non-MM Representatives to be called upon to serve on the Obvious Error Panel is unnecessarily burdensome to both the Exchange and the representatives. The Exchange believes that a mandatory roster of twenty or more designated representatives is larger than necessary to administer the appeals process effectively and imposes

avoidable administrative burdens on both the Exchange and its Options Members. Maintaining such a roster requires the Exchange to identify, solicit, qualify, designate, track, and periodically refresh a substantial number of representatives, even though only three industry representatives serve on a particular panel, and appeals occur only periodically and infrequently.

The Exchange believes that Rule 20.6, as amended, will facilitate a more efficient administration of the appeal process while retaining the requirement of having both MM Representatives and Non-MM Representatives on the panel. The proposed amendment will streamline the appeal process by removing the unnecessary burden of maintaining an active list of at least twenty representatives to serve on an Obvious Error Panel. The Exchange does not believe it is necessary to designate such a large number of representatives because the composition of each Obvious Error Panel will remain unchanged, as each panel will continue to include one MM Representative and two Non-MM Representatives, in addition to the CRO or the CRO's designee. The Exchange believes this composition provides a proper balance of competing interests and helps ensure regulatory fairness when resolving trade disputes.

The proposal will not alter the eligibility criteria for Non-MM Representatives. In addition, Rule 20.6(l)(2) will retain the requirements that an Obvious Error Panel may not include a person affiliated with a party to the trade in question and that, to the extent reasonably possible, the Exchange must call upon designated representatives to participate on panels on an equally frequent basis. These provisions will continue to promote impartiality and equitable participation in the appeal process.

The Exchange expects to continue designating a sufficient number of qualified MM Representatives and Non-MM Representatives to convene panels promptly, taking into account representative availability, potential conflicts, and the applicable review timeframes. Eliminating the fixed minimum roster size will provide the Exchange flexibility to maintain a roster appropriately sized to its operational needs without affecting the composition, independence, or substantive authority of the Obvious Error Panel.

The Exchange notes that the proposed approach is consistent with the rules of other national securities exchanges.⁵

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.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)(1) of the Act,⁹ which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Members and persons associated with its Members with the Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes the proposed amendment to eliminate the requirement regarding the maintenance of a minimum roster of representatives eligible to serve on the Exchange's Obvious Error Panel will make the administration of the appeal process more efficient by reducing an unnecessary numerical condition while preserving the provisions governing

⁵ Nasdaq Options 3, Section 20(k)(1) provides that a Nasdaq Review Council panel will be comprised minimally of one representative of a member engaged in market making and two industry representatives not engaged in market making, and that no more than 50% of the panel may be engaged in market making. The rule does not require Nasdaq to designate or maintain a minimum roster of potential panel representatives. Nasdaq ISE and Nasdaq MRX maintain materially similar panel-composition provisions in Options 3, Section 20(k)(1) of their respective rulebooks, likewise without imposing a minimum roster requirement.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ *Id.*

⁹ 15 U.S.C. 78f(b)(1).

panel composition, representative qualifications, conflicts of interest, review timing, and decisional authority. The required panel composition, the eligibility criteria for Non-MM Representative, and the prohibition on participation by a person affiliated with a party to the trade will remain unchanged. The Exchange believes these retained safeguards provide a proper balance of competing interests and protect investors and the public interest.

The Exchange does not believe that requiring a roster of at least twenty designated representatives is necessary to ensure fair review. Rather, fairness is achieved through the composition of the panel that hears the appeal, the qualifications and independence of its representatives, and the substantive and procedural protections in Rule 20.6. The proposed change also will serve to avoid wasting Options Member and Exchange resources on maintaining an excessive list of Options Member representatives.

The Exchange further believes that the proposal's consistency with the rules of Nasdaq and its affiliated options exchanges supports the conclusion that the fixed roster requirement is not necessary to protect investors or ensure fair review. Those exchanges rely on panel-composition safeguards similar to those that will remain in Rule 20.6, but do not require the maintenance of a roster of at least ten market-maker and ten non-market-maker representatives.

Finally, the proposal is not designed to permit unfair discrimination. Rather, the proposal relates only to the Exchange's administrative requirements for maintaining a roster of eligible representatives and will apply uniformly to all Options Members and all appeals under Rule 20.6. The Exchange will continue to maintain a roster of qualified representatives appropriately sized to its operational needs and will continue to select representatives in accordance with the rule's objective criteria and, to the extent reasonably possible, call upon designated representatives on an equally frequent basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. This proposal does not create an unnecessary or inappropriate intramarket burden on competition because the proposed change will apply uniformly to all Members and will not affect any Member's ability to request or obtain

review of an obvious error determination. Further, the proposal will not impact the fairness or impartiality of the appeal process. The Exchange will continue to appoint qualified individuals to serve on the Obvious Error Panel and to administer the appeals process in a fair and consistent manner, and all similarly situated parties will continue to have access to the same appeal procedures and protections under Rule 20.6. The Exchange also does not believe the proposed rule change will impose any burden on intermarket competition because the proposal relates solely to the Exchange's internal administration of the Obvious Error Panel and does not affect the standards for determining whether a transaction is erroneous, the relief available for market participants, the rights or obligations of any Member, the Exchange's trading functionality or the ability of Members to compete on the Exchange or across markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of Act ¹⁰ and Rule 19b-4(f)(6) ¹¹ thereunder. Because the foregoing proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of Act ¹² and Rule 19b-4(f)(6) ¹³ thereunder.

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of 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-MEMX-2026-27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-MEMX-2026-27. 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-MEMX-2026-27 and should be submitted on or before September 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Sherry R. Haywood,
Assistant Secretary.

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¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(6). Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106152; File No. SR–ISE–2026–47]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Connectivity Schedule and Discontinue a Previously Proposed Offering

August 18, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 17, 2026, Nasdaq ISE, LLC (“ISE” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering that was previously proposed but not implemented.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/ise/rulefilings>, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule General 8, Section 1(b) to (1) remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand (“POD”) offering³ that was previously proposed but not implemented.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than the Exchange, and the Exchange has provided existing customers with 90-days' notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange's rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data feeds delivered to the Nasdaq Data Center via a wireless network, including microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS

Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions.⁵ The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days' notice of their termination prior to the offerings' effective termination date.

Finally, the Exchange proposes to discontinue the POD offering described in SR–ISE–2024–24. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of virtual or dedicated servers in the colocation space. The Exchange stated in SR–ISE–2024–24 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR–ISE–2024–24. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and not proceed with implementation of POD as described in SR–ISE–2024–24.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the availability of any currently offered Exchange service. The proposal also would thus update the Exchange's rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the

³ See Securities Exchange Act Release No. 100484 (July 10, 2024), 89 FR 57964 (July 16, 2024) (SR–ISE–2024–24).

⁴ See proposed Rule General 8, Section 1(b).

⁵ See Proposed Rule General 8, Section 1(b).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange's rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange's rulebook. The Exchange has provided existing customers with 90-days' notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than the Exchange. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025. Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR-ISE-2024-24 will make clear that the Exchange does not offer, and will not proceed with implementing, those services.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90-days' notice to existing customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those wireless connectivity services, which terminated effective August 31, 2025. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange's rulebook by ensuring that the offerings reflected in the rulebook are currently available or otherwise accurately described.

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 proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90-days' notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90-days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. And the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current availability of its services and removes obsolete provisions that no longer reflect operative offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-ISE-2026-47 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-ISE-2026-47. This file

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

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-ISE-2026-47 and should be submitted on or before September 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-17058 Filed 8-20-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106155; File No. SR-LCH SA-2026-004]

Self-Regulatory Organizations; LCH SA; Order Approving Proposed Rule Change Relating to the LCH SA Liquidity Plan

August 18, 2026.

I. Introduction

On June 22, 2026, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), filed with the Securities and Exchange Commission (the "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to submit for Commission approval the LCH SA Liquidity Plan ("Liquidity Plan"). The proposed rule change was published for comment in the **Federal Register** on July 9, 2026.³ The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the

Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

Background

LCH SA is a clearing agency registered with the Commission. Through its CDS Clear business unit, LCH SA provides central counterparty ("CCP") services for security-based swaps, including credit default swaps ("CDS") and options on CDS. LCH SA is an affiliate of LCH, Ltd, through common ownership by LCH Group Holdings Limited ("LCH Group"). LCH SA's ultimate parent company is London Stock Exchange Group.

As a CCP, LCH SA is exposed to certain risks, including liquidity risk. Liquidity risk is the risk that LCH SA will not have enough liquid financial resources to meet its financial obligations. LCH SA has adopted the Liquidity Plan to set out the specific principles and procedures for liquidity management that govern its operations as a clearing agency, including how it will ensure that systems and processes are in place to facilitate effective management of liquidity risk.

The Liquidity Plan describes (i) the objectives of the Liquidity Plan; (ii) the roles and responsibilities of various LCH SA personnel in liquidity management; (iii) the sources and uses of LCH SA's liquidity; (iv) how LCH SA uses stress testing in monitoring and determining its liquidity needs; and (v) how LCH SA monitors and manages its liquidity needs.

Objectives

The objectives of the Liquidity Plan are to ensure: (i) the effective management of liquidity by adhering to the appropriate governance structure to manage liquidity risk, including reporting lines and accountabilities; (ii) the liquidity adequacy of LCH SA at all times in accordance with policies set by the appropriate governance authority and monitored and reported by LCH SA Risk Department; (iii) that liquidity management and resources are aligned with LCH SA operational requirements to meet payment obligations as they fall due under business as usual and stressed liquidity conditions; (iv) effective liquidity risk identification and escalation within Collateral and Liquidity Management ("CaLM") and the other departments within LCH SA identified in the Liquidity Plan; and (v) that systems and processes are in place

to facilitate effective management of liquidity risk.⁴

Roles and Responsibilities

Section 2 of the Liquidity Plan sets out the roles and responsibilities within LCH SA for compliance with the Liquidity Plan. The Liquidity Plan provides that: (i) the LCH SA Head of CaLM (or delegate) is responsible for, among other things, maintaining the Liquidity Plan, overseeing the portfolio management function, LCH SA's overall liquidity position, and adherence to the Liquidity Plan and relevant policies; (ii) CaLM Front Office, comprised of trading personnel, is responsible for, among other things, day-to-day investment activities, intraday liquidity management and monitoring, and oversight of asset encumbrance requirements including for pledged assets and Futures Commission Merchant ("FCM") non-cash collateral; (iii) Second Line CaLM Risk sets liquidity risk limits, enforces liquidity risk limits and escalates limit breaches, develops and enhances the liquidity risk management framework, and identifies, measures, monitors, and reports liquidity risks, among other responsibilities; (iv) Collateral Operations is responsible for, among other things, the operational and control processes related to intraday liquidity flows and performs intraday monitoring of CaLM investment activity; and (v) CaLM Middle Office is responsible for mark-to-market of the CaLM SA portfolio and formal reporting of CaLM investment activity.

As described in Section 4 of the Liquidity Plan, CaLM First Line Risk also is responsible for the daily pricing of the liquid assets and investment portfolio. Regular reporting is distributed by CaLM Middle Office to relevant stakeholders through downstream systems, including by distributing a CaLM Investment Report on a daily and monthly basis. Second Line CaLM Risk conducts the monitoring and reporting of these activities, as described immediately above.

Finally, the LCH SA Chief Risk Officer is responsible for taking and deciding any relevant actions during a liquidity event.

Sources and Uses of Liquidity

The Liquidity Plan identifies the different sources and availability of liquidity, including: (i) cash posted by members to meet margin requirements;

⁴ Capitalized terms not otherwise defined herein have the meanings assigned to them in the Liquidity Plan.

¹⁰ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to the LCH SA Liquidity Plan, Exchange Act Release No. 105850 (July 6, 2026), 91 FR 42577 (July 9, 2026) (File No. SR-LCH SA-2026-004) ("Notice").

(ii) cash contributions to Default Funds; (iii) LCH SA's own capital; (iv) excess cash placed by LCH SA's clearing members; and (v) cash arising from settlement fails. The primary sources of liquidity for LCH SA are the cash posted by its members to meet margin requirements, the cash contributions to Default Funds, as well as LCH SA's own capital.

Beyond these primary sources, the Liquidity Plan specifies that available liquidity resources include: (i) maturing transactions from reverse repo and overnight unsecured investments; (ii) sale of portfolio of highly liquid assets; (iii) maturity and/or redemption of on-demand investments; (iv) repo of highly liquid securities; (v) borrowing facilities; (vi) foreign exchange ("FX") funding transactions; and (vii) access to central bank liquidity.

The Liquidity Plan also identifies potential uses of liquidity which could impact the liquidity resources available to meet liquidity requirements, including: (i) cash tied in investment activities which cannot be freed in time to meet requirements; (ii) disruption in the cash bond/repo market which delays mobilization of a defaulted clearing member's non-cash collateral; (iii) payment flow delays; (iv) credit lines with an International Central Securities Depository ("ICSD") being reduced or not available; and (v) cash/non-cash that is provided for interoperability arrangement purposes.

To mitigate such potential draws on liquidity, the Liquidity Plan sets out additional methods to retain liquidity within LCH SA. These include: (i) increasing the notice period required for clearing members to substitute non-cash collateral for cash collateral; (ii) using intraday liquidity available at Central Securities Depositories ("CSDs"); (iii) prioritizing the return of non-cash over cash collateral; (iv) applying caps on pledge amounts and non-Euro securities; (v) requiring clearing members to post a minimum amount of cash collateral; and (vi) making extraordinary margin calls if the Liquidity Coverage Ratio falls below specified thresholds.

Stress Tests

The Liquidity Plan describes how LCH SA conducts stress testing of its liquidity position. This includes daily liquidity stress testing for Cover 2 default by currency; intraday Cover 2 default liquidity stress testing when LCH SA has scheduled obligations to pay; and at least a 5-day forward looking Cover 2 default liquidity stress test. LCH SA also conducts additional stress testing using scenarios that consider:

liquidity following a Cover 2 default; stresses at Euronext Clearing liquidity stress testing; and compliance with the Commission's specific liquidity requirements.

In addition, the Liquidity Plan also describes LCH SA's liquidity reverse stress scenarios. These scenarios model: (i) reductions in cash margin to generate a liquidity deficit; (ii) switches to non-liquid resources; (iii) rating downgrades of Euro zone peripheral and core countries; (iv) increased outflows due to mark-to-market moves of assets; (v) multiple defaults of low credit worthiness members; (vi) Euronext Clearing variation margins; (vii) increases in the maturity of securities from margin collateral and settlement of repo transactions; and (viii) combined behavioral and macroeconomic scenarios.

Monitoring and Managing Liquidity Needs

The Liquidity Plan also describes how LCH SA monitors and manages its liquidity needs on an ongoing basis. With respect to monitoring, as noted above, Second Line CaLM Risk sets liquidity risk limits and monitors, controls, and reports the liquidity risk of LCH SA to CaLM on a daily basis. Second Line CaLM risk also maintains and runs various stress scenarios and monitors the largest stress loss against the legal entity capital and available liquidity resources.

With respect to management of liquidity needs, LCH SA manages these according to whether they relate to business-as-usual operations or a clearing member default. Operational liquidity needs are those needs arising from LCH SA's operations, not related to a clearing member's default. Operational liquidity needs include repayment of excess cash collateral to members; substitution of cash collateral upon member request; provision of liquidity to facilitate settlement (including fails); potential planned Default Fund reductions; overall reductions in Initial Margin and thus cash posted for margin coverage; and Euronext Clearing variation margin outflows. Default-related liquidity needs are those arising from the default of a clearing member.

As described in the Liquidity Plan, LCH SA manages operational liquidity needs by first monitoring daily liquidity flows to determine where a need may arise in day-to-day operations. Specifically, the Liquidity Plan specifies that Collateral Operations monitors daily liquidity flows, with the 9:30 a.m. observation identified as the most accurate indicator of daily operational liquidity requirements since all margin

returns to members occur in the morning. The Liquidity Plan next describes various actions that LCH SA can take to generate intraday liquidity for operational needs, such as using Euro cash collateral and pledging Euro non-cash securities to the Banque de France 3G credit line to obtain cash, and, as a last resort, uncommitted credit lines. Finally, the Liquidity Plan describes how LCH SA would replenish any cash used to meet operational liquidity needs, which LCH SA would expect to do so once settlement is completed and/or the operational issue generating the need is resolved.

The second major source of liquidity needs, default liquidity, includes LCH SA's needs from fulfilment of the settlement obligations of a defaulted clearing member, such as posting of variation margins to non-defaulting members on positions held by a defaulted clearing. The Liquidity Plan describes various actions that LCH SA can take to generate intraday liquidity in a default. As with operational liquidity needs, these actions include using Euro cash collateral and pledging Euro non-cash securities to the Banque de France 3G credit line to obtain cash, and, as a last resort, uncommitted credit lines.

The Liquidity Plan also describes how LCH SA would replenish any cash used to meet default liquidity needs, which LCH SA would expect to do using the waterfall of resources available under its rules to cover default losses. For example, to complete settlement of cleared contracts, LCH SA would source the required liquidity from the pool of cash posted by members (margin and default fund contributions), by utilizing bonds under the cleared contract or from the non-cash collateral pool to raise liquidity through the Banque de France 3G credit line, or repo transactions. The bond acquired would then be sold in the auction and the proceeds used to replenish liquidity. If the bond is sold at a lower value than the cash paid under the repo, LCH SA could cover the resulting mark-to-market loss using the resources set out in its default waterfall.

Finally, as part of its ongoing management of its liquidity needs, LCH SA regularly tests the availability of liquidity and conducts due diligence on its liquidity providers. As described in the Liquidity Plan, LCH SA's CaLM team undertakes "War Games" testing to ensure that assumptions around activities used in stressed environments to raise liquidity are realistic. CaLM also tests, with each counterparty that provides liquidity to LCH SA, its ability to access the liquidity resources. The Liquidity Plan also requires LCH SA to

undertake due diligence on each of its liquidity providers to assess the relevant provider's capacity to understand and manage its own liquidity risk as well as its ability to provide liquidity to LCH SA. The scope of this due diligence extends to CSDs and ICSDs, central banks, and CaLM counterparties, in each case where such entities act as liquidity providers to LCH SA.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act requires the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the organization.⁵ Under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change."⁶

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,⁷ and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.⁸ Moreover, "unquestioning reliance" on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.⁹

After carefully considering the proposed rule change, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to LCH SA. More specifically, for the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,¹⁰ and Rules 17Ad-22(e)(2)(v) and (e)(7).¹¹

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of LCH SA be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.¹²

The Liquidity Plan promotes the prompt and accurate clearance and settlement of securities transactions by ensuring that LCH SA maintains sufficient liquidity resources to meet its settlement obligations. The Liquidity Plan does so by identifying and prioritizing multiple sources of liquidity to facilitate settlement, including cash margin posted by members, Default Fund contributions, and LCH SA's own capital, while also establishing detailed procedures for generating additional liquidity through the Banque de France 3G credit line, bilateral and triparty repo transactions, and central bank facilities. The Liquidity Plan addresses liquidity needed for settlement continuity as part of LCH SA's daily operations. The Liquidity Plan addresses settlement continuity in default scenarios as well, providing that LCH SA will source required liquidity from the pool of cash posted by members, by utilizing bonds under cleared contracts, or from the non-cash collateral pool, thereby ensuring that settlement obligations of a defaulted clearing member can be fulfilled without disruption to the broader clearance and settlement process. These provisions will help ensure that LCH SA has sufficient liquidity to complete settlement in its business-as-usual operations, as well as during a default of a clearing member, thereby helping ensure the prompt and accurate clearance and settlement of securities transactions.

The Liquidity Plan further describes how LCH SA will monitor and manage its liquidity resources and needs. For example, Collateral Operations monitors daily liquidity flows on a day-to-day basis, with the 9:30 a.m. observation identified as the most accurate indicator of daily operational liquidity requirements, ensuring that margin returns to members are processed accurately and promptly each morning. LCH SA also conducts stress tests of its liquidity position, which help ensure that LCH SA maintains adequate liquidity to complete settlement even in stressed market conditions. Finally, the Plan's requirement that LCH SA undertake due diligence on each of its

liquidity providers and that CaLM conduct annual "War Games" testing with each liquidity provider helps ensure that the procedures and resources necessary to safeguard member assets and meet settlement obligations remain operationally viable under both normal and stressed market conditions. These provisions will help ensure that LCH SA is able to monitor and manage its liquidity needs, and access liquidity to satisfy those needs, thereby helping ensure the prompt and accurate clearance and settlement of securities transactions.

Accordingly, the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.¹³

B. Consistency With Rule 17ad-22(e)(2)(v)

Exchange Act Rule 17ad-22(e)(2)(v) requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that specify clear and direct lines of responsibility.¹⁴ As discussed above, the Liquidity Plan would set out the roles and responsibilities of various LCH SA personnel and departments in carrying out the objectives and requirements of the Liquidity Plan. For example, the LCH SA Head of CaLM (or delegate) is responsible for, among other things, maintaining the Liquidity Plan, overseeing the portfolio management function, LCH SA's overall liquidity position, and adherence to the Liquidity Plan and relevant policies. By setting out the roles and responsibilities of various LCH SA personnel and departments, the Liquidity Plan would specify clear and direct lines of responsibility, consistent with Exchange Act Rule 17ad-22(e)(2)(v).¹⁵

Accordingly, the proposed rule change is consistent with the requirements of Exchange Act Rule 17ad-22(e)(2)(v).¹⁶

C. Consistency With Rule 17ad-22(e)(7)

Exchange Act Rule 17ad-22(e)(7) requires, among other things, that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and

⁵ 15 U.S.C. 78s(b)(2)(C).

⁶ Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

⁷ *Id.*

⁸ *Id.*

⁹ *Susquehanna Int'l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 240.17ad-22(e)(2)(v), (7).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 15 U.S.C. 78q-1(b)(3)(F).

¹⁴ 17 CFR 240.17Ad-22(e)(2)(v).

¹⁵ *Id.*

¹⁶ *Id.*

managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.¹⁷

The Liquidity Plan is consistent with this requirement because it establishes a comprehensive framework for measuring, monitoring, and managing liquidity risk on an ongoing and timely basis. The Liquidity Plan requires daily liquidity stress testing for Cover 2 default by currency, at least a 5-day forward looking liquidity stress test, and liquidity assessments conducted daily at an aggregated level across all material currencies, ensuring continuous measurement and monitoring of LCH SA's liquidity position. With respect to intraday liquidity, the Liquidity Plan describes the resources that LCH SA would use to fulfill needs, assigns CaLM Front Office direct responsibility for intraday liquidity management and monitoring, and requires Collateral Operations to perform intraday monitoring of investment activity and daily liquidity flows. Second Line CaLM Risk further supports these efforts by setting and enforcing liquidity risk limits and escalating limit breaches on an ongoing basis. The Liquidity Plan also details how LCH SA manages its operational and default liquidity risks, including by identifying the needs associated with daily operations and a default, the sources that LCH SA uses to satisfy its liquidity needs, and how LCH SA would replenish its liquidity resources. Together, these provisions would help LCH SA to measure, monitor, and manage its liquidity risk, its settlement and funding flows, and its use of intraday liquidity, consistent with Exchange Act Rule 17ad-22(e)(7).¹⁸

Accordingly, the proposed rule change is consistent with the requirements of Exchange Act Rule 17ad-22(e)(7).¹⁹

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act,²⁰ and Rules 17ad-22(e)(2)(v) and 17Ad-22(e)(7).²¹

It is therefore ordered pursuant to Section 19(b)(2) of the Act²² that the proposed rule change (SR-LCH SA-

2026-004) be, and hereby is, approved.²³

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026-17061 Filed 8-20-26; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106154; File No. SR-MRX-2026-34]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Connectivity Schedule and Discontinue a Previously Proposed Offering

August 18, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 17, 2026, Nasdaq MRX, LLC ("MRX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand ("POD") offering that was previously proposed but not implemented.

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.

²³ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) amend Rule General 8, Section 1(b) to remove certain fiber optic-delivered market data offerings and certain discontinued wireless connectivity services, and (2) discontinue a certain Proximity-On-Demand ("POD") offering³ that was previously proposed but not implemented.

First, the Exchange proposes to remove certain fiber optic-delivered market data connectivity offerings set forth in Rule General 8, Section 1(b), including their associated fees and explanatory language. These offerings consist of market data connectivity to the Nasdaq Data Center for SIAC, CTS/CQS, OpenBook Ultra, and ArcaBook Multicast delivered via a fiber optic network. The Exchange is terminating these offerings effective September 30, 2026, because they are subscribed to by fewer than three customers, these offerings are available from vendors other than the Exchange, and the Exchange has provided existing customers with 90-days' notice that the offerings will terminate on that date. The Exchange also proposes to remove the related explanatory language providing, in general, that pricing is for connectivity only, is similar to connectivity fees imposed by other vendors, is generally based on the amount of bandwidth needed to accommodate a particular feed, and that the Exchange is not the exclusive method to obtain market data connectivity.⁴ The Exchange believes that it is appropriate to remove these offerings and associated fees and related

³ See Securities Exchange Act Release No. 100483 (July 10, 2024), 89 FR 57956 (July 16, 2024) (SR-MRX-2024-19).

⁴ See proposed Rule General 8, Section 1(b).

¹⁷ 17 CFR 240.17Ad-22(e)(7).

¹⁸ 17 CFR 240.17Ad-22(e)(7).

¹⁹ *Id.*

²⁰ 15 U.S.C. 78q-1(b)(3)(F).

²¹ 17 CFR 240.17Ad-22(e)(2)(v), (7).

²² 15 U.S.C. 78s(b)(2).

provisions from its rules as the Exchange is terminating these offerings effective September 30, 2026, and removal of these offerings as proposed would thus enhance the accuracy of the Exchange's rulebook and facilitate its use.

Second, the Exchange proposes to further amend Rule General 8, Section 1(b) to remove the multicast market data feeds delivered to the Nasdaq Data Center via a wireless network, including microwave or millimeter wave connectivity. The specific wireless connectivity offerings being removed are NYSE Equities (Arca Integrated), NYSE Equities (NYSE Integrated), BATS Multicast PITCH for BZX and BYX, Direct EDGE Depth of Book for EDGA and EDGX, CME Multicast Total, CME Equities Futures Data Only, CME Fixed Income Futures Data Only, and CME Metals Futures Data Only. The Exchange also proposes to remove from subparagraph (b) of Rule General 8 the associated installation fees, recurring monthly fees, as well as the associated volume-based discount language applicable to microwave or millimeter wave wireless subscriptions.⁵ The Exchange believes that it is appropriate to remove these offerings as these market data feed offerings were terminated effective August 31, 2025, and customers were provided with more than 90 days' notice of their termination prior to the offerings' effective termination date.

Finally, the Exchange proposes to discontinue the POD offering described in SR-MRX-2024-19. In that filing, the Exchange proposed to launch POD as a managed colocation solution under which applications would be deployed on managed infrastructure in the form of virtual or dedicated servers in the colocation space. The Exchange stated in SR-MRX-2024-19 that implementation of the POD offering would coincide with a subsequent fee filing establishing applicable fees. The Exchange did not file fees for POD and did not otherwise offer the POD services proposed in SR-MRX-2024-19. The offering did not attract sufficient demand and therefore never fully materialized. The Exchange now proposes to discontinue the offering and not proceed with implementation of POD as described in SR-MRX-2024-19.

The proposed changes are designed to update the rulebook to eliminate products or services that are no longer offered, are being terminated, or were never implemented. The proposal does not introduce any new service, fee, or obligation, and it does not affect the

availability of any currently offered Exchange service. The proposal also would thus update the Exchange's rulebook, enhance its clarity, and facilitate its use.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁷ in particular, because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The proposed rule change would protect investors and the public interest by ensuring that the Exchange's rules accurately reflect the connectivity services that are currently available. Removing obsolete rule text relating to the Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026, will reduce potential confusion and improve the clarity and accuracy of the Exchange's rulebook. The Exchange has provided existing customers with 90-days' notice of the termination, the offerings are used by fewer than three customers, and the relevant feeds are available from third-party vendors other than the Exchange. In addition, the proposed deletion of certain wireless offerings, including related fee and discount provisions, will further conform the rulebook to the termination of those wireless connectivity offerings, which terminated effective August 31, 2025. Similarly, confirming that the Exchange will not proceed with implementation of POD as described in SR-MRX-2024-19 will make clear that the Exchange does not offer, and will not proceed with implementing, those services.

The proposal is also consistent with Section 6(b)(5) because it does not unfairly discriminate among market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers effective September 30, 2026, after 90-days' notice to existing customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The proposed removal of certain wireless offerings, including related fee and discount provisions, will apply uniformly and merely conforms the rulebook to the termination of those

wireless connectivity services, which terminated effective August 31, 2025. Finally, the POD offering that the Exchange proposes to discontinue was never implemented or offered to any market participant. Accordingly, the proposal would not change the terms on which any market participant may obtain any currently available Exchange service. Rather, the proposal would enhance the transparency and accuracy of the Exchange's rulebook by ensuring that the offerings reflected in the rulebook are currently available or otherwise accurately described.

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 proposal is limited to removing obsolete rule text and related fee provisions for services that have been terminated, will be terminated after notice to affected customers, or were never implemented. Specifically, the proposal would remove rule text relating to certain Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings that will terminate effective September 30, 2026 after 90-days' notice to existing customers; certain wireless connectivity offerings and related fee and discount provisions that were terminated effective August 31, 2025; and POD, an offering that was never implemented by the Exchange. Because the proposal does not introduce any new service, fee, access requirement, or differential treatment, it will not impose any burden on intermarket or intramarket competition.

The proposal will not burden intramarket competition because it will apply uniformly to all market participants. The Rule General 8, Section 1(b) fiber optic-delivered market data connectivity offerings will terminate for all customers after 90-days' notice, are used by fewer than three customers, and the relevant feeds remain available from third-party vendors other than the Exchange. The wireless connectivity offerings and related provisions will be removed uniformly because the underlying services were previously terminated. And the POD offering was never made available to any market participant. Accordingly, the proposal would not alter the competitive position of any market participant or change the terms on which any participant may obtain any currently available Exchange service.

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁵ See Proposed Rule General 8, Section 1(b).

The proposal will not burden intermarket competition because it does not affect the ability of other exchanges, vendors, or market participants to offer, obtain, or compete with respect to market data connectivity, order entry, or colocation-related services. Rather, the proposal merely conforms the Exchange's rulebook to the current availability of its services and removes obsolete provisions that no longer reflect operative offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MRX-2026-34 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-2026-34. 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-2026-34 and should be submitted on or before September 11, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-17060 Filed 8-20-26; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21790 and #21791; ILLINOIS Disaster Number IL-20035]

Administrative Declaration of a Disaster for the State of Illinois

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative declaration of a disaster for the state of Illinois dated August 18, 2026.

Incident: Severe Storms.

DATES: Issued on August 18, 2026.

Incident Period: July 27, 2026.

Physical Loan Application Deadline Date: October 19, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: May 18, 2027.

ADDRESSES: Visit the MySBA Loan Portal at <https://lending.sba.gov> to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Shaquille Lewis, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cook, Will.

Contiguous Counties:

Illinois: DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry.
Indiana: Lake.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
<i>For Economic Injury:</i>	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 21790B and for economic injury is 217910.

The states which received an SBA Administrative declaration are Illinois, Indiana.

(Catalog of Federal Domestic Assistance Number 59008)

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change 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.

¹⁰ 17 CFR 200.30-3(a)(12).

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–17106 Filed 8–20–26; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–10198]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: National Flight Data Center Web Portal

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 collection involves aeronautical information detailing the physical description and operational status of all components of the National Airspace System (NAS). The information to be collected will be used to update government, military, and private aeronautical databases, charts, publications, flight management systems, and in-flight tracking products.

DATES: Written comments should be submitted by October 20, 2026.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: John Graybill, FAA, Aeronautical Information Services, AJV–A35, Room 637, 800 Independence Ave. SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: John Graybill by email at: John.Graybill@faa.gov; phone: 202–267–3742.

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. The agency

will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0754.

Title: National Flight Data Center Web Portal.

Form Numbers: AD1–ADCP, AD3–ACC.

Type of Review: Renewal of an information collection.

Background: 49 U.S.C 40103, “Sovereignty and Use of Airspace,” authorizes and directs the FAA to develop plans and policy for the use of the navigable airspace. The National Flight Data Center (NFDC) is the authoritative government source for collecting, validating, storing, maintaining, and disseminating aeronautical data concerning the United States and its territories to support real-time aviation activities. The information collected ensures the safe and efficient navigation of the national airspace. The information collected includes, but is not limited to, data regarding airport associated city, CTAF, UNICOM, facility use, runway lighting, airport sketches and diagrams, proposed aircraft call signs, and general remarks. NFDC collects this information and maintains it in the National Airspace System resources (NASR) database. NASR serves as the official repository for NAS data and is provided to government, military, and private producers of aeronautical databases, charts, publications, flight management systems, and in-flight tracking products at no charge. Information will be collected via digital forms. Failure to collect this information would result in obsolete and inaccurate data being reflected on aviation products.

Respondents: Approximately 6,235 representatives of U.S. public airports; airlines; and aircraft operators. Average of 7,478 responses annually.

Frequency: Information to be collected on occasion.

Estimated Average Burden per Response: 20 minutes for AD1–ADCP, 20 minutes for AD3–ACC, 24 minutes for Call Signs.

Estimated Total Annual Burden: 2,496 hours.

Issued in Washington, DC, on August 18, 2026.

John L. Graybill,

Aeronautical Information Specialist, Data Systems Team, Aeronautical Information Services, AJV–A35.

[FR Doc. 2026–17066 Filed 8–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket # FAA–2026–4006]

Notice of Draft FAA Order 5100.38E, Airport Improvement Program Handbook; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: On May 19, 2026, the FAA published a notice seeking public comments on draft FAA Order 5100.38E. The comment period for the notice was scheduled to end on August 17, 2026. The FAA received a request to extend the comment period. The FAA is extending the comment period for the May 19, 2026, notice by 14 days.

DATES: The comment period for the notice published on May 19, 2026, at 91 FR 29247, is extended from August 17, 2026 to August 31, 2026.

ADDRESSES: You can obtain an electronic copy of the draft FAA Order 5100–38E from the FAA's website at https://www.faa.gov/airports/aip/aip_handbook. Please submit your comments, identified by docket number FAA–2026–4006, using any of the following methods:

- *Government-wide Rulemaking Website:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* AIPhandbook@faa.gov.
- *Mail:* FAA Office of Airports, Airport Planning and Programming, Routing Symbol APP–540, 1200 New Jersey Avenue SE, Washington DC 20590.
- *Hand Delivery:* To FAA Office of Airports, Airport Planning and Programming, Routing Symbol APP–540, 1200 New Jersey Avenue SE, Washington, DC 20590; between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Jesse Carriger, Acting Manager, Financial Assistance Division, Office of Airports Planning and Programming, Federal Aviation Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 267–9590 or AIPhandbook@faa.gov.

SUPPLEMENTARY INFORMATION: On May 19, 2026, the FAA published a notice in the **Federal Register** seeking public comments on draft FAA Order 5100.38E. The May 19, 2026, notice stated that the comment period would close on August 17, 2026. The FAA

received a request to extend the comment period. The FAA is granting an extension of the comment period for the notice through August 31, 2026.

Issued in Washington, DC, on August 19, 2026.

William Garrison,

Director, FAA Office of Airports, Office of Airports Planning and Programming.

[FR Doc. 2026–17111 Filed 8–20–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0058]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Distraction: Personal Electronic Device

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new collection of information.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes a collection of information for which NHTSA intends to seek OMB approval to conduct research on safety-related aspects of interactions with portable electronic device integration systems that allow access to smartphone applications through the vehicles built-in display. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 6, 2026. NHTSA received two comments. There were no changes to the design of the information collection based on the comments.

DATES: Comments must be submitted on or before September 21, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select “Currently under Review—Open

for Public Comment” or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Jeffrey Dressel Office of Vehicle Safety Research, Human Factors/Engineering Integration Division NSR–310, West Building, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; jeffrey.dressel@dot.gov, 202–493–0492.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Distraction: Personal Electronic Devices.

OMB Control Number: New.

Form Number(s):

- NHTSA Form 2059: Part I Advertisement
- NHTSA Form 2060: Part I Eligibility Questionnaire
- NHTSA Form 2061: Part I Scheduling Availability Form
- NHTSA Form 2062: Part I Appointment Confirmation Email
- NHTSA Form 2063: Part I Informed Consent Document
- NHTSA Form 2064: Part I Honorarium Confirmation
- NHTSA Form 2065: Part II Email Templates
- NHTSA Form 2066: Part II Advertisement
- NHTSA Form 2067: Part II Eligibility Questionnaire
- NHTSA Form 2068: Part II Informed Consent Document
- NHTSA Form 2069: Part II NASA TLX Form
- NHTSA Form 2070: Part II Debriefing and Honorarium Confirmation

Type of Request: New information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information: The National Highway Traffic Safety Administration (NHTSA) is proposing a new information collection consisting of a single, one-time experimental research study that involves voluntary participation from members of the public. Participants must have experience using either

Android Auto or Apple CarPlay with in-vehicle infotainment systems. The collection consists of experimental data reporting and survey responses. Data collected will include eye tracking measurements, vehicle performance metrics, task completion times, error rates, participant demographics, and responses to questionnaires about interface usage and acceptance. The purpose of this research is to evaluate how safely drivers can interact with smartphone integration systems that allow access to smartphone applications through the vehicle’s built-in display screen.

This research consists of two parts. Part I consists of an evaluation method called an “occlusion study” at Westat facilities in the Washington DC area. In this part, 24 participants per system (across up to 3 vehicles, for a total of up to 56 participants) will perform 6–9 standardized tasks while wearing special electronic goggles. These goggles automatically switch between clear and blocked views every 1.5 seconds, simulating how drivers normally shift their gaze between looking at the road and looking at the vehicle’s displays. Before testing, participants will receive thorough training on each task. They will then perform each task five times while wearing the goggles per the testing procedures outlined in the Visual-Manual NHTSA Driver Distraction Guidelines for In-Vehicle Electronic Devices. Researchers will measure how long participants need to see the display to complete each task (called “Total Shutter Open Time” or TSOT), document any mistakes made during the tasks, record how participants recover from these mistakes, and gather feedback about whether the tasks are reasonable to perform while driving. Participants will be provided a \$120 honorarium upon completion of Part I.

Part II consists of a closed-course track (CCT) evaluation conducted at Utah Motorsports Campus near Salt Lake City with 72 participants. Due to the cost of missing a study session, participants will be overbooked for each study session, meaning that two participants will be invited to the same study session but only one participant will complete the study. Both will be compensated at the same rate (\$120). The reason for using the overbooking strategy is because the cost of recruiting more participants is much less expensive than the cost of missing one session on the closed course track. This part will examine a subset of the tasks from Part I in actual driving conditions on a 0.84-mile stretch on a closed course track (CCT). Participants will drive

specially equipped vehicles while performing the interface tasks. Researchers will collect several types of data: where drivers look while driving (using eye tracking equipment), how well they control the vehicle (measuring lane position, speed, and steering movements), how quickly they respond to simple tasks while driving (using a standardized “Detection Response Task” where drivers press a button in response to a signal), how quickly they react to important events, how long it takes to complete tasks, and how many mistakes they make. Each participant will complete multiple drives to test different aspects of the interfaces.

For both parts, participants will complete questionnaires about their background, driving experience, and familiarity with these interfaces. The collected data will be analyzed to evaluate whether these interfaces meet NHTSA’s guidelines for minimizing driver distraction and to assess their effects on driving safety. The findings will help inform future safety guidelines and policy decisions regarding in-vehicle portable device interfaces.

Description of the Need for the Information and Proposed Use of the Information: This new information request is for a multipart study to understand how modern smartphone mirroring systems affect driver distraction when compared with legacy OEM systems, as well as which commonly completed tasks are compliant with NHTSA distraction guidelines. The following components will be used to obtain the necessary information to achieve this purpose. The time to complete forms and tasks is based on the average reading rate of 238 words per minute, with potential buffer time for questions based on recent researcher experience, as well as internal pilot testing.

(1) *NHTSA Form 2059: Part I Advertisement*—This form is necessary to recruit potential participants. This document’s content will be published on Westat’s intranet and social media channels, as well as distributed via email to a database of former participants expressing interest in future research. Participants who are interested in participating will be redirected to NHTSA Form 2060: Part I Eligibility Questionnaire to determine if they are eligible. We estimate that of the people who see the advertisement, about 168 people will read it and be sufficiently interested in the study to seek out the eligibility screener. For reading the recruitment text we estimate an average completion time of 1 minute. This results in: $168 \text{ participants} \times 1 \text{ minute} = 168 \text{ minutes} = 2.8 \text{ hours}$.

(2) *NHTSA Form 2060: Part I Eligibility Questionnaire*—Recruitment for the occlusion study is necessary to ensure the validity and generalizability of the findings. This process will involve online screening and diverse outreach efforts, such as social media advertisements and intranet postings, to assemble a representative participant pool. Eligibility criteria will include (1) participant age of at least 18 years old, (2) familiarity with Android Auto or Apple CarPlay, (3) does not regularly drive one of the study vehicles, (4) possesses a valid driver’s license, (5) drives at least 3000 miles annually, (6) has normal or corrected-to-normal vision, (7) has normal or corrected-to-normal hearing, (8) English fluency, and (9) is in general good health. Recruiting participants for the study will involve approximately 168 individuals, each of whom will spend approximately 5 minutes completing an online eligibility questionnaire. This results in: $168 \text{ individuals} \times 5 \text{ minutes} = 840 \text{ minutes} = 14 \text{ hours}$.

(3) *NHTSA Form 2061: Part I Scheduling Availability Form*—This form is essential to capture participant’s name, contact information and to ensure that participants provide their preferred time slot. Once an individual is deemed eligible, they will be taken to this form automatically. One hundred individuals are expected to be eligible and complete the scheduling availability form. This results in: $100 \text{ participants} \times 2 \text{ minutes} = 200 \text{ minutes} = 3.3 \text{ hours}$.

(4) *Part I Scheduling Process*—Scheduling is essential in recruitment for Part I to ensure participant readiness and efficient study operations. The scheduling process includes a scheduling call, confirmation email, and reminder email. The entire process (as seen in Table 2) is completed in 7 minutes.

a. *Part I Scheduling Call Process*—The next step in the enrollment process involves calling eligible individuals to schedule their appointment. The call also provides the opportunity to provide additional study information like the location, study details, and answer any questions individuals may have. We estimate the call will last 5 minutes. To account for attrition, we plan to enroll 3 extra participants than our desired number. This results in $59 \text{ participants} \times 5 \text{ minutes} = 295 \text{ minutes} = 4.9 \text{ hours}$.

b. *NHTSA Form 2062: Part I Appointment Confirmation Email*—Following the call, participants will be sent an appointment confirmation email, with pertinent study information included (i.e., session date, time, and location and how to reschedule or cancel). As an additional step,

participants will be sent a reminder email 24 hours before scheduled sessions is a critical step in ensuring smooth coordination and minimizing participant no-shows for Part I. Participants are estimated to spend approximately 1 minute reading and responding to this email, which will include essential information such as the session time, location, materials to bring, and instructions to confirm their attendance. Additionally, the email provides an opportunity for participants to ask any last-minute questions or inform the research team of scheduling conflicts. This step is designed to reinforce participant preparedness, reduce logistical issues, and enhance overall study efficiency. This results in: $59 \text{ participants} \times 1 \text{ minutes} = 59 \text{ minutes} = 0.98 \text{ hours}$.

c. *Part I Appointment Reminder Email*—As an additional step, participants will be sent a reminder email 24 hours before scheduled sessions is a critical step in ensuring smooth coordination and minimizing participant no-shows for Part I. Participants are estimated to spend approximately 1 minute reading and responding to this email, which will include essential information such as the session time, location, materials to bring, and instructions to confirm their attendance. Additionally, the email provides an opportunity for participants to ask any last-minute questions or inform the research team of scheduling conflicts. This results in: $59 \text{ participants} \times 1 \text{ minutes} = 59 \text{ minutes} = 0.98 \text{ hours}$.

(4) *NHTSA Form 2063: Part I Informed Consent Document*—Obtaining informed consent upon arrival is an essential step to ensure compliance with ethical research standards and participant understanding for Part I. During this process, participants will review and sign consent forms, confirming their comprehension of the study’s purpose, procedures, potential risks, and their rights as participants. This process also provides an opportunity for participants to ask questions or request clarification before the study begins, ensuring transparency, voluntary participation, and alignment with institutional and regulatory ethical guidelines. We anticipate that 3 of the people we schedule will not show up to complete the study. This results in: $56 \text{ participants} \times 5 \text{ minutes} = 280 \text{ minutes} = 4.7 \text{ hours}$.

(5) *Part I Data Collection Activities*—This process is required because it contains the information necessary to answer NHTSA’s research questions. It is comprised of five subcomponents: familiarization process, pertaining task

error evaluation, occlusion training task assessment process, and honorarium and debriefing process. Each subcomponent is discussed in greater detail below. The subcomponents of burden can be seen below. The entire procedures (as seen in Table 2) are completed in 115 minutes.

a. *Part I Familiarization Process*—The familiarization process following the consent procedure is a critical step to ensure participant readiness and comfort for Part I. Participants will be provided with an overview of the study procedures, including the tasks they will perform and the purpose of using occlusion goggles to simulate real-world driving behavior. They will familiarize themselves with the vehicles by adjusting their seating positions, understanding the layout of the interfaces (OEM, Apple CarPlay, and Android Auto), and practicing basic controls. This step ensures that participants are oriented to the study environment, reducing potential variability in performance, and improving the reliability and consistency of collected data. Participants will then complete a practice task with the occlusion goggles powered on. This is to limit their learning effects during the experiment. The familiarization process is expected to take approximately 15 minutes per participant. This results in: $56 \text{ participants} \times 15 \text{ minutes} = 840 \text{ minutes} = 14 \text{ hours}$.

b. *Part I Pretraining Task Error Evaluation Process*—Pretraining task error evaluations are a critical step in Part I, providing baseline data on participant performance and error recovery strategies before formal training. Participants will attempt each task once using their most familiar interface platform, allowing researchers to document initial error rates, types of errors, and recovery approaches. This process ensures that common errors and participant strategies can be identified, which informs subsequent task design and training adjustments to improve study validity and reliability. This step is expected to take a maximum of 15 minutes per participant, with an average of 3 minutes per trial and a maximum of 5 trials. This results in: $56 \text{ participants} \times 15 \text{ minutes} = 840 \text{ minutes} = 14 \text{ hours}$.

c. *Part I Occlusion Training Process*—Occlusion training is a necessary component of Part I to ensure participants are proficient in using the occlusion goggles and navigating the interfaces. Participants will be introduced to the goggles and their operation, including how they alternate between open and closed states to

simulate glances between the road and the device. Training includes task demonstrations by the experimenter, hands-on practice with the tasks, and repeated trials to achieve proficiency. This ensures participants are comfortable with the equipment and task procedures, reducing variability in performance and enabling accurate data collection. Each participant is expected to spend a maximum of 20 minutes on this training. The average time to complete a training session is 2.22 minutes with maximum of 9 training sessions. This results in: $56 \text{ participants} \times 20 \text{ minutes} = 1,120 \text{ minutes} = 18.6 \text{ hours}$.

d. *Part I Task Assessment Process*—Task execution is a core component of Part I, designed to evaluate participant performance across different interface platforms. Participants will complete six-to-nine predefined tasks on two platforms (Android Auto or Apple CarPlay and one of three OEM systems) in one of three vehicles or complete six-to-nine tasks across all three OEM systems, ensuring comprehensive coverage of interface interactions. Each task will be performed five times to ensure data stability and allow researchers to analyze performance consistency and learning effects. This structured approach ensures robust and reliable data collection to assess task performance metrics and compliance with NHTSA guidelines. Each participant is expected to spend a maximum of 60 minutes completing task assessments, with an average task assessment taking 6.67 minutes and a maximum of 9 task assessments. This results in: $56 \text{ participants} \times 60 \text{ minutes} = 3,360 \text{ minutes} = 56 \text{ hours}$.

e. *NHTSA Form 2064: Part I Honorarium Confirmation*—Debriefing is an essential component of Part I which is designed to gather participant insights and refine study outcomes. Following task completion, participants will engage in a structured debriefing session where they will provide feedback on task difficulty, interface usability, and their overall study experience. This process allows researchers to identify potential issues, capture subjective perspectives, and gain insights into interface design features, ensuring comprehensive evaluation and improving the quality of study findings. Participants will complete this step to ensure that they are compensated for their time. Each debriefing session is expected to take approximately 5 minutes per participant. This results in: $56 \text{ participants} \times 5 \text{ minutes} = 280 \text{ minutes} = 4.7 \text{ hours}$.

(6) *NHTSA Form 2066: Part II Advertisement*—This step is necessary to recruit participants from Red Scientific's participant database (via email see NHTSA Form 2065: Part II Email Templates) and social media (via NHTSA Form 2066: Part II Advertisement) as needed. Participants will be directed to NHTSA Form 2067: Part II Eligibility Questionnaire to determine if they are eligible to participate. We estimate 288 individuals will read the advertisement and express sufficient interest to seek the eligibility screener. We anticipate it will take 1 minute to read the advertisement text about the study. This results in $288 \text{ participants} \times 1 \text{ minute} = 288 \text{ minutes} = 4.8 \text{ hours}$.

(7) *NHTSA Form 2067: Part II Eligibility Questionnaire*—Administering the online eligibility questionnaire is a critical step in the recruitment for Part II to efficiently identify qualified participants. Recruitment efforts will include advertisements posted in local newspapers, on community boards, through social media, and within an existing participant database. These advertisements will direct interested individuals to an online questionnaire, highlighting the eligibility criteria: (1) participant age of at least 21 years old, (2) familiarity with Android Auto or Apple CarPlay, (3) do not regularly drive one of the study vehicles, (4) possess a valid driver's license, (5) drive at least 3000 miles annually, (6) have normal or corrected-to-normal vision, (7) have normal or corrected-to-normal hearing, (8) English fluency, (9) are in general good health, (10) ability to abstain from alcohol and recreational substance use (e.g., marijuana) for 12 hours before the session, (11) do not take sedative or psychotropic medication, (12) no more than 2 at-fault accidents in the last 2 years, (13) do not wear corrective lenses while driving (contacts are allowed), (14) do not require specialized driving equipment, (15) no medical conditions that might impact driving (i.e., heart condition, back or neck pain, recent back or neck pain treatment, disorders, disability or seizures), and (16) no false eyelashes or mascara. The questionnaire is designed to filter out ineligible candidates by providing immediate feedback on their status. Approximately 50% of those who begin the questionnaire are expected to meet the eligibility criteria. To identify 144 participants, approximately 288 individuals will begin the questionnaire. Each individual will spend an average of 10 minutes

completing the form: $288 \text{ individuals} \times 10 \text{ minutes} = 2,880 \text{ minutes} = 48 \text{ hours}$.

(8) *Part II Scheduling Process*—Scheduling is essential in recruitment for Part II to ensure participant readiness and efficient study operations. The scheduling process includes a scheduling call, confirmation email, and reminder email. The entire process (as seen in Table 3) is completed in 9 minutes.

a. *Part II Scheduling Call*—Once 144 eligible participants are identified through the eligibility questionnaire, they will proceed to the scheduling phase, where the research team will call eligible individuals to schedule their session. The call provides the opportunity to provide additional study information like the location, study details, and answer any questions individuals may have. We estimate the call will last 5 minutes. To ensure that all available sessions are double booked, two individuals will be scheduled for each session. This results in $144 \text{ participants} \times 5 \text{ minutes} = 720 \text{ minutes} = 12 \text{ hours}$.

b. *Part II Confirmation Email*—After each individual is scheduled, they will receive an email confirming their study session (from NHTSA Form 2065: Part II Email Templates). During this phase, each participant will spend an average of 2 minutes reading and responding to this email. The email will include information including the session time, location, materials to bring, and instructions to confirm their attendance. Participants are encouraged to ask any additional questions they may have. This confirmation ensures a well-coordinated schedule and minimizes the risk of no-shows or miscommunication, supporting the successful execution of the study. This results in: $144 \text{ participants} \times 2 \text{ minutes} = 288 \text{ minutes} = 4.8 \text{ hours}$.

c. *Part II Reminder Email*—Sending a reminder email 24 hours before scheduled sessions (from NHTSA Form 2065: Part II Email Templates) is a critical step in Part II to ensure smooth coordination and participant preparedness. The email will provide detailed information about session logistics, including directions to the testing location, session time, and any specific instructions or requirements, such as materials to bring or preparatory steps. This reminder also offers participants the opportunity to confirm their attendance or notify the research team of any last-minute conflicts, reducing the likelihood of no-shows and ensuring the study proceeds as planned. Participants are expected to spend approximately 2 minutes reading and responding to these emails to confirm

their attendance. This results in: $144 \text{ participants} \times 2 \text{ minutes} = 288 \text{ minutes} = 4.8 \text{ hours}$.

(9) *Part II Initial Setup & Intake Process*—This procedure is necessary because it prepares participants for their study session. The initial setup and intake process includes informed consent, study setup and route familiarization. The entire process (as seen in Table 3) is completed in 50 minutes. Note, this process includes the double booked participants, so there is attrition at the end of this process (reduction of 72 participants) for the rest of the data collection activities from Part II Task Assessment Process onward.

a. *NHTSA Form 2068: Part II Informed Consent Document* will be completed in this step to ensure participants are informed of their rights, as well as the study details and what information will be collected from them and obtain their written consent. The informed consent document will be printed on paper for participants to physically sign at the beginning of their session. Further, participants will be introduced to the vehicle, vehicle controls, interfaces and safety information they will be using as well as the eye tracker and tactile detection response system. We anticipate 72 participants will complete this procedure and it will average 20 minutes to complete. This process is expected to take approximately 20 minutes per participant. This results in: $144 \text{ participants} \times 20 \text{ minutes} = 2,880 \text{ minutes} = 48 \text{ hours}$.

b. *Part II Study Setup*—The study setup is a critical preparatory phase in Part II to ensure participants are ready and equipped for testing. Following the consent process, participants will receive a comprehensive introduction to the study procedures, including a detailed safety briefing that covers equipment use, driving protocols, and emergency procedures. Participants will then be seated in the test vehicle, where they will be fitted with eye-tracking equipment to monitor visual behavior, as well as tactile motors and response switches for the Detection Response Task (TDRT). This step ensures participants are fully prepared to proceed safely and effectively with the study tasks. The study setup is expected to take approximately 15 minutes per participant. This results in: $144 \text{ participants} \times 15 \text{ minutes} = 2,160 \text{ minutes} = 36 \text{ hours}$.

c. *Part II Route Familiarization*—The route familiarization drive is a critical preparatory step in Part II to ensure participants are comfortable with the vehicle and test route. Participants will complete a guided familiarization drive

along the 0.84-mile test route to learn the vehicle's handling characteristics and route-specific safety considerations. This process ensures that participants are confident in operating the vehicle and are adequately prepared for the task evaluations, promoting both safety and reliable data collection. This results in: $144 \text{ participants} \times 15 \text{ minutes} = 2,160 \text{ minutes} = 36 \text{ hours}$.

d. *Part II Double Booked Participants*—Each session will be double booked to ensure there is a participant for each session given the limited track time. After completion of the setup and intake process, half of the participants will be thanked for their time and compensated \$120 since only 72 participants are needed for the study.

(10) *Part II Task Assessment Process*—This set of procedures is essential because this is where the study data will be collected. The task assessment process consists of the task assessments, NASA TLX, and buffer time. The entire process (as seen in Table 3) is completed in 160 minutes.

a. *Part II Task Assessments*—Task execution within the interface blocks is a central component of Part II designed to evaluate participant performance across three distinct interfaces: OEM, Apple CarPlay, and Android Auto. Each interface evaluation begins with a 10-minute orientation, during which participants are introduced to the interface layout and controls. This is followed by four task segments, with each segment lasting 9 minutes and involving task performance under real-world driving conditions. This structured approach ensures consistent evaluation across interfaces, enabling a comprehensive comparison of usability, cognitive workload, and safety-relevant metrics. Each interface requires a total of 10 minutes for orientation and 36 minutes ($4 \times 9 \text{ minutes}$) for task performance, for a total of 46 minutes per interface. Across all three interfaces, participants will spend 138 minutes ($46 \times 3 \text{ interfaces}$), or 2.3 hours per participant. This results in: $72 \text{ participants} \times 2.3 \text{ hours} = 165.6 \text{ hours}$.

b. *NHTSA Form 2069: Part II NASA TLX Form*—The NASA TLX (Task Load Index) form is a necessary component of Part II to assess the cognitive workload associated with each interface. The NASA TLX is a widely used self-reported tool designed to measure perceived workload across dimensions such as mental demand, physical demand, and effort. Participants will complete the form after each of the four task segments for the OEM, Apple CarPlay, and Android Auto interfaces, with each form requiring approximately 1 minute to complete. This totals 4

minutes of form completion time per interface. The data collected through the NASA TLX is essential for evaluating usability and workload demands, providing critical insights into driver-interface interactions and their impact on performance and safety. For all three interfaces, participants will spend 12 minutes (4 minutes $\times$ 3 interfaces) completing the NASA TLX forms. This results in: 72 participants $\times$ 12 minutes = 864 minutes = 14.4 hours

c. *Part II Buffer Time*—For each participant an additional 10-minute time buffer is necessary to account for unforeseen delays, equipment adjustments, or additional breaks. This buffer ensures that transitions between activities are smooth and that participants have sufficient time to complete all tasks. This results in: 72 participants $\times$ 10 minutes = 720 minutes = 12 hours.

(11) *NHTSA Form 2070: Part II Debriefing and Honorarium Confirmation*—The debriefing process is a necessary final step in Part II to ensure participants are allowed to ask any final questions and receive their honorarium. Participants will complete NHTSA Form 2070: Part II Debriefing and Honorarium Confirmation during this step to read the debriefing materials and ensure that they are compensated for their time. Additionally, a researcher will briefly review the collected data to ensure proper acquisition and verify data integrity and adherence to the established collection protocols. The debrief is expected to take approximately 5 minutes per participant. This results in: 72 participants $\times$ 5 minutes = 360 minutes = 6 hours.

60-Day Notice

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on March 6, 2026 (91 FR 11120). NHTSA received a total of two comments, one from an individual and one from Consumer Reports. These comments are summarized and responded to below.

In his comment Bob Scopatz supported this NHTSA collection effort and stated that, “The information gathered will have value for regulating the in-vehicle connected devices and for OEMs designing the next generation of in-vehicle systems.”

NHTSA appreciates the public support for research on this topic.

The following excerpt summarizes the key points submitted by Consumer Reports (CR) in their comment for NHTSA’s consideration; all cited references have been removed for

brevity. To facilitate a clear mapping of the agency’s response to the specific issues raised, the points are numbered to correspond with the numbered responses below.

1. CR is concerned that this study, would mostly focus on whether these systems are simply conforming to existing NHTSA driver distraction Guidelines instead of exploring questions regarding the nature of distraction as it relates to these interfaces. They stated that it might be more valuable to understand what specific aspects of these interfaces are actually driving distraction, and identify precisely where these systems break down for the user and how drivers might adapt to various interface designs.

2. CR also suggested that it may be worth exploring the role of more dynamic approaches to manage access to certain functions, as well as shaping how tasks are paced and completed, within the context of this research. They stated that drivers in real-world scenarios often self-pace their interactions or break tasks into smaller segments to manage attentional demands.

NHTSA appreciates CR’s feedback on this topic. While the 60-day notice provides a high-level summary, several of CR’s suggestions will be addressed in the full research and analysis plan. Regarding specific points:

1. NHTSA acknowledges the importance of capturing the nature of distraction with regard to these interfaces. Comparison to the existing NHTSA distraction Guidelines is one portion of this data collection; however, the study is designed to go beyond conformity to explore the underlying mechanisms of distraction. Utilizing the occlusion method in Part I with prescribed pacing allows for an understanding of task time and visual demand for a larger number of tasks across both smartphone mirroring systems and native OEM systems. Part II takes place on a closed course to examine driver eye glance behavior, cognitive workload, and driving performance measures to understand the potential impacts of performing various self-paced tasks across both of these interfaces. This self-paced environment allows for the observation of how users adapt their behavior to various interface designs.

2. NHTSA acknowledges that gathering data on how drivers self-pace while completing non-driving related tasks is important. In Part II, participants will complete various tasks at their own pace while driving on the closed course to gather more naturalistic interactions with the interfaces. This

allows data to be collected that reflects how individuals segment tasks and manage attentional demands in real-time. For experimenter and participant safety, interactions with personal smartphone devices will not be included as part of this study. Participants will be trained on how to complete the non-driving related task, however, for any errors made, we will identify the specific error and sequence of recovery steps. Analyzing these sequences allows us to better understand the common errors and the effectiveness of various error recovery strategies. Furthermore, Part II will include some of the feature lockouts and delays that are built into the interfaces when the vehicle is in motion that are not captured in Part I. This allows us to observe how users navigate these dynamic restrictions and will provide insight into how existing system management affects task pacing and completion.

After thoughtful consideration of all the above comments, NHTSA will ensure that appropriate discussion of findings relevant to the broad nature of distraction and to self-pacing of task performance are included in the final report. These modifications yield no changes in the participant burden estimate from that which was published in the 60-day notice.

Affected Public: Individuals either in the Washington, DC metropolitan area or the Salt Lake City, Utah area who have volunteered to take part in driving studies or who have opted in to receive research-related emails from Red Scientific or Westat’s participant database will be contacted for participation. Recruitment efforts will be supplemented by advertisements placed on company intranet sites and via social media posts and advertisements. Respondents must meet specific eligibility criteria to be included in this information collection. For both studies, respondents must (1) be at least 18 years old for Part I or 21 years old for Part II, (2) have familiarity with Android Auto or Apple CarPlay, (3) not regularly drive one of the study vehicles, (4) possess a valid driver’s license, (5) drive at least 3,000 miles annually, (6) have normal or corrected-to-normal vision, (7) have normal or corrected-to-normal hearing, (8) be fluent in English, and (9) be in general good health. Additionally for Part II, respondents must (10) abstain from alcohol and recreational substance use (e.g., marijuana) for 12 hours before the session, (11) not take sedative or psychotropic medication, (12) have no more than 2 at-fault accidents in the last 2 years, (13) not wear corrective lenses

while driving (contacts are allowed), (14) not require specialized driving equipment, (15) have no medical conditions that might impact driving (i.e., heart condition, back or neck pain, recent back or neck pain treatment, disorders, disability or seizures), (16) refrain from wearing false lashes or mascara during scheduled session. Businesses are ineligible for the sample and will not be contacted.

Estimated Number of Respondents:

For Part I we estimate a maximum of 168 respondents, with 59 eligible participants targeted for recruitment and 5% attrition, resulting a final sample of 56 respondents. For Part II, we estimate a maximum number of respondents to be 288 participants with 144 eligible participants targeted for recruitment. For Part II we plan to overbook participant sessions to ensure maximum use of test track time, no attrition is planned, resulting in a final sample size of 72.

Frequency: One-time collection.

Estimated Total Annual Burden

Hours: The total estimated burden for Part I is 139 hours and 392.4 hours for Part II. All data collection is estimated to occur within the same year, so the annualized hours equal the total hours. The total study burden hours is estimated at 531.4 hours.

Estimated Total Annual Burden Cost:

Participation in this study is voluntary, and there are no costs to respondents beyond the time spent completing the questionnaires and travel costs for the visits to the study facility. The costs are minimal and are expected to be offset by the compensation that will be provided to the research participants.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as

amended; 49 CFR 1.49; and DOT Order 1351.29A.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2026-17095 Filed 8-20-26; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Matching Program

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of a modified matching program.

SUMMARY: Pursuant to section 552a(e)(12) of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Circular No. A-108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given of the conduct of the Internal Revenue Service (IRS) Disclosure of Information to Federal, State and Local Agencies (DIFSLA) Computer Matching Program. The Louisiana Department of Health is modifying the Computer Matching Agreement to amend the programs administered, and the Louisiana Department of Children and Families will no longer participate in the DIFSLA Program.

DATES: Comments on this matching notice must be received no later than 30 days after date of publication in the **Federal Register**. If no public comments are received during the period allowed for comment, the re-established agreement will be effective September 1, 2026 provided it is a minimum of 30 days after the publication date.

Beginning and ending dates: The matches are conducted on an ongoing basis in accordance with the terms of the DIFSLA Computer Matching Agreement in effect with each participant as approved by the applicable Data Integrity Board(s). The terms of this agreement are expected to cover the 18-month period, February 14, 2026, through June 30, 2027. Ninety days prior to expiration of the agreement, the parties to the agreement may request a 12-month extension in accordance with 5 U.S.C. 552a(o)(2)(D).

ADDRESSES: Comments may be sent by email to gl.ds.cmpa@irs.gov or by mail to the Internal Revenue Service; Privacy, Governmental Liaison and Disclosure ATTN: Natalie Jackels, 1550 American Blvd., East Bloomington, MN 55425.

FOR FURTHER INFORMATION CONTACT:

General questions may be sent to Internal Revenue Service; Privacy, Governmental Liaison and Disclosure; ATTN: Natalie Jackels, 1550 American Blvd., East Bloomington, MN 55425.

SUPPLEMENTARY INFORMATION: The notice of the matching program was last published on 89 FR 52214 (June 21, 2024). Members of the public desiring specific information concerning an ongoing matching activity may request a copy of the applicable computer matching agreement at the address provided above.

Participating Agencies

Name of source agency: Department of the Treasury, Internal Revenue Service.

Name of recipient agency: Louisiana Department of Health.

Authority for conducting the matching program: Public Law 98-369, Deficit Reduction Act of 1984, requires the Agency administering certain federally assisted benefit programs to conduct income verification to ensure proper distribution of benefit payments. The records in this match are to be disclosed only for purposes of, and to the extent necessary in, determining eligibility for, or the correct amount of benefits under, these programs. In accordance with section 6103(l)(7) of the Internal Revenue Code (IRC), the Secretary shall, upon written request, disclose current return information from returns with respect to unearned income from the IRS files to any federal, state, or local agency administering a program listed below:

(i) A state program funded under part A of title IV of the Social Security Act;

(ii) Medical assistance provided under a state plan approved under title XIX of the Social Security Act, or subsidies provided under section 1860D-14 of such Act;

(iii) Supplemental security income benefits provided under title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93-66);

(iv) Any benefits provided under a state plan approved under title I, X, XIV, or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam, and the Virgin Islands);

(v) Unemployment compensation provided under a state law described in section 3304 of the IRC;

(vi) Assistance provided under the Food and Nutrition Act of 2008;

(vii) State-administered supplementary payments of the type

described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66);

(viii)(I) Any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

(viii)(II) parents' dependency and indemnity compensation provided under section 1315 of title 38, United States Code;

(viii)(III) Health-care services furnished under sections 1710(a)(2)(G), 1710(a)(3), and 1710(b) of such title.

Purpose(s): The purpose of this program is to prevent or reduce fraud and abuse in certain federally assisted benefit programs while protecting the privacy interests of the subjects of the match. Information is disclosed by the IRS only for the purpose of, and to the extent necessary in, determining eligibility for, and/or the correct amount of, benefits for individuals applying for or receiving certain benefit payments.

Categories of individuals: Individuals applying for or receiving benefits under federal and state administered programs.

Categories of records: The IRS will provide return information from information returns (e.g., Forms 1099–DIV, 1099–INT, and W–2G) filed by payers of unearned income in the IRS Information Returns Master File (IRMF) (Treasury/IRS 22.061). The recipient Agency will furnish the IRS with requests for records in accordance with the current IRS Publication 3373, Disclosure of Information to Federal, State, and Local Agencies (DIFSLA) Handbook. The Agency may request return information from IRS on a monthly basis for new applicants and may request information with respect to all beneficiaries once per year. The requests from the Agency will include: the Social Security Number (SSN) and name control (first four characters of the surname) for each individual for whom unearned income information is requested. IRS will provide a response record for each individual identified by the Agency. The total number of records will be equal to or greater than the number of records submitted by the Agency. In some instances, an individual may have more than one record on file. When there is a match of

an individual SSN and name control, IRS will disclose the following to the Agency: payee account number; payee name and mailing address; payee taxpayer identification number (TIN); payer name and address; payer TIN; and income type and amount.

System(s) of Records

IRS will extract return information with respect to unearned income from the Information Returns Master File (IRMF), Treasury/IRS 22.061, as published at 80 FR 54081–082 (September 8, 2015), through the DIFSLA Computer Matching Program. Department of Veterans Affairs will provide to IRS information from the Veterans Benefits Administration—Compensation, Pension and Education, Rehabilitation Records–VA, 58 VA 21/22/28, amended and republished in its entirety at 86 FR 61858 (November 8, 2021); and Veterans Health Administration—Healthcare Eligibility Records, Income Verification Records—VA, 89VA10NB, as published at 73 FR 26192 (May 8, 2008), and updated at 78 FR 76897 (December 19, 2013). Social Security Administration will provide to IRS information from the Office of Systems Requirements—Supplemental Security Income Record and Special Veterans Benefits, 60–0103, last fully published at 71 FR 1830 (January 11, 2006), amended at 72 FR 69723 (December 10, 2007), 83 FR 31250–51 (July 3, 2018), and 83 FR 54969 (November 1, 2018).

Ryan Law,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

[FR Doc. 2026–17133 Filed 8–20–26; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Renewal Without Change of the Registration of Money Services Businesses Regulation and FinCEN Form 107

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following

information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on this request.

DATES: Comments should be received on or before September 21, 2026 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Spencer W. Clark by emailing PRA@treasury.gov, calling (202) 927–5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Registration of Money Services Businesses (RMSB) (31 CFR 1022.380).

OMB Control Number: 1506–0013.

Type of Review: Extension without change of a currently approved collection.

Description: FinCEN is issuing this notice to renew the OMB control number for the registration of money services business (MSB) regulations at 31 CFR 1022.380 and FinCEN Form 107—RMSB.

Form: FinCEN Form 107—RMSB.

Affected Public: Business or other for-profit institutions.

Estimated Number of Potential Respondents: 24,856 MSBs.¹

Estimated Number of Expected Respondents: 17,997 MSBs annually, on average.²

Frequency of Response: As required.

Estimated Average Annual Burden and Cost by Type of Activity and Estimated Burden Hours per Respondent per Activity: See Table 1 below.

¹ FinCEN's estimate of potential respondents is based on a count of MSBs that appear to operate as MSB principals, including but not limited to at least one registration filing within the most recent three calendar years. Because MSB agents are not typically subject to registration requirements, they

are generally excluded from the population of expected respondents. See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Registration of Money Services Businesses Regulation and FinCEN Form 107*, 91 FR

23348 (Apr. 30, 2026) (RMSB Renewal Notice), at section II.

² See RMSB Renewal Notice at section II; see specifically table 1 endnote b.

TABLE 1—SUMMARY OF THE PRA BURDEN AND COSTS, BY ACTIVITY

Activity	Burden hours per respondent ^a	Number of respondents	Total burden hours	Total cost ^b
Initial Registration	1.07	4,093	4,398.6	\$548,507
Renewals & Re-registrations	0.82	8,011	6,541.6	815,928
Maintain Agent List	0.50	6,214	3,107.0	387,691
Total		^c 18,318	14,047.2	1,752,126

^a Hourly burden figures presented here are rounded to the nearest hundredth of an hour for presentation purposes. Total burden figures are produced using unrounded figures for accuracy.

^b Total costs include (1) labor costs associated with the burden hours presented and (2) non-labor costs for recordkeeping of \$0.10 per response associated with storage and technology, which results in a cost per respondent of \$0.13 for initial registrations, \$0.12 for renewals and re-registrations, and \$0.10 for maintenance of an agent list. See Table 1 in the RMSB Renewal Notice for more detail on the number of responses per respondent for each activity.

^c This estimate represents the expected number of respondents by respondent-response pairs, not the number of unique MSB respondents anticipated in a given year. Because an individual MSB may be subject to more than one type of reporting and/or recordkeeping obligation (itemized as different categories of responses) in a given calendar year, the same MSB may be counted more than once as an expected respondent. See RMSB Renewal Notice at section II.

*Estimated Total Annual Burden Hours: 14,047 hours.*³

Authority: 44 U.S.C. 3501 et seq.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–17091 Filed 8–20–26; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

United States Mint

Establish Price for 2026 Freedom 250 Race Medal

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of \$60 for the 2026 Freedom 250 Race Medal.

This product will be available to order beginning August 21, 2026, through

September 4, 2026. This product will be made to demand based on orders received or is limited to 15,000 units.

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Product Management, United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7601.

Authority: 31 U.S.C. 5111.

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2026–17080 Filed 8–20–26; 8:45 am]

BILLING CODE 4810–37–P

³ See RMSB Renewal Notice at section II.



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Part II

Department of Labor

Office of Federal Contract Compliance Programs

40 CFR Parts 60-1, 60-2, 60-3, et al.

Rescission of Executive Order 11246 Implementing Regulations; Interim
Final Rule

DEPARTMENT OF LABOR**Office of Federal Contract Compliance Programs**

[Docket No. OFCCP–2025–0001]

41 CFR Parts 60–1, 60–2, 60–3, 60–4, 60–20, 60–30, 60–40, 60–50, and 60–999**RIN 1250–AA17****Rescission of Executive Order 11246 Implementing Regulations****AGENCY:** Office of Federal Contract Compliance Programs, Labor.**ACTION:** Final rule.

SUMMARY: On January 21, 2025, President Trump issued Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” which revoked Executive Order 11246. Accordingly, the U.S. Department of Labor publishes this final rule to rescind the implementing regulations for Executive Order 11246.

DATES: This rule is effective on October 26, 2026.

FOR FURTHER INFORMATION CONTACT: Kenneth Wolfe, Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0101. Email: ofccp_guidance@dol.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

Prior to January 21, 2025, the U.S. Department of Labor (the Department) administered and enforced Executive Order (E.O.) 11246, as amended. Issued in 1965, and amended several times in the intervening years, E.O. 11246, and its implementing regulations at 41 CFR part 60–1 *et seq.*, prohibited covered Federal contractors and subcontractors¹ from discriminating against employees and applicants because of race, color, religion, sex, sexual orientation, gender identity, national origin, or because they inquired about, discussed, or disclosed their compensation or that of others, subject to certain limitations. Contractors were also required to take certain affirmative actions to promote equal employment opportunity in their

workplaces, as specified in 41 CFR part 60–2 and 41 CFR part 60–4.

On January 21, 2025, E.O. 14173 revoked E.O. 11246. Accordingly, this final rule rescinds the regulations implementing E.O. 11246 and modifies the administrative enforcement proceeding procedures at 41 CFR part 60–30 to remove the E.O. 11246 components. The Department also determined that significant portions of the E.O. 11246 regulatory framework are legally vulnerable because they are inconsistent with constitutional principles, civil rights law, and statutory authority.

II. Background*A. E.O. 11246 and Development of Implementing Regulations*

Issued in 1965, E.O. 11246 required Federal contractors to include an “Equal Opportunity Clause” barring discrimination and requiring affirmative action in employment based on race, creed, color, and national origin. 30 FR 12319 (Sept. 28, 1965). The Order has been amended in the intervening years: to add sex to contractors’ nondiscrimination and affirmative action obligations, 32 FR 14303 (Oct. 17, 1967); to exempt certain religious employers with respect to religious nondiscrimination obligations, 67 FR 77141 (Dec. 16, 2002); to prohibit contractors from retaliating against employees who inquire about, disclose, or discuss compensation, 79 FR 20749 (Apr. 11, 2014); and to add sexual orientation and gender identity to contractors’ nondiscrimination obligations, 79 FR 42971 (July 23, 2014).

Executive Order 11246 charged the Secretary of Labor with enforcing these nondiscrimination and affirmative action obligations and set forth specific sanctions and penalties.² With respect to noncompliant contractors under E.O. 11246, the Secretary could publish the names of such contractors, cancel or suspend contracts, or debar them.³ Executive Order 11246 also authorized the Secretary of Labor to recommend that the Department of Justice (DOJ) or the Equal Employment Opportunity Commission (EEOC) bring appropriate civil and criminal cases in Federal court.⁴ In 1965, the Department created the Office of Federal Contract Compliance to discharge responsibilities assigned to the Secretary of Labor under E.O. 11246.⁵ The entity known as the

Office of Federal Contract Compliance later became the Office of Federal Contract Compliance Programs (OFCCP). OFCCP promulgated its first permanent implementing regulations in 1968. 33 FR 7804 (May 28, 1968). Those regulations have since been amended and expanded through successive rulemakings. The following subsection describes the current regulatory provisions implementing E.O. 11246 and the obligations they impose on contractors.

*B. Overview of Current Regulations***1. Affirmative Action Provisions**

The affirmative action requirements for nonconstruction contractors are found at 41 CFR part 60–2. The Department first codified these regulations in February 1970. *See* 35 FR 2586 (Feb. 5, 1970). As amended in 2000, by 65 FR 68042 (Nov. 13, 2000), these regulations prescribe the contents of nonconstruction contractors’ affirmative action programs (AAPs) and standards and procedures for evaluating the compliance of those programs. 41 CFR 60–2.1(a).

Specifically, nonconstruction contractors with 50 or more employees and a contract of at least \$50,000 must develop and maintain a written AAP for each of their establishments. 41 CFR 60–2.1(b). The \$50,000 threshold was promulgated in 1968 and has never been updated for inflation.⁶ Any contractor that fails to develop and maintain a written AAP for each of its establishments violates E.O. 11246 and can be subject to penalties and sanctions. 41 CFR 60–2.2. These regulations also specify the purpose and contents of AAPs. 41 CFR 60–2.10. Nonconstruction contractors must evaluate the racial, ethnic, and sex composition of their workforce and compare it against the relevant labor market and internal availability. 41 CFR 60–2.10(a)(1), 60–2.14, and 60–2.15. If the percentage of minorities or women employed in a particular job group is less than expected, “the contractor’s

⁶ *See* 33 FR 7804, 7811 (May 28, 1968) (establishing an AAP dollar threshold of a single contract of \$50,000); *see also* 43 FR 49240, 49247 (Oct. 20, 1978) (updating the AAP dollar threshold to a single contract of \$50,000 or more, or Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more); *see also* 45 FR 86216, 86237 (Dec. 30, 1980) (updating the AAP dollar threshold to a single contract of \$50,000 or more, or contracts (including Government bills of lading) which, in any 12-month period total \$50,000 or more, or reasonably may be expected to total \$50,000 or more); *see also* 65 FR 68022, 68042 (Nov. 13, 2000) (reverting back to 1978 language by amending 60–1.40(a)(1)(ii) to read “Has Government bills of lading which in any 12-month period, total or can reasonably be expected to total \$50,000 or more”).

¹ Hereinafter, the term “contractor” is used to refer collectively to Federal contractors and subcontractors that fall under OFCCP’s authority, unless otherwise expressly stated. This approach is consistent with OFCCP’s regulations, which define “contract” to include subcontracts and “contractor” to include subcontractors.

² *See* E.O. 11246 Sec. 209.

³ *Id.*

⁴ *Id.*

⁵ Dep’t of Labor Secretary’s Order No. 26–65, Office of Federal Contract Compliance (EEO), Establishment (Oct. 5, 1965).

AAP includes specific practical steps designed to address this underutilization.” *Id.* The regulations likewise mandate that, when the percentage of minorities or women employed in a particular job group is less than would reasonably be expected given their availability percentage in that particular job group, the contractor must establish “placement goals” that serve as objectives or targets that contractors must use to address disparities. 41 CFR 60–2.15(b). A placement goal must be “at least equal to the availability figure derived for women or minorities, as appropriate, for th[e] job group.” 41 CFR 60–2.16(c). Contractors effectively must affirmatively take action with the aim of achieving a representation of minorities and women in their workforce that reflects the estimated availability of minorities and women. 41 CFR 60–2.12–2.15. There is no corresponding requirement to address the “underutilization” of other groups.

The regulations set forth in 41 CFR 60–2.12 through 41 CFR 60–2.15 allow contractors to treat minorities in the aggregate, meaning the question is not whether a particular group is underutilized but whether minorities as a whole are underutilized. Likewise, a contractor may generally set placement goals for minorities as a whole so long as there are no substantial disparities in the utilization of certain minority groups. 41 CFR 60–2.16(d).

The affirmative action requirements for construction contractors are found at 41 CFR part 60–4. This part applies to all contractors, subcontractors, contracting agencies, and applicants, as defined in 41 CFR 60–1.3, that are party to or seek to enter Federal and federally assisted construction contracts in excess of \$10,000, as well as certain nonconstruction contractors awarding construction contracts. The \$10,000 threshold was promulgated in 1978 and has never been updated for inflation.⁷ Nonconstruction contractors and subcontractors are required to comply with these requirements if, as a part of their Federal contract or subcontract, construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract. See 41 CFR 60–4.1. Part 60–4 defines coverage, specifies clauses to be

included in contracts, provides a procedure to ensure compliance by covered contractors, and specifies certain recordkeeping and reporting requirements.

Instead of “placement goals” that apply to nonconstruction contractors, the Department developed “participation goals” for females and minorities that construction contractors must use as affirmative action benchmarks.⁸ For females, the participation goal is set to 6.9% of the total hours worked by the contractor’s construction workforce in each trade. For minorities, there are participation goals for each geographic area in the United States. These goals apply to minority groups in the aggregate and include those groups enumerated in the definition of “minority” at 41 CFR 60–4.3(a)(1)(d).⁹ Covered contractors are required to apply the goals to each construction trade in their workforce in the relevant geographic area. Section 60–4.6 outlines participation goals and timetables for minority and female utilization on construction projects. The participation goals and related requirements apply to all covered contractors, without regard to their utilization of females or minorities.¹⁰ The goals also apply to all of the contractor’s construction work performed in the covered geographic area, whether or not it is Federal or federally assisted. Unlike placement goals applicable to nonconstruction contractors, there is no regulatory language forbidding government-set participation goals from being treated as quotas. Compare 41 CFR 60–4.3 with 41 CFR 60–2.16. The regulations nonetheless prohibit using “the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.” 41 CFR 60–4.3(a)(10).

Section 60–4.2 requires all contracting officers and applicants for construction contracts to include a “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity

(Executive Order 11246)” in solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts. It further requires covered nonconstruction contractors to include this notice in all construction agreements that are necessary in whole or in part to the performance of the covered nonconstruction contract. The notice includes information on minority and female participation goals applicable to the contractor’s workforce. Section 60–4.2 also provides that contracting officers, applicants for construction contracts, and nonconstruction contractors must notify the Director of OFCCP in writing within 10 working days of the award of a covered contract in excess of \$10,000.

Section 60–4.3 further requires these entities to incorporate the “Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)” set forth in 41 CFR 60–4.3 into all nonexempt Federal contracts and subcontracts. These standards describe the female and minority participation goal requirements and outline specific actions covered contractors must take to ensure equal employment opportunity in their work sites. For example, contractors must maintain a working environment free of harassment, intimidation, and coercion at all sites and must establish and maintain a current list of minority and female recruitment sources. See 41 CFR 60–4.3(a)(7)(a) and (b).

2. Nondiscrimination Provisions

Part 60–1 describes various obligations of contractors pursuant to E.O. 11246. One key provision is 41 CFR 60–1.4, which describes the equal opportunity clause that must be included in government contracts. This section includes the requirement that contractors state in all solicitations or advertisements for employment that applicants will receive consideration without regard to one or more of the protected bases and that contractors notify labor organizations of their obligations under E.O. 11246.

Contractors who meet the requirements set forth in 41 CFR 60–1.7 must file an annual Employer Information Report (EEO–1 Report) with the EEOC. In this report, covered contractors include information on their workforce demographics, including data by job category, sex, race, and ethnicity.¹¹

¹¹ In this final rule, the Department is rescinding the 41 CFR 60–1.7 regulations, solely to the extent

⁷ See 43 FR 14888, 14894 (Apr. 7, 1978) (establishing the requirements for construction contractors and subcontractors subject to Executive Order 11246. Under 41 CFR 60–4.1, part 60–4 applies to all contractor and subcontractors which hold any Federal or federally assisted construction contracts in excess of \$10,000). Although part 60–4 was revised in 1980, no changes were made to the dollar threshold of \$10,000. See 45 FR 65976 (Oct. 3, 1980).

⁸ The participation goals for females and minorities were originally issued in a 1978 **Federal Register** notice, 43 FR 14899 (Apr. 7, 1978) (Appendices A and B). The participation goals for minorities were later updated in a 1980 **Federal Register** notice, 45 FR 65979 (Oct. 3, 1980), but the goals for females remained unchanged.

⁹ “Minority” is defined to include Black; Hispanic; Asian and Pacific Islander; and American Indian or Alaskan Native individuals. 41 CFR 60–4.3(a)(1)(d).

¹⁰ By contrast, nonconstruction contractors must only establish placement goals if they discover underutilization of women and/or minorities in a particular job group at a particular establishment. 41 CFR 60–2.16.

Section 60–1.10 requires the contractor to notify the Department of State and the Director of OFCCP when an employee or potential employee is denied a visa of entry to a country in which or with which it is doing business and it believes the denial was due to one, or more, of the protected bases covered by E.O. 11246.

Section 60–1.12 outlines the record retention requirements that apply to covered contractors under E.O. 11246. These regulations require contractors to preserve any personnel or employment record made or kept for a period of not less than two years from the date of the making of the record or the personnel action involved, whichever occurs later. However, if the contractor has fewer than 150 employees or does not have a contract of at least \$150,000, the record retention period is one year from the date of the making of the record or the personnel action involved, whichever occurs later. This section also provides that the contractor must be able to identify the gender, race and ethnicity of each employee for any record the contractor maintains. Where possible, the contractor must also identify the gender, race, and ethnicity of each applicant or internet Applicant, as defined at 41 CFR 60–1.3.

Section 60–1.20 outlines the investigative methods the Department uses to evaluate a contractor's compliance with the E.O. 11246 regulations. A compliance evaluation may consist of one or any combination of the investigative procedures listed in the regulations, *i.e.*, a compliance review, an off-site review of records, a compliance check, and/or a focused review. This section also provides that if a contractor fails to submit an AAP and the supporting documents within 30 calendar days of the Department's request, the Department may initiate enforcement procedures. Section 60–1.40 requires the development and maintenance of an AAP under E.O. 11246. This section requires each contractor with 50 or more employees and a contract of \$50,000 or more to develop an annual AAP for each of their establishments. Pursuant to these regulations, contractors must undertake the specific equal employment opportunity efforts set forth in 41 CFR part 60–2 (such as analyses of the contractor's employment processes) and document these efforts in a written AAP.

Part 60–20 sets forth the types of sex discrimination prohibited under E.O.

11246. This part interprets the Order's prohibition on discrimination "because of sex" to bar both disparate treatment and facially neutral employment practices that have a disparate impact on the basis of sex unless justified by business necessity. It addresses a broad range of employment practices, including recruitment, hiring, promotion, compensation, fringe benefits, training, layoffs, and terminations. The regulations specifically address sex-based distinctions related to family status; sex stereotypes; sexual orientation and gender identity; and pregnancy, childbirth, and related medical conditions.

3. Administrative Proceedings

The regulations at 41 CFR 60–1.26 were first promulgated in 1977 and authorize OFCCP to initiate administrative proceedings within the Department if OFCCP finds that the contractor violated E.O. 11246 or its regulatory requirements. 41 CFR 60–1.26(a)(1)(i)–(ii) and (b)(1). The proceedings are conducted under the supervision of the Solicitor of Labor and are adjudicated by a Department of Labor Administrative Law Judge (ALJ) and the Administrative Review Board. 41 CFR 60–1.26(a)(1)(i)–(ii) and (b) and 41 CFR 60–30.27–30.30. OFCCP is specifically authorized to seek back pay and other make whole relief for victims of discrimination. 41 CFR 60–1.26(a)(2). And it may refer matters to the DOJ for judicial proceedings. 41 CFR 60–1.26(c). Monetary relief is not referenced in the "Sanctions and Penalties" section of E.O. 11246, which authorizes the Secretary to publish a list of noncompliant contractors; cancel, suspend, or terminate contracts; and debar such contractors. E.O. 11246, sec. 209. The Order also authorizes the Secretary to recommend to the DOJ or the EEOC that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964, which would allow these agencies to seek monetary damages in Federal court for certain violations. *Id.*

Administrative proceedings brought under 41 CFR 60–1.26 are governed by the procedural regulations at 41 CFR part 60–30. In such proceedings, a Department of Labor ALJ resolves motions, receives evidence and testimony, and holds oral arguments. 41 CFR 60–30.8–30.11 and 60–30.14. At the end of the proceedings, the ALJ "recommend[s] findings, conclusions, and a decision" as to whether the contractor violated the Equal Opportunity Clause and, if so, what sanctions to impose. 41 CFR 60–30.27.

Either party may file exceptions to the ALJ's recommended decision and order with the Administrative Review Board, which issues a final agency decision based on the record created before the ALJ. 41 CFR 60–30.27–30.30. Part 60–30 also governs administrative proceedings authorized under Section 503 of the Rehabilitation Act of 1973, as amended (Section 503) and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (VEVRAA).

4. Other Requirements

The Uniform Guidelines on Employee Selection Procedures (UGESP) are located at 41 CFR part 60–3 and 29 CFR part 1607. UGESP applies to "tests and other selection procedures which are used as a basis for any employment decision." 29 CFR 1607.2(B). UGESP was jointly adopted by the Department of Labor, the EEOC, the Civil Service Commission, and DOJ. 29 CFR 1607.1. When a test or other selection procedure is determined to have an adverse impact on minorities or women, UGESP requires the contractor to validate the test or procedure and to retain the validation documentation. Under UGESP, each contractor must maintain records and other information for each job sufficient to permit analyses of the impact of its selection procedures on the employment opportunities of people based on race, sex, or ethnic group. Using this information, the contractor and the Department identify and evaluate the contractor's selection procedures for adverse impact. As part of the Department's proposed rescission of the E.O. 11246 regulations, the Department proposed to rescind the 41 CFR part 60–3 regulations, solely to the extent that they were codified in the E.O. 11246 regulations. This action does not impact other agencies' interpretation and application of UGESP, or the existence of UGESP more broadly.

Part 60–40 describes the rules and restrictions the agency has in place for providing public access to its records. Part 60–50 sets forth the Department's interpretations and guidelines for enforcing its religion and national origin discrimination protections.

Lastly, 41 CFR part 60–999 provides information on Office of Management and Budget (OMB) approved information collections relevant to the regulations. The information in this part is outdated and refers to regulatory provisions that the Department is rescinding through this rulemaking.

C. Notice of Proposed Rulemaking

On January 21, 2025, President Trump issued E.O. 14173, "Ending Illegal Discrimination and Restoring Merit

that they are codified in the E.O. 11246 regulations. This final rule does not impact EEOC's actions with respect to the EEO–1 report.

Based Opportunity,”¹² which, among other things, revoked E.O. 11246 in its entirety and directed OFCCP within the Department to immediately cease each of the following: promoting “diversity”; holding Federal contractors and subcontractors responsible for taking “affirmative action”; and allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.¹³ On April 1, 2025, President Trump issued a memorandum directing agencies to repeal regulations that conflict with recent Supreme Court precedents, including *West Virginia v. EPA*, 597 U.S. 697 (2022) and *Students for Fair Admissions v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (*SFFA*).¹⁴

Accordingly, on July 1, 2025, the Department published a Notice of Proposed Rulemaking (NPRM) that proposed rescinding the E.O. 11246 implementing regulations at 41 CFR parts 60–1, 60–2, 60–3, 60–4, 60–20, 60–40, and 60–50, all promulgated under the authority of E.O. 11246. *See* 90 FR 28472 (July 1, 2025).

The NPRM also proposed modifying the administrative enforcement proceeding procedures at 41 CFR part 60–30 to remove the E.O. 11246 components. As these procedures also apply to VEVRAA and Section 503, the Department pursued separate rulemakings to incorporate these procedures directly into the VEVRAA and Section 503 implementing regulations. *See* 90 FR 28485 (July 1, 2025); 90 FR 28494 (July 1, 2025).¹⁵ The Department also proposed rescinding the 41 CFR part 60–999 regulations, which include outdated information on OMB-approved information collections related to the regulations.

In addition to E.O. 14173’s revocation of E.O. 11246, the Department identified several other reasons for rescinding the regulations, including eliminating legal vulnerabilities related to the affirmative action requirements, improving the efficiency of the Federal contracting process, decreasing employer burden, and providing regulatory certainty to contractors and other stakeholders by aligning the regulations with recent executive orders impacting the Department’s enforcement. *See* 90 FR 28472, 28474–28477 (July 1, 2025).

D. Executive Order 14398

On March 26, 2026, President Trump issued E.O. 14398, “Addressing DEI Discrimination by Federal Contractors.” 91 FR 16147 (Mar. 31, 2026). The Order requires Federal contractors to include a clause in their contracts affirming that they will not engage in “disparate treatment based on race or ethnicity in the recruitment, employment . . . , contracting . . . , program participation, or allocation or deployment of an entity’s resources” in connection with the performance of work under the contract, and will furnish records necessary to verify compliance with this nondiscrimination obligation. Noncompliance may result in cancellation or suspension of the contract, and the contractor may be subject to debarment. Executive Order 14398 also directs the Federal Acquisition Regulatory Council to promulgate implementing regulations.

III. Discussion of Public Comments and Reasons for Rescission

As described above, on July 1, 2025, the Department published an NPRM in the **Federal Register** proposing rescission of parts 60–1, 60–2, 60–3, 60–4, 60–20, 60–40, 60–50 and 60–999, and revisions to part 60–30. 90 FR 28472 (July 1, 2025). The NPRM originally provided for a 60-day comment period, with the comment period scheduled to close on September 2, 2025. After receiving comments requesting an extension of the comment period, the Department extended the comment period until September 17, 2025.¹⁶ DOL received 917 public comments in response to the NPRM. Comments came from individuals and from a wide variety of organizations, including employer associations, law firms, legal organizations, policy and advocacy groups, political organizations, unions, educational and research centers, and governmental entities, among others.

Commenters addressed many topics, including the legal basis for the regulations implementing E.O. 11246, those regulations’ consistency with constitutional and statutory civil rights principles, the scope of the Department’s enforcement authority, and the potential effects of rescission. After considering the comments received, the Department decided to finalize the rescission of the regulations implementing E.O. 11246 and to modify the administrative enforcement proceeding procedures at 41 CFR part 60–30 to remove the E.O. 11246

components as proposed. As explained below, this determination is based on the following factors: (1) the revocation of E.O. 11246 provides a standalone and sufficient basis for rescinding regulations promulgated solely to implement that Order; (2) the affirmative action regulations conflict with the Constitution’s equal protection principles and are inconsistent with Federal civil rights law, including Titles VI and VII of the Civil Rights Act of 1964; (3) significant portions of the E.O. 11246 regulatory framework—including the affirmative action requirements and the provisions authorizing administrative enforcement and monetary relief under the E.O. 11246 implementing regulations—lack statutory authorization; and (4) rescission will promote more efficient and economical Federal contracting, reduce unnecessary compliance costs, and will not result in increased discrimination. The Department anticipates that rescission will actually encourage fairer, more merit-based employment decision-making consistent with Federal civil rights law.

A. Revocation of E.O. 11246

On January 21, 2025, E.O. 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” 90 FR 8633, revoked E.O. 11246. Section 201 of E.O. 11246 delegated authority to the Secretary of Labor to adopt regulations and issue orders to carry out the purposes of that Executive Order and was the sole source of authority for the regulatory framework the Department is rescinding. Authority delegated by the President to the head of a department or agency is “revocable at any time by the President in whole or in part.” 3 U.S.C. 301. Once E.O. 11246 was revoked, the delegation of authority it contained necessarily terminated. As the NPRM explained, since the Department’s regulations at 41 CFR parts 60–1, 60–2, 60–3, 60–4, 60–20, 60–40, and 60–50 were promulgated solely to implement E.O. 11246, the revocation of E.O. 11246 is an independent and sufficient reason to rescind those regulations. 90 FR 28474. As a result, OFCCP’s implementing regulations no longer have operative legal force and cannot be maintained or enforced.

A commenter asserted that revocation of E.O. 11246 is not a sufficient basis for rescinding regulations promulgated under that Order. The commenter, National Nurses United (NNU), argued that Congress’s recognition in 42 U.S.C. 2000e–17 that OFCCP may disapprove AAPs “gives [OFCCP’s] affirmative action obligations statutory status,” and therefore those regulations cannot be

¹² 90 FR 8633 (Jan. 31, 2025).

¹³ *Id.* at 8634.

¹⁴ Presidential Memorandum, Directing the Repeal of Unlawful Regulations (Apr. 1, 2025).

¹⁵ If the VEVRAA and Section 503 rulemakings take effect, the Department will then rescind the 41 CFR part 60–30 regulations in their entirety.

¹⁶ Rescission of Executive Order 11246 Implementing Regulations; Extension of Comment Period, 90 FR 42711 (Sept. 4, 2025).

rescinded through executive action alone. As explained in greater detail in Section III(C), Congress does not confer statutory authority on agency action merely by acknowledging or referencing that action.

Further, as the Competitive Enterprise Institute (CEI) explained, “The wisdom of revoking E.O. 11246 is not at issue, however. The president has already made that decision.” Because the President revoked E.O. 11246, the Department has no authority to restore it or to implement it as if it were still in force. A labor attorney who supported E.O. 11246 agreed that “[f]ollowing the revocation of E.O. 11246, it is clearly appropriate for OFCCP to rescind those rules for which [E.O. 11246] was the sole authority and whose only purpose was to implement the executive order.”

Because the delegation of authority to the Secretary of Labor in section 201 of E.O. 11246 was duly revoked, there is, as the Ethics and Public Policy Center (EPPC) commented, “no longer any ‘illusion of authority’ for the regulations.” The American Civil Rights (ACR) Project similarly recognized OFCCP for “undertaking the proper housekeeping of removing the Rescinded Regulations from the Code of Federal Regulations now that they are a nullity.”

The Department concludes that the revocation of E.O. 11246 alone provides an independent and sufficient ground for rescinding the regulations. Moreover, as explained in Section III(B) below, even if Congress had conferred statutory status on the affirmative action regulations in parts 60–2 and 60–4, as NNU suggests, those regulations would nonetheless be unconstitutional.

B. The Affirmative Action Regulations Are Unlawful

1. The Nature of the Affirmative Action Regulations

As explained in Section II(B) above, 41 CFR parts 60–2 and 60–4 require covered nonconstruction contractors to establish placement goals to address any underutilization—*i.e.*, where the percentage of minorities or women employed in a job group is less than reasonably would be expected given their availability. The “central premise underlying [race- and sex-based goals] is that, absent discrimination, over time a contractor’s workforce, generally, will reflect the gender, racial and ethnic profile of the labor pools from which the contractor recruits and selects.” 41 CFR 60–2.10(a)(1). If contractors do not take sufficient action to meet goals, they could be found “nonresponsible” for

meeting affirmative action obligations, and further investigation and costly administrative enforcement may follow. *See* 41 CFR 60–2.2. Construction contractors are subject to similar minority and female participation goals, the main difference being such goals are set by the Department.

In response to the NPRM, numerous commenters addressed the nature and operation of the affirmative action requirements contained in parts 60–2 and 60–4. Many commenters characterized these affirmative action requirements as governmental discrimination that seeks demographic balancing in contractors’ workforces. Independent Women, along with more than a hundred commenters participating in a coordinated letter campaign, criticized OFCCP’s employment goals as being effectively “quotas.” The joint comment of the Pacific Legal Foundation, Center for Equal Opportunity, and Defending Education (hereinafter collectively referred to as “PLF”) questioned whether regulations authorizing racially preferential contracting policies are even authorized by E.O. 11246. PLF’s comment stated: “these regulations essentially require contractors to discriminate until they attain the government’s desired demographics[.]” That comment further criticized the E.O. 11246 implementing regulations’ underlying assumption that any statistical disparity in workforce composition should be corrected, agreeing with the NPRM that there are many non-discriminatory reasons why a group may be over- or underrepresented in a particular job at a particular employer. *See* 90 FR 28472. In a joint comment, 22 state attorneys general likewise observed that the “mere fact that a disparity exists thus says very little about whether discrimination is the cause.”

The Center for Regulatory Freedom (CRF) cited 2024 data showing that the occupations of health care support, education, and office administration support are each between 70% to 85% female. Conversely, the occupations of construction or extraction, architecture, and transportation are each between 79% to 96% male. CRF added that there is no nationwide campaign to discourage women from going into construction. “Instead,” CRF wrote, “a plethora of data is readily available explaining that these sex-based disparities exist because the sexes tend to lean towards pursuing different professions than those of the opposite sex. Regardless of whether the reason for these trends is biological or environmental, the disparities that exist

are not a consequence of discrimination, but of individual choices reflected on a macro scale.”

Some commenters, including NNU and Representative Robert C. Scott of Virginia, disagreed with the revocation of E.O. 11246, stressing its continuity with earlier executive orders regarding nondiscrimination in Federal contracting. But the continuity they asserted does not present a fully accurate comparison between E.O. 11246 and its predecessors. Unlike previous nondiscrimination executive orders, E.O. 11246 gave the Secretary of Labor enforcement authority over certain types of discrimination by governmental contractors. As the comment of America First Legal pointed out, as a result of regulations subsequently issued by the Secretary of Labor, E.O. 11246 “transformed the concept of affirmative action from an obligation to eliminate racial discrimination into a requirement to implement a new kind of race-conscious employment.”

Other commenters commended E.O. 11246 for protecting minorities,¹⁷ promoting jobs for women in construction¹⁸ and, as E.O. 11246 was amended in 2016, for protecting workers from adverse action for discussing pay, thereby helping to uncover pay disparities.¹⁹ NNU characterized the revocation of E.O. 11246 as an attack on civil rights and equality for the working class. Nine members of the House of Representatives “encourage[d] the Department to reconsider this proposed rule and continue upholding the principles of E.O. 11246.” Rep. Scott likewise “ask[ed] the Department to withdraw this harmful proposal and restore [E.O. 11246].”

NNU disagreed that there could be non-discriminatory reasons for statistical disparities, countering that such disparities reflect “occupational segregation, an active process whereby government policies and employer practices create a concentration of a particular group in a workplace, workforce, industry.” The Department finds NNU’s sweeping assertion that occupational disparities must be the product of “active” wrongdoing to be flawed. There is no reason to expect free people making free choices to distribute themselves evenly across every occupation by sex and along racial categories that “are arbitrary or undefined.” *See SFFA*, 600 U.S. at 216–

¹⁷ *E.g.*, Comment of nine members of the House of Representatives.

¹⁸ Comment of Chicago Women in Trades.

¹⁹ Comment of National Partnership for Women & Families at 2–3.

17. Indeed, the Supreme Court has explained that “[i]t is completely unrealistic to assume that unlawful discrimination is the sole cause of people’s failing to gravitate to jobs and employers in accord with the laws of chance.” *Watson v. Fort Worth Bank & Trust*, 487 U.S. 977, 992 (1988). Treating uneven representation as presumptive proof of discriminatory design, as NNU suggests, is not serious analysis. Rather, it is a reflexive conflation of statistical disparity with unlawful discrimination, untethered from the evidentiary standards the law requires.

Other commenters defended the E.O. 11246 affirmative action regulations by denying that race- and sex-based employment goals could encourage race- or sex-based decision-making. For example, one employment attorney asserted that the Department “completely misconstrues” its race-based placement goals, explaining that they are intended only to identify and remove barriers, rather than act as race-based numeric goals. The joint comment of the National Women’s Law Center and several other civil rights and worker rights organizations (hereinafter collectively referred to as “NWLC”) similarly argued that “the only requirement is to identify gaps between availability and utilization, and take steps to understand any barriers causing those gaps.” These commenters emphasized that the regulations state that goal-setting requirements may not be used to justify quotas or explicit preferences based on race or sex.

The Department acknowledges that it previously revised the regulations governing nonconstruction contractors to include an express disclaimer that placement goals do not justify quotas or discrimination. See 41 CFR 60–2.16(e) and 41 CFR 60–4.3(a)(10). But the same regulations also expressly require the consideration of race and sex in employment practices through the establishment of race- and sex-based goals and the obligation to undertake efforts to meet them. In these circumstances, the Department concludes that, as a practical matter, the regulations require race- and sex-conscious employment decision-making.

Disclaimers do not alter the underlying premise of the regulations that, absent discrimination, “over time a contractor’s workforce, generally, will reflect the gender, racial and ethnic profile of the labor pools from which the contractor recruits and selects,” 41 CFR 60–2.10(a)(1), which, if left unqualified, discounts “innocent causes” that may lead to disparities. *Watson*, 487 U.S. at 992. Nor does the disclaimer affect the

structure of the regulatory framework, which requires contractors to classify employees and applicants by race and sex; to compare those classifications to external demographic benchmarks; to establish numerical goals where race or sex disparities are identified; and to implement “action-oriented programs” to address “underutilization.” See, e.g., 41 CFR 60–2.10(a)(1) (requiring nonconstruction contractors to “address [the] underutilization” of groups based on race or sex); see also 41 CFR 60–4.3(a) (requiring construction contractors to consider utilization based on minority groups in AAPs). Through this regulatory scheme, “[a]ffirmative action” was . . . decisively transformed into a numerical concept, whether called ‘goals’ or ‘quotas.’” Thomas Sowell, “Civil Rights: Rhetoric and Reality” 41 (1984).

“The inevitable focus on statistics in disparate impact cases could put undue pressure on employers to adopt inappropriate prophylactic measures.” *Watson*, 487 U.S. at 992. OFCCP’s reliance on statistical disparities and numerical goals have encouraged some employers to discriminate. Judge Silberman, for instance, expressed regret regarding the structure of OFCCP’s affirmative action regulations, which he helped establish during his tenure as Solicitor of Labor and Undersecretary of Labor, observing that “[o]ur use of numerical standards in pursuit of equal opportunity has led ineluctably to the very quotas guaranteeing equal results that we initially wished to avoid.” “The Road to Racial Quotas,” *Wall Street Journal* (Aug. 11, 1977).

Although placement and participation goals are not denominated as quotas, they function as numerical targets that contractors must pursue. Contractors were at risk that OFCCP might subject them to intrusive and costly investigations and enforcement proceedings if they failed to make sufficient progress toward meeting their goals. In practical operation, as American First Legal recognized, “the existing regulatory infrastructure requires employers to take into account race and sex” when making employment decisions with the aim of correcting statistical disparities. Put another way, the regulations implementing E.O. 11246 are self-contradictory. In 2000, OFCCP added 41 CFR 60–2.16, which ostensibly prohibits quotas and prohibits discrimination based on race, sex, and other protected characteristics. Government Contractors; Affirmative Action Requirements, 60 FR 68022, 68046 (Nov. 13, 2000). Yet, the requirements that form the bulk of parts 60–2 and 60–4 actively induce

employers to treat the goals as quotas and to take affirmative action that constitutes discrimination based on race and sex.

Having considered the comments, the Department concludes that the affirmative action requirements at issue extend beyond the removal of barriers to equal employment opportunity. They instead establish a framework of race- and sex-based workforce classification, demographic benchmarking, and numerical goal-setting that requires contractors to engage in sustained race-conscious analysis in employment practices.

2. Equal Protection Principles

Several commenters agreed with the Department that OFCCP’s race-based affirmative action regulations raise serious constitutional equal-protection concerns and are vulnerable to legal challenge, particularly in light of the Supreme Court’s recent decision in *SFFA*, 600 U.S. at 181. See 90 FR 28474.

Citing *Bolling v. Sharpe*, 347 U.S. 497, 500 (1954), the state attorneys general and PLF noted that the Fifth Amendment’s Due Process Clause applies the principles of equal protection to the Federal Government and argued that the regulations cannot be reconciled with those principles. The regulations, the state attorneys general asserted, require or incentivize the use of race and sex in employment decisions, use racial classifications that trigger strict scrutiny, and lack a logical endpoint. They emphasized that, like the admissions programs invalidated in *SFFA*, the regulations encourage race-conscious employment decision-making aimed at achieving predetermined numeric benchmarks and are not narrowly tailored to remedy specific acts of past discrimination by the entities in question against the individuals receiving the benefits of those measures. PLF and America First Legal similarly contended that the Constitution’s equal-protection guarantee prohibits the Federal Government from conditioning contracting eligibility on race- or sex-based employment practices, and that *SFFA* reinforces the longstanding principle that government must treat individuals as individuals rather than as members of race- or sex-based classes. Independent Women and the ACR Project likewise supported rescission, asserting that race- and sex-based placement goals and related compliance mechanisms operate in practice as de facto quotas and pressure contractors to depart from merit-based hiring.

Other commenters responded that the Department misconstrued *SFFA* because

that decision arose in the narrow context of college admissions, not employment or Federal contracting. For example, the National Partnership for Women & Families (NPWF) asserted that “the decision in *SFFA* applies only to race-conscious decision-making in institutions of higher education,” and the Lawyers’ Committee for Civil Rights Under Law (Lawyers’ Committee) argued that *SFFA* “has no bearing on the affirmative action programs adopted by Federal contractors under E.O. 11246 and its implementing regulations,” which it characterized as “clearly distinguishable from the race-based admissions programs in that case.”

The Department agrees that *SFFA* arose in the context of college admissions, the decision rests on longstanding and enduring equal-protection principles that predate and extend well beyond the admissions context, confirming race-based governmental decision-making is presumptively invalid absent an extremely narrow justification. Indeed, the Supreme Court expressly relied on *SFFA* in the context of the Voting Rights Act to reiterate that “‘the Constitution almost never permits the Federal Government or a State to discriminate on the basis of race.’” *Louisiana v. Callais*, 146 S. Ct. 1131, 1152 (2026) (quoting *SFFA*, 600 U.S. at 207). That is because “[d]istinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.” *Id.* at 1153 (quoting *SFFA*, 600 U.S. at 208). As Chief Justice Roberts explained nearly twenty years ago: “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.” *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 748 (2007). In fact, the NPRM cited *SFFA* precisely to reaffirm those bedrock equal protection principles.

SFFA struck down race-conscious admissions policies as incompatible with “the ‘core purpose’ of the Equal Protection Clause: ‘do[ing] away with all governmentally imposed discrimination based on race.’” 600 U.S. at 206 (quoting *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984)). See also *Strauder v. West Virginia*, 100 U.S. (10 Otto) 303, 310 (1879) (The Fourteenth Amendment’s “aim was against discrimination because of race or color.”). That principle applies to Federal contracting no less than to higher education. Indeed, the Supreme Court has long held that racial classifications employed in Federal contracting are subject to the same equal-protection constraints. For

example, in *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995), which *SFFA* cites as authority,²⁰ the Court held that strict scrutiny applies to the Department of Transportation contracting program that employed racial or ethnic criteria.

Under the Constitution, “[g]overnment policies that classify people by race are presumptively invalid.” *Vitolo v. Guzman*, 999 F.3d 353, 360 (6th Cir. 2021) (citing U.S. Const. amend. XIV; *Adarand*, 515 U.S. at 234). Arguing that the Department’s characterization of *SFFA* is inaccurate and unsupported, a coalition of ninety organizations asserted that “[t]he Court recognized that race-based action may be permissible in certain circumstances.” But those circumstances are extremely narrow: a racial classification must survive strict scrutiny, meaning it must be narrowly tailored to achieve a compelling governmental interest. *SFFA*, 600 U.S. at 206. Relying on *SFFA*, the Supreme Court in *Callais* explained that racial classification “triggers strict scrutiny, and [the Court’s] precedents have identified ‘only two compelling interests’ that can satisfy that standard.” 146 S. Ct. at 1152 (quoting *SFFA*, 600 U.S. at 207). The first is “avoiding imminent and serious risks to human safety in prisons,” *id.*, which plainly has no application here. The second is “remediating specific, identified instances of past discrimination that violated the Constitution or a statute,” *id.*, which also does not apply, as explained below.

Sex-based classifications likewise are “presumptively invalid” and may be sustained only if they satisfy intermediate scrutiny—they must serve an important governmental objective and are substantially related to the achievement of that objective. *Vitolo*, 999 F.3d at 364. For the reasons explained below, the Department concludes that the race- and sex-based affirmative action regulations in 41 CFR parts 60–2 and 60–4 are unconstitutional under these standards and therefore should be rescinded.

a. OFCCP’s Race-Based Affirmative Action Regulations Are Unconstitutional

The state attorneys general, PLF, America First Legal, and other commenters argued that OFCCP’s race-based affirmative action regulations constitute racial classifications that fail strict scrutiny and therefore must be rescinded. No commenter disputed that these regulations either classify

individuals on the basis of race for purposes of equal-protection jurisprudence or are subject to strict scrutiny.

i. Race-Based Affirmative Action Regulations Trigger Strict Scrutiny

The Department concludes that the affirmative action regulations that require contractors to set placement goals where minority underutilization occurs and then make good faith efforts to address that underutilization create racial classifications that trigger strict scrutiny under settled equal-protection principles. Long before *SFFA*, courts repeatedly held that governmental policies pressuring or encouraging regulated entities to consider race in hiring, promotion, assignment, or other employment decisions constitute racial classifications attributable to the government. See, e.g., *Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 710–13 (9th Cir. 1997); *Lutheran Church-Mo. Synod v. FCC*, 141 F.3d 344, 351–54 (D.C. Cir. 1998); *MD/DC/DE Broadcasters Ass’n v. FCC*, 236 F.3d 13, 19–20 (D.C. Cir. 2001).

Although some commenters correctly note that 41 CFR 60–2.16(e) disclaims the use of placement goals as “rigid and inflexible quotas,” that disclaimer is beside the point. The relevant inquiry is whether the regulatory scheme encourages, induces, or effectively requires employment decisions because of race. See *Anderson v. Martin*, 375 U.S. 399, 402 (1964). Where such pressure exists, courts treat the regulatory framework itself as a racial classification subject to strict scrutiny. *Lutheran Church*, 141 F.3d at 352–53; *MD/DC/DE Broadcasters Ass’n*, 236 F.3d at 19–20. And that is precisely what the regulatory framework does. The rules require “goals” not “quotas,” but for many regulated contractors, the two are synonymous. A quota, as the word is commonly used (particularly in sales), does not necessarily have a “rigid and inflexible” connotation. For equal protection purposes, it does not matter “whether a government hiring program imposes hard quotas, soft quotas, or goals. Any one of these techniques induces an employer to hire with an eye toward meeting the numerical target. As such, they can and surely will result in individuals being granted a preference because of their race.” *Lutheran Church*, 141 F.3d at 354.

The placement goal framework in part 60–2 exerts such pressure in at least two ways. First, OFCCP considers a contractor’s underutilization of minorities when conducting compliance reviews of contractors. See 41 CFR 60–2.16(e). If a contractor does not exhibit

²⁰ 600 U.S. at 206.

underutilization, there is no predicate for finding a failure to undertake “good faith efforts” to remedy it; conversely, where underutilization is identified, the contractor’s good faith efforts are subject to scrutiny and potential enforcement. In this way, the presence or absence of underutilization effectively determines exposure to liability. Since fiscal year 2020, OFCCP issued over 40 notices of violations against contractors for either failing to conduct the utilization analysis or failing to “execute action-oriented programs” to address underutilization of minorities. Contractors were subjected to these violations even where OFCCP did not allege that any underutilization was due to discrimination. The threat of enforcement based on knowledge of a contractor’s underutilization creates a strong incentive to meet numerical race-based goals, thereby inducing race-based decision-making. An attorney who has represented many contractors commented, “I have observed first-hand several dozen major corporations just ‘hitting the numbers’ by either setting hiring percentages at either their applicant flow percentages or the percentage availability they calculated in their AAP [for minorities and females].”

Courts have consistently recognized that the prospect of government enforcement exerts coercive pressure sufficient to influence regulated conduct. *Lutheran Church*, 141 F.3d at 353 (“No rational firm—particularly one holding a government-issued license—welcomes a government audit.”); *MD/DC/DE Broadcasters Ass’n*, 236 F.3d at 19–20 (“Investigation by the licensing authority is a powerful threat, almost guaranteed to induce the desired conduct.”).

Second, the regulations require contractors to undertake “good-faith efforts” and other affirmative actions to address minority underutilization. Requirements to take action to meet race-specific employment targets likewise encourage contractors to consider race and therefore trigger strict scrutiny. *See Monterey Mech.*, 125 F.3d at 710–13.

The constitutional concerns are even more pronounced with respect to construction contractors’ participation goal requirements under part 60–4. Unlike placement goals, there is no prohibition against treating participation goals as inflexible quotas in the regulatory text. To the contrary, construction contractors are expressly “expected to make substantially uniform progress in meeting . . . [their participation] goals.” 41 CFR 60–4.3(a)(4). Section 60–4.2(d)(2) further

requires that hours worked by minorities and women be “substantially uniform throughout the length of the contract” and that contractors make good-faith efforts to employ minorities and women evenly across projects. These provisions directly encourage contractors to monitor and manage staffing decisions on the basis of race, even though contractors were ostensibly prohibited from “us[ing] the goals and timetables or affirmative action standards to discriminate” on that and other bases. 41 CFR 60–4.3(a)(10). These requirements operate in a context where compliance directly affects a contractor’s eligibility for Federal work and exposure to enforcement action, including the potential loss of existing or future contract revenue. Such financial incentive structure can exert significant pressure on contractors to manage staffing decisions on the basis of race.

In addition, the affirmative action steps mandated by OFCCP’s construction equal opportunity clause are facially race-based. The regulations require contractors to take specific preferential actions with respect to minority applicants or employees because of their race—or, here, grouping of their races as “minority” races—without imposing corresponding obligations with respect to non-minority individuals. *See* 41 CFR 60–4.3(a)(7). As one example of mandatory preferential disparate treatment, construction contractors must annually conduct “an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.” 41 CFR 60–4.3(a)(7)(i). By contrast, there is no requirement to evaluate promotion opportunities for non-minority males, nor to encourage them to seek or prepare for opportunities through training. This inequality persists despite the Supreme Court’s affirmation that equal protection applies “with equal force regardless of ‘the race of those burdened or benefited by a particular classification.’” *Miller v. Johnson*, 515 U.S. 900, 904 (1995) (quoting *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 494 (1989)).

Ultimately, both the placement- and participation-goal frameworks rest on the premise that nondiscriminatory employment practices should yield workforces that approach proportional representation based on the labor pool, and that deviations from such representation warrant correction. Part 60–2 states that, absent discrimination, a contractor’s workforce is expected to

“reflect the gender, racial, and ethnic profile of the labor pools from which [it] recruits and selects.” 41 CFR 60–2.10(a)(1). Part 60–4 similarly defines participation goals as the percentages of hours of employment that a contractor “should reasonably be able to achieve.” 41 CFR 60–4.3(a)(4). As discussed above in section III(B)(1), there are often benign reasons for members of certain racial or ethnic groups being over- or under-represented in a particular line of work. And courts have squarely rejected the proportional representation premise as constitutionally suspect. In *Lutheran Church*, the D.C. Circuit explained that regulatory schemes “built on the notion that [employers] should aspire to a workforce that attains, or at least approaches, proportional representation” obligate employers “to grant some degree of preference to minorities in hiring” and, therefore, trigger strict scrutiny. 141 F.3d at 352.

ii. Race-Based Affirmative Action Regulations Fail Strict Scrutiny

OFCCP’s race-based affirmative action regulations cannot survive strict scrutiny. The regulations do not serve a compelling governmental interest, and even if such an interest could be identified, they are not narrowly tailored to achieve that interest.

As the state attorneys general explained, the only potentially relevant compelling interest recognized by the Supreme Court in this context is the remediation of identified occurrences of past discrimination. *See Croson*, 488 U.S. at 497.²¹ Importantly, generalized assertions of societal or industry-wide discrimination are not enough; there must be specific instances of past intentional discrimination in which the Federal Government itself was an active or passive participant. *Id.* at 498–500; *see also Vitolo*, 999 F.3d at 361.

For the Department to impose a blanket requirement that all contractors nationwide address a general underutilization of minorities through race-based employment goals and other affirmative measures, the Department would need to identify concomitant discrimination—that is systematic, nationwide discrimination by all contractors nationwide against all minorities in which the Federal Government itself was an active or passive participant. *See Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267, 274

²¹ The Court has acknowledged rationales other than remedying past discrimination, but they were strictly limited to the higher education context in which they arose. *See, e.g., Grutter v. Bollinger*, 539 U.S. 306, 328–33 (2003). And even so, those rationales have since been severely limited. *See SFFA*, 600 U.S. at 214–18.

(1986). The Department cannot meet this exacting standard. The rulemaking records underlying OFCCP's race-based placement and participation goals do not identify any discrete, contemporaneous instances of intentional discrimination by contractors, much less all contractors to which OFCCP's goals apply, in which the Federal Government participated or acquiesced.²² See Part 60–2 Affirmative Action Programs, 35 FR 2586 (Feb. 5, 1970).

Even assuming the Department could demonstrate widespread Federal governmental participation in discrimination that could be remedied with race-motivated policies, the E.O. 11246 regulations fail the narrow tailoring requirement for several reasons. First, narrow tailoring minimally requires serious, good-faith consideration of workable race-neutral alternatives. *Grutter v. Bollinger*, 539 U.S. 306, 339 (2003); *Croson*, 488 U.S. at 507. The rulemaking records underlying parts 60–2 and 60–4 reflect no assessment whatsoever of race-neutral alternatives to race-based affirmative action requirements. Second, race-conscious remedial programs must be limited in duration or subject to periodic review to ensure that they do not outlast their justification. See *W. States Paving Co. v. Wash. State Dep't of Transp.*, 407 F.3d 983, 994 (9th Cir. 2005). None of OFCCP's race-based affirmative action requirements is limited in duration or subject to meaningful periodic review. Third, and especially problematic, the regulations apply collectively to all minority groups in the aggregate, regardless of whether a particular group was harmed by instances of discrimination or even experiences underutilization. By permitting race-conscious requirements untethered to evidence of discrimination affecting particular groups, the regulations lack the narrow tailoring required by equal-protection principles. See *Rothe Dev. Corp. v. Dep't of Defense*, 545 F.3d 1023, 1036 (Fed. Cir. 2008) (citing *Croson*, 488 U.S. at 506).

Under OFCCP's regulations, individuals of different races are treated interchangeably, as long as the races qualify as “minority” in the view of the agency. Paradoxically, even a contractor with a history of discrimination against black workers could “remedy” that discrimination in the eyes of OFCCP by

hiring individuals of other minority races. Regardless, the interchangeability of individuals of different minority races under the regulations significantly broadens—not narrows—their scope. Ultimately, that breadth as well as the permanence of the affirmative action regulations related to E.O. 11246—as noted above, they apply across all industries, to all minority groups, and without temporal limitation—preclude a finding of narrow tailoring.

The overbreadth of the affirmative action requirements in parts 60–2 and 60–4 is underscored when compared against targeted remedial orders that preceded them. For example, the Third Circuit affirmed the 1969 Philadelphia Plan, an affirmative action order that applied only to six construction trades in the Philadelphia area and was based on the Secretary of Labor's finding that race-conscious hiring goals were necessary to remedy “obvious underrepresentation [that] was due to the exclusionary practices of the unions” in those specific trades. *Contractors Ass'n of E. Pa. v. Sec'y of Labor*, 442 F.2d 159, 171–72 (1971).²³ By contrast, parts 60–2 and 60–4 require across-the-board, race-based employment practices on contractors nationwide, without regard to industry, trade, geographic location, history, or specific findings of discriminatory conduct. This stark contrast illustrates the absence of narrow tailoring in the current regulatory regime and reinforces the Department's conclusion that the regulations cannot be justified as remedial measures under equal-protection principles.

OFCCP's race-based affirmative action regulations are unlikely to satisfy the compelling-interest requirement and definitively fail the narrow-tailoring requirement. On these bases alone, the Department concludes that the regulations cannot survive strict scrutiny and should be rescinded.

b. OFCCP's Sex-Based Affirmative Action Regulations Are Likely Unconstitutional

The Department further concludes that the affirmative action requirements in 41 CFR parts 60–2 and 60–4 are sex-conscious regulations that are unlikely to satisfy intermediate scrutiny, which requires that the classification serve an

important governmental objective and be substantially related to the achievement of that objective. *Craig v. Boren*, 429 U.S. 190, 197 (1976).

The Supreme Court has explained that “[i]n limited circumstances, a gender-based classification favoring one sex can be justified if it intentionally and directly assists members of the sex that is disproportionately burdened.” *Miss. Univ. for Women v. Hogan*, 458 U.S. 718, 728 (1982). As with race-based classifications, remedying specific instances of past discrimination may constitute a valid governmental objective. However, “general claims of societal discrimination” are insufficient. The government must show that the favored sex “actually suffer[ed] a disadvantage” caused by discrimination in a particular field or context that the policy is designed to remedy. *Id.* at 727–29.

The Department does not dispute that women have at times experienced discrimination in certain trades or occupations. The constitutional problem is not the existence of discrimination in some contexts, but the absence of any findings that the sex-conscious requirements in parts 60–2 and 60–4 are tied to discrimination by particular employers or even to discrimination within specific industries, occupations, trades, or geographic areas. The rulemaking records for part 60–2 do not contain findings of sex-based discrimination in specific nonconstruction trades. OFCCP's first issuance of goals and timetables for the construction industry contains a discussion of the state of female employment in the industry, citing comparative workforce participation data, testimony presented at fact-finding hearings, studies indicating that placement goals would increase the percentage of women interested in applying for construction jobs and the impact of a Maritime Administration goals program on the increased representation of women in that workforce. The discussion did not, however, include court findings or other concrete evidence of proven systemic discrimination against women across the industry. See *Goals and Timetables for Female and Minority Participation in the Construction Industry*, 43 FR 14888, 14892–93 (Apr. 7, 1978). Thus, these findings were not sufficient to justify imposing uniform, sex-conscious requirements across all covered industries and locations nationwide. *Vitolo*, 999 F.3d at 365.

Instead, the structure and text of the regulations indicate that their objective is not the remediation of identified, trade-specific discrimination but the

²² The Federal Government has prohibited contractors from race discrimination since President Franklin Roosevelt did so relying on war legislation. See E.O. 9001, 6 FR 6787 (citing Act of Dec. 18, 1941, Sec. 593, Public Law 77–354, 55 Stat. 838).

²³ The Philadelphia Plan was not challenged on equal protection grounds but rather on statutory grounds. It is unclear whether even this narrower race-based remediation plan would survive strict scrutiny, since there was neither evidence presented showing that the government participated—even passively—in the unions' discrimination, nor that race-neutral alternative was ever given good-faith consideration.

reduction of disparities between a contractor's workforce and the available labor pool.²⁴ Part 60–2 expressly states that a contractor's workforce should “reflect the gender . . . profile of the labor pools from which [it] recruits and selects.” 41 CFR 60–2.10(a)(1). That formulation reflects a sex-balancing objective rather than a remedial one. But statistical disparities between workforce composition and labor-market availability, standing alone, are insufficient to demonstrate an important governmental objective. *See Vitolo*, 999 F.3d at 364 (citing *Craig*, 429 U.S. at 200–04). Absent evidence that women suffered intentional discrimination in each of the specific trades or occupations subject to regulation, sex-based classifications cannot be justified as remedial measures. *Id.* at 365 (“Without proof of intentional discrimination against women, a policy that discriminates on the basis of sex cannot serve a valid governmental objective.”).

Moreover, the means employed by parts 60–2 and 60–4 likely are not substantially related to the objective of remedying past discrimination, at least in the main. The regulations in part 60–2 apply broadly across industries and occupations without regard to whether discrimination occurred in a particular sector, job group, or geographic area. Although the regulations in part 60–4 are limited to construction, OFCCP established a uniform 6.9 percent participation goal for women nationwide, without accounting for regional variation, differences among construction trades, or evidence of past discrimination in particular local labor markets. *See Construction Contractors, Affirmative Action Requirements*, 45 FR 85750, 85751 (Dec. 30, 1980).²⁵ The sex- and race-based placement goals for construction contractors were set by notices in the **Federal Register** in 1978. 43 FR 14888. Race-based goals were updated in 1980, while sex-based goals were never updated, even though industry practices have changed substantially.

By imposing a single nationwide participation goal untethered to specific findings of sex-based discrimination in particular trades or regions, the regulations reflect a generalized sex-balancing approach rather than a

remedial program that addresses identified discrimination.

The types of sex-based classifications upheld under intermediate scrutiny are materially different from the broad, industry-wide requirements imposed by these regulations. For example, in *Schlesinger v. Ballard*, 419 U.S. 498 (1975), the Court upheld a statutory provision that directly compensated for specific legal barriers to advancement faced by female naval officers. By contrast, the regulations here impose uniform, sex-conscious requirements across industries and locations without findings that women face comparable, legally imposed barriers in the covered fields or that the requirements are calibrated to remedy such barriers.

While intermediate scrutiny is less demanding than strict scrutiny, the Department concludes that the sex-based affirmative action requirements in parts 60–2 and 60–4 raise serious constitutional concerns and are unlikely to survive constitutional scrutiny.

3. Federal Civil Rights Law

a. Conflict With Title VII of the 1964 Civil Rights Act

Some commenters, including the CRF and America First Legal, agreed with the Department's concern that OFCCP's race-based and sex-based affirmative action regulations conflict with Federal civil rights law—specifically Title VII of the Civil Rights Act of 1964—because they require contractors to address underutilization of minorities and women, but not other groups. *See* 90 FR at 28475 (citing *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303 (2025)). Other commenters disagreed. NNU contended that the proposed rescission is “in direct conflict with Title VII,” but did not explain how. The ACR Project argued that the Department “seriously understates” the conflict because the E.O. 11246 affirmative action regulations “require employers to violate the Civil Rights Act” and urged the Department to acknowledge this conflict as an additional justification for rescission. Upon careful consideration of these comments, the Department generally agrees with the ACR Project and concludes that OFCCP's affirmative action regulations compel contractors to adopt employment practices that conflict with Title VII.

The Lawyers' Committee asserted that OFCCP has historically interpreted E.O. 11246's nondiscrimination provisions to be analogous to and consistent with Title VII. That assertion is largely correct with respect to OFCCP's nondiscrimination regulations at 41 CFR parts 60–1, 60–20, and 60–50. But the

affirmative action regulations at parts 60–2 and 60–4 go further. They require contractors not only to establish employment goals for minorities and women but also to undertake specific employment actions with respect to those groups to meet those “goals.” These requirements conflict with the text of Title VII, which generally prohibits covered employers from making employment decisions because of an individual's race or sex. Title VII also makes it an unlawful employment practice to “classify” employees or applicants in a manner that deprives or tends to deprive individuals of employment opportunities because of race, color, sex, or national origin. 42 U.S.C. 2000e–2(a). The Civil Rights Act of 1991 broadened this prohibition by providing that an unlawful employment practice is established when race, color, religion, sex, or national origin was even “a motivating factor” for an employment practice, even if other factors also motivated, or even were the primary reasons for, the decision. 42 U.S.C. 2000e–2(m). The statutory text of Title VII thus adopts a broad prohibition on race- and sex-based employment practices that, on its face, bars affirmative action measures to meet numeric goals based on those characteristics.

As several commenters noted, the Supreme Court has construed Title VII to permit race- or sex-conscious affirmative action in extremely narrow circumstances. *See United Steelworkers v. Weber*, 443 U.S. 193 (1979); *Johnson v. Transp. Agency, Santa Clara Cnty, Cal.*, 480 U.S. 616 (1987). Subsequent Supreme Court decisions call into question the continued viability of the *Weber-Johnson* framework. *See, e.g., Callais*, 146 S. Ct. at 1152–53; *Ames*, 605 U.S. at 308–310; *SFFA*, 600 U.S. at 181; and *Ricci v. DeStefano*, 557 U.S. 557, 579 (2009). However, even assuming that the *Weber-Johnson* framework remains good law and applies, the E.O. 11246 affirmative action regulations would still be inconsistent with Title VII.²⁶

²⁶ The state attorneys general criticize the *Weber-Johnson* framework as a judge-made doctrine that lacks a textual basis in Title VII and that would be rejected by the current Supreme Court. *See Johnson*, 480 U.S. at 647 (O'Connor, J. concurring) (agreeing with Justice Scalia's dissent that Title VII “has been interpreted by *Weber* and succeeding cases to permit what its language read literally would prohibit.”). The Supreme Court more recently explained when interpreting Title VII that “[w]hen the express terms of a statute give us one answer and extratextual considerations suggest another, it's no contest. Only the written word is the law, and all persons are entitled to its benefit.” *Bostock v. Clayton County*, 590 U.S. 644, 653 (2020). While the *Weber-Johnson* framework is atextual and its

²⁴ NNU made the same admission, commenting, “The sole determining factor is whether disparities exist.”

²⁵ The 1978 **Federal Register** Notice establishing the female goal explained that OFCCP took the nationwide approach because the female representation level in the construction industry was so low that Census data did not allow for variations based on locality. 43 FR 14888, 14899.

Under the *Weber-Johnson* framework, an employer may voluntarily adopt a race- or sex-conscious measure to address a manifest imbalance in traditionally segregated job categories, provided that the measure is remedial in purpose, temporary in duration, and does not employ quotas or inflexible goals or unnecessarily trammel the interests of non-beneficiaries. *Weber*, 443 U.S. at 208; *Johnson*, 480 U.S. at 638. Such programs must be designed to eliminate the effects of past discrimination or segregation, not to maintain racial or gender balance for its own sake. *Johnson*, 480 U.S. at 639–40. As the Eighth Circuit explained: “An affirmative action policy is valid [under Title VII] if the policy is remedial and narrowly tailored to meet the goal of remedying the effects of past discrimination.” *Humphries v. Pulaski Cnty. Special Sch. Dist.*, 580 F.3d 688, 695 (8th Cir. 2009). It is often difficult for an employer to establish compliance with the strict limitations of *Weber* and *Johnson*; those who attempt such a path and fail necessarily violate Title VII with the practice in question.²⁷

To comply with the E.O. 11246 affirmative action regulations, a contractor must establish race- and sex-based employment goals and take other race- and sex-conscious employment actions. The Department does not believe such practices would fit within the *Weber-Johnson* framework—and certainly not generally across contractors. First, they are not voluntary: contractors are required, as a condition of obtaining and retaining Federal contracts, to adopt and implement OFCCP’s race- and sex-based affirmative action requirements.²⁸

continued viability is questionable, the Department assumes that the framework remains controlling Supreme Court precedent, and therefore it applies the framework in assessing the compatibility of the E.O. 11246 affirmative action regulations with Title VII.

²⁷ The EEOC has rescinded its guidelines at 29 CFR 1608.5 which provided that if a Title VII complaint is based on action taken pursuant to an approved E.O. 11246 AAP, or if the approved AAP was used as the justification for the challenged action, the EEOC would issue a determination of no reasonable cause, in recognition of the “similar purposes” of both laws. See 91 FR 40879 (July 6, 2026).

²⁸ Justice Rehnquist’s dissent in *Weber* notes that the “voluntary” action upheld by the majority may have been adopted in response to pressure from the Office of Federal Contract Compliance. See *id.* at 222–23 & n.2 (Rehnquist, J., dissenting). But the majority opinion made no mention of that fact when deeming the action to be “private” and “voluntary.” *Id.* at 208. In any event, even assuming that actions taken for the express purpose to comply with OFCCP’s binding regulations could somehow be considered “voluntary” within the meaning of the *Weber-Johnson* framework, those regulations do not satisfy the framework’s other requirements, including that any race- or sex-conscious measure

Second, they are not remedial: the regulations require contractors to undertake good faith efforts to meet, achieve, or approach proportional representation in terms of race and sex, not to specifically remedy manifest imbalances in a traditionally segregated job category. Third, they are not temporary: they have existed for over half a century, and unless rescinded, contractors would continue to be subject to these regulations on an indefinite basis. Fourth, the regulations contain rigid goals. While placement goals for nonconstruction contractors must not be rigid quotas, a similar prohibition is missing from participation goals for construction contractors. Instead, for example, construction contractors must “make substantially uniform progress in meeting its goals” and “where possible, will assign two or more women to each construction project.” See 41 CFR 60–4.3(a)(4) and (7). The Department is not aware of any authority where a court has upheld a similarly broad arrangement under the *Weber-Johnson* framework.

“[T]he existence of an affirmative action plan . . . when combined with evidence that the plan was followed in an employment decision is sufficient to constitute direct evidence of unlawful discrimination unless the plan is valid.” *Frank v. Xerox Corp.*, 347 F.3d 130, 137 (5th Cir. 2003) (quoting *Bass v. Bd. of Cnty. Comm’rs*, 256 F.3d 1095, 1110 (11th Cir. 2001)).²⁹ Many employment actions taken to comply with the E.O. 11246 affirmative action regulations would not fall within the narrow *Weber-Johnson* framework and would instead constitute direct evidence of unlawful discrimination in violation of Title VII. The Department concludes that OFCCP’s placement and participation goals and related regulatory requirements—backed by compliance evaluations and enforcement consequences—compel regulated employers to adopt race- and sex-conscious employment practices that are, in many cases, unlawful under Title VII.

b. Affirmative Action Regulations Conflict With Title VI of the Civil Rights Act

The Department also considered the compatibility of 41 CFR part 60–4’s affirmative action requirements as

be narrowly tailored to remedy a manifest imbalance in a traditionally segregated job category and be temporary in nature.

²⁹ See also, e.g., *McGarry v. Bd. of Cnty. Comm’rs*, 175 F.3d 1193, 1199 (10th Cir. 1999); *Bass v. Bd. of Cnty. Comm’rs*, 256 F.3d 1095, 1110 (11th Cir. 2001); *Humphries v. Pulaski Cnty. Special Sch. Dist.*, 580 F.3d 688, 693 (8th Cir. 2009).

applied to contractors performing federally assisted construction projects with Title VI of the Civil Rights Act of 1964, which prohibits recipients of Federal financial assistance from engaging in discrimination on the basis of race, color, or national origin. 42 U.S.C. 2000d *et seq.* The Supreme Court has long held that Title VI’s nondiscrimination mandate is coextensive with the Equal Protection Clause. See, e.g., *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 287 (1978).

Under that framework, race-based affirmative action measures—even those falling short of explicit quotas—are permissible only when narrowly tailored to remedy identified, specific instances of past discrimination or, in limited contexts, to address imminent and serious threats to human safety. As explained above, the E.O. 11246 affirmative action regulations applicable to federally assisted construction projects would not pass this exacting test. They are not tied to identified instances of past discrimination by recipients of Federal assistance and apply broadly without regard to local conditions or historical findings. Accordingly, the Department also concludes that these regulations compel recipients of Federal financial assistance to engage in race-based conduct that conflicts with Title VI.

Like the unconstitutionality of the affirmative action regulations, those regulations’ incompatibility with Titles VI and VII of the Civil Rights Act supplies independent reasons for their rescission. The Department agrees with the conclusion of the state attorneys general that the regulations’ “requirements run counter to deeply rooted legal and moral principles enshrined in the constitutions of the United States and our states and state and federal civil rights laws.”

C. Lack of Statutory Authority To Maintain Regulations Implementing E.O. 11246

Several commenters, including the attorneys general of 22 states, the EPPC, New Civil Liberties Alliance (NCLA), and the ACR Project, questioned the Department’s statutory authority to maintain regulations implementing E.O. 11246. These commenters contended that, regardless of E.O. 11246’s status, the regulations the Department proposes to rescind are unlawful because Congress never authorized them. They argued that the E.O. 11246 regulations impose legally binding affirmative action and nondiscrimination obligations on contractors and therefore constitute legislative rules requiring a clear delegation of authority from

Congress. In particular, they asserted that the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 101–1315 (Procurement Act)—the only statute the Department has cited in rulemaking as authority for the E.O. 11246 regulations—does not provide such authorization.

The state attorneys general and the EPPC invoked the major questions doctrine and argued that the Procurement Act's purpose of ensuring an economical and efficient system of procurement does not supply authority to impose broad employment mandates governing contractors' hiring and employment practices. NCLA further noted that the Department cited the Procurement Act as the source of authority for E.O. 11246 regulations only decades after the Executive Order's issuance, arguing that this delayed reliance undermines any claim that the regulations reflect a contemporaneous or longstanding interpretation of statutory authority. The state attorneys general and other commenters urged the Department to rescind the E.O. 11246 implementing regulations not only because E.O. 11246 has been revoked, but also because the regulations lack statutory authorization. These commenters encouraged the Department to acknowledge this lack of authority in the final rule to clarify the limits of agency authority with respect to the E.O. 11246 regulations.

No commenters defended the Procurement Act as statutory authority for the E.O. 11246 regulations. Several commenters suggested alternative sources of authority. Some commenters argued that the longevity of the E.O. 11246 regulations supports their statutory authorization. The AFL–CIO stated that generally applicable equal employment opportunity laws enacted by Congress require compliance with the regulations. NNU argued that Congress ratified the E.O. 11246 regulatory framework through enactment of section 718 of Title VII of the Civil Rights Act of 1964, as amended in 1972. See 42 U.S.C. 2000e–17.

In light of these comments, the Department has reconsidered its authority to maintain the regulations implementing E.O. 11246 under the Procurement Act and the alternative statutory ground suggested by commenters. Upon review, the Department has determined that it lacks statutory authority for significant portions of the E.O. 11246 regulatory framework, including its regulations requiring race- and sex-based affirmative action related to E.O. 11246 and authorizing OFCCP to seek monetary relief in E.O. 11246

administrative proceedings against contractors. The Department further believes that the Procurement Act could authorize it to require contractors to follow Federal nondiscrimination law—but not to seek monetary relief for violations in E.O. 11246 administrative proceedings.

1. The Need for Statutory Authorization

An agency “literally has no power to act . . . unless and until Congress confers power upon it.” *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986). However, the sources of congressional delegation for the Department's regulations implementing E.O. 11246 have never been clear. E.O. 11246 identifies no specific statutory delegation and is purported to be authorized under the “Constitution and statutes of the United States.”³⁰ OFCCP's early regulations did not identify any specific statutory source of authority. In 1979, the Supreme Court recognized in *Chrysler Corp. v. Brown* that “[t]he origins of the congressional authority for Executive Order 11246 are somewhat obscure and have been roundly debated by commentators and courts.” 441 U.S. 281, 304 (1979).

NCLA pointed out in its comment that “Executive Order 11246 and the regulations promulgated pursuant to it might well be fine, if they did not seek to bind the conduct of anyone outside the Executive Branch.” But in fact, the regulations do extend beyond the Executive Branch by subjecting private parties to non-contractual legally binding requirements and to significant monetary loss. They are enforceable judicially as if they had the force of law. 41 CFR 60–1.26(a), (c)–(d). “But in order for such regulations to have the ‘force and effect of law,’ ” the Supreme Court explained when considering OFCCP's E.O. 11246 authority, “it is necessary to establish a nexus between the regulations and some delegation of the requisite legislative authority by Congress.” *Chrysler Corp.*, 441 U.S. at 304.

In *Chrysler*, the Supreme Court explained that “[t]he legislative power of the United States is vested in the Congress, and the exercise of quasi-legislative authority by governmental departments and agencies”—such as the E.O. 11246 regulations at issue—“must be rooted in a grant of such power by the Congress and subject to limitations which that body imposes.” *Id.* at 302. Applying that principle, the Court found no authority for OFCCP's regulations providing for public disclosure of information from its

records in any of the statutes identified by the Federal Government, including the Procurement Act, Titles VI and VII of the Civil Rights Act of 1964, and the Equal Opportunity Act of 1972. *Id.* at 304–8. With regard to the Procurement Act, the Court said, “The Act explicitly authorizes Executive Orders ‘necessary to effectuate [its] provisions.’ [Sec. 486(a)]. However, nowhere in the Act is there a specific reference to employment discrimination.” *Id.* at 304 n.34. The Court ultimately suggested that the Procurement Act may authorize nondiscrimination provisions that prohibit contractors from “excluding from the labor pool available minority workmen,” *id.*, but held that it does not authorize the disclosure regulation at issue, *id.* at 304.

Despite the Supreme Court's clarification in 1979 that OFCCP regulations must be rooted in statutory authority, the Department continued to promulgate regulations implementing E.O. 11246 without identifying any statutory basis in rulemaking documents. For example, a 1982 rule confirming OFCCP's ability to seek back pay and other monetary relief in administrative proceedings against contractors asserted that “the Executive Order vests OFCCP with the legal authority to seek back pay for victims of discrimination,” without citing any statute. Government Contractors; Affirmative Action Requirements, 47 FR 17770, 17773 (Apr. 23, 1982).³¹ As NCLA noted, the Department did not identify a specific statutory source of authority for any regulation implementing E.O. 11246 for many decades.³² Indeed, it is our understanding that the first time OFCCP cited any statutory authority in a rulemaking document was a 2016 final rule revising sex-based nondiscrimination requirements relying on the Procurement Act. 81 FR 39108 (June 15, 2016).³³ The Department's

³¹ The 1982 Final Rule did not even identify the part of the E.O. that vests OFCCP or the Department with authority to seek back pay. The Order's “penalty and sanctions” section does not authorize the Department to seek back pay or monetary relief and instead merely authorizes the Department to recommend to DOJ or EEOC to bring civil cases in Federal court when it believes such relief is appropriate.

³² NCLA suggested that 2002 marked the first time the Federal Government cited statutory authority in connection with regulations implementing E.O. 11246, pointing to E.O. 13279. That Executive Order, however, invoked the Procurement Act only to justify creating exemptions from E.O. 11246's requirements; it did not rely on the Act as authority to impose those requirements in the first instance.

³³ Two slightly earlier nondiscrimination regulations implemented Executive Orders that cited the Procurement Act. First, a 2014 final rule implemented E.O. 13672 by adding sexual

³⁰ See E.O. 11246.

2023 revisions to its religious discrimination standards likewise cited the Procurement Act as statutory authority. 88 FR 12842. Those citations, however, addressed only nondiscrimination requirements; they did not purport to authorize affirmative action obligations or OFCCP's system of administrative adjudication awarding monetary relief. The Department has never cited statutory authority when promulgating those regulations, which renders them especially vulnerable to legal challenge. *See Council for Urological Interests v. Burwell*, 790 F.3d 212, 223 (D.C. Cir. 2015) (courts "cannot consider [an] argument" regarding an agency's authority that the agency never "articulate[d] . . . during . . . rulemaking").

With this backdrop in mind, the Department turns to an analysis of its statutory authority for affirmative action, administrative adjudication, and nondiscrimination regulations implementing E.O. 11246, beginning with the Procurement Act and then alternative sources of statutory authority suggested by commenters.

2. Statutory Authority Under the Procurement Act

The Procurement Act authorizes the President to "prescribe policies and directives that the President considers necessary to carry out" the Procurement Act's purpose, which includes providing the Federal Government "with an economical and efficient system for . . . [p]rocur[ing] and supply[ing] property and nonpersonal services, and perform[ing] related functions including contract[ing]." 40 U.S.C. 101, 121(a). Courts interpreting this provision have generally required a "sufficiently close nexus" between the requirements imposed by an Executive Order and the Procurement Act's goals of economy and efficiency in Federal procurement.³⁴

orientation and gender identity as protected categories. That Order expressly invoked the Procurement Act. Implementation of Executive Order 13672 Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors, 79 FR 72985 (Dec. 9, 2014). Second, a 2015 final rule implemented E.O. 13655, which amended E.O. 11236, which in turn relied on the Procurement Act to require non-retaliation against employees who discuss compensation. Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions, 80 FR 54934 (Nov. 11, 2015).

³⁴ *Louisiana v. Biden*, 55 F.4th 1017, 1026 (5th Cir. 2022) (quoting *AFL-CIO v. Kahn*, 618 F.2d 784 (1979)). The Sixth and Ninth Circuits recently interpreted the Procurement Act more narrowly, holding that the "economical and efficient" language in the Act's purpose clause at 40 U.S.C. 101 is not a basis for the President to exercise his authority under section 121(a). *Commonwealth v.*

In Chrysler, the Supreme Court doubted that the Procurement Act authorizes all aspects of E.O. 11246. The Court observed that "nowhere in the Act is there a specific reference to employment discrimination," and characterized lower court suggestions that the Procurement Act independently authorized the predecessors to E.O. 11246 as "dicta and made without any analysis." 441 U.S. at 304 n.34. The Court also noted a Third Circuit decision that concluded the Procurement Act's "economical and efficient" authority could support "at least some aspects" of E.O. 11246 because "it is in the interest of the United States in all procurement to see that its suppliers are not over the long run increasing its costs and delaying its programs by excluding from the labor pool available minority workmen." *Id.* (quoting *Contractor Association*, 442 F.2d at 170).

More recently, the Supreme Court articulated the major questions doctrine, under which an agency must point to clear congressional authorization when asserting regulatory authority of vast economic or political significance.³⁵ Under that doctrine, "a vague statutory grant is not close to the sort of clear authorization required" to sustain regulations with significant economic or political impact.³⁶ Although these cases do not directly address OFCCP programs, multiple courts of appeals have applied this principle when analyzing the Procurement Act's "economical and efficient" provision, holding that it does not authorize the Federal government to impose vaccination mandates on Federal contractors.³⁷

Several commenters argued that the major questions doctrine applies to OFCCP's regulations. The state attorneys general argued that "[r]egulating the hiring practices of approximately one-fifth the U.S. workforce to require employers to engage in discriminatory affirmative action no doubt implicates decisions of vast economic and political

Biden, 57 F.4th 545, 551–52 (6th Cir. 2023); *Nebraska v. Su*, 121 F.4th 1, 8 (9th Cir. 2024).

³⁵ *Biden v. Nebraska*, 600 U.S. 477, 504 (2023); *West Virginia v. EPA*, 597 U.S. 697, 732 (2022); *NFIB v. DOL*, 595 U.S. 109, 117 (2022); *Alabama Ass'n of Realtors v. HHS*, 594 U.S. 758, 764 (2021).

³⁶ *Id.*

³⁷ See, e.g., *Louisiana v. Biden*, 55 F.4th at 1029; *Kentucky v. Biden*, 23 F.4th 585, 606 (6th Cir. 2022); *Georgia v. President of the United States*, 46 F.4th 1283, 1296 (11th Cir. 2022). The Ninth Circuit affirmed authority under the Procurement Act to impose a Federal contractor vaccine mandate, but that decision was vacated as moot, *Mayes v. Biden*, 67 F.4th 921 (9th Cir.), vacated as moot, 89 F.4th 1186 (9th Cir. 2023), and criticized as unpersuasive by a subsequent Ninth Circuit panel, *Nebraska v. Su*, 121 F.4th 1, 8 (9th Cir. 2024).

significance." (citing *Louisiana*, 55 F.4th at 1028). And EPPC claimed that "the lucrative nature of federal contracts and this onerous enforcement regime is surely a matter of 'vast economic and political significance' that requires 'clear congressional authorization.'" (quoting *West Virginia v. EPA*, 597 U.S. 697, 716, 723–32 *passim* (2022)).

a. Affirmative Action Regulations

Part 60–2 applies to nonconstruction contractors and subcontractors with 50 or more employees and a Federal contract of at least \$50,000. These regulations require contractors to analyze their workforce by race, ethnicity, and sex; compare workforce representation to labor-market availability; and, where minorities or women are deemed "underutilized," establish placement goals at least equal to availability and take affirmative steps to meet those goals. Part 60–4 applies to contractors and subcontractors performing Federal construction contracts or federally assisted construction contracts exceeding \$10,000. Those regulations require contractors to use minority and female participation goals established by the Department and to take affirmative action to achieve those goals.

In considering whether the Procurement Act authorizes Parts 60–2 and 60–4, the Department finds that the E.O. 11246 affirmative action regulations likely trigger the major questions doctrine because they rest upon an assertion of regulatory authority of significant economic and political consequence. The Department estimates that approximately one-fifth of U.S. workers are employed by contractors subject to OFCCP's regulations, and courts have found regulatory regimes of comparable scope to be economically significant for purposes of the major questions doctrine. *See Louisiana*, 55 F.4th at 1028. This economic overbreadth arises in significant part because Parts 60–2 and 60–4 apply not only to the employees who perform work on or in connection with Federal procurement contracts, but also to a contractor's entire workforce, including employees whose duties have no relationship to Federal procurement.³⁸ The Procurement Act may authorize

³⁸ Section 204 of E.O. 11246 allowed OFCCP to grant exemptions for facilities that are in all respects separate and distinct from the activities of the contractor related to the performance of the contract, provided the exemption would not interfere with or impede the effectuation of the purposes of the order. *See* 41 CFR 60–1.5(b)(2). E.O. 11246's requirements covered all of a contractor's facilities, however, absent such a waiver.

contractual efficiency-enhancing provisions governing employees who work on or in connection with Federal contracts. But by extending regulatory requirements to portions of a contractor's workforce that have no connection with work performed under Federal procurement contracts, the regulations appear to sweep beyond the economy and efficiency of Federal procurement and may instead operate more like a form of economically significant employment regulation.

The Department also believes these affirmative action requirements to be politically significant within the meaning of the doctrine. Government-mandated classifications based on race and sex occupy a central place in contemporary public debate and have long been treated by courts as constitutionally sensitive. Although the constitutionality and consistency with Federal law of the E.O. 11246 affirmative action requirements are addressed elsewhere in this preamble, the Department concludes that the major questions doctrine independently requires clear congressional authorization for an agency to impose race- and sex-based employment mandates of this nature. By contrast, procurement contract conditions prohibiting discrimination and reinforcing compliance with existing Federal civil rights law do not represent the type of transformative assertion of regulatory authority that would implicate the major questions doctrine.

That clear statement requirement is especially strong here because the regulations mandate race- and sex-conscious employment practices that are "presumptively invalid" under the Constitution, *Vitolo*, 999 F.3d at 364, and that, on their face, could otherwise conflict with Title VII's general prohibition on race- and sex-based decision-making in employment. This is true even apart from the Department's independent conclusion that OFCCP's affirmative action regulations cannot survive strict scrutiny. Under the canon of constitutional avoidance, where a statute is susceptible to more than one plausible interpretation, the Department should adopt the interpretation that avoids serious constitutional questions. That canon therefore counsels against interpreting the Procurement Act to authorize regulations that trigger strict scrutiny in the first place by requiring race- and sex-based classifications in employment.

Similar concerns arise under Title VII. As explained above, compliance with OFCCP's affirmative action regulations encourage contractors to engage in race- and sex-conscious employment

practices that would constitute direct evidence of unlawful discrimination under Title VII unless they fall within the narrow *Weber-Johnson* framework. *See Frank*, 347 F.3d at 137. Absent clear statutory authorization, the Department will not interpret the Procurement Act to empower it to promulgate regulations that induce conduct—e.g., trying to meet race- and sex-based employment goals by taking race or sex into account in employment decisions—that Title VII generally prohibits and that regulated parties must attempt to justify under a limited, judge-made exception.

In sum, without clear congressional authorization, the Department will not infer an intent to delegate authority to impose race- and sex-conscious employment mandates that raise serious constitutional concerns and that depart so sharply from the background principles of Federal civil rights law. The Procurement Act contains no such clear authorization for the broader affirmative-action framework implemented under E.O. 11246.

These concerns are reinforced by the Department's regulatory history. While the Department has cited the Procurement Act as statutory authority for its nondiscrimination regulations, it has not previously identified the Procurement Act—nor any other statute—as providing clear authority to promulgate affirmative action regulations that encourage race- and sex-based employment considerations in employment. An effort to locate such authority now would require reading into a long-extant statute an unheralded power to regulate a substantial portion of the national workforce, a circumstance that courts have repeatedly viewed with skepticism. *See Utility Air Regulatory Group v. EPA*, 573 U.S. 302 (2014).

The Department further finds application of the E.O. 11246 affirmative action regulations to federally assisted construction projects exceeds the Procurement Act's authority for another reason. These projects are distinct from Federal procurement. Under the Procurement Act, the President's authority extends to prescribing policies and directives necessary to provide the Federal Government with an economical and efficient system for "[p]rocuring and supplying property and nonpersonal services, and performing related functions." 40 U.S.C. 101, 121(a). Federal financial assistance—where the Government provides grants or other assistance to third parties rather than procuring construction services for itself—does not constitute procurement of property or nonpersonal services and therefore

falls outside the Procurement Act's core "economical and efficient" authority.

This conclusion is reinforced by the 1976 amendments to the Procurement Act, which expressly prohibited sex discrimination in "a program or activity carried on or receiving federal assistance under this subtitle[.]" 40 U.S.C. 122(a). Congress's decision to legislate separately with respect to sex discrimination in federally assisted programs confirms that Federal assistance is distinct from procurement and that conditions imposed on recipients of such assistance require separate and explicit statutory authorization, rather than reliance on the Procurement Act's general procurement-based "economical and efficient" authority.

The Department recognizes that *Contractors Association* upheld the Philadelphia Plan's racial employment goals by invoking the President's "general authority" to "analogiz[e] federally assisted construction to direct federal procurement." 442 U.S. at 171. The court further reasoned that, because no Act of Congress forbade the challenged race-based employment goals, they fell within the "implied authority of the President and his designees." *Id.* But that reasoning cannot be readily reconciled with the Supreme Court's subsequent emphasis on the need for affirmative congressional delegation, specifically in the context of OFCCP regulations. *Chrysler*, 441 U.S. at 304. The pertinent inquiry is not whether Congress failed to forbid the agency's action, but whether Congress authorized it. *Id.* In any event, *Contractors Association* also upheld the Philadelphia Plan because it was designed to remedy "obvious underrepresentation [that] was due to the exclusionary practices of the unions" in specific trades. *Id.* at 171. By contrast, OFCCP's current affirmative action requirements in connection with federally assisted projects are not remedial.

Accordingly, the Department concludes that the Procurement Act does not provide congressional authorization necessary to support OFCCP's race- and sex-conscious affirmative action regulations related to E.O. 11246. As explained below, the concerns identified here arising from race- and sex-based affirmative action obligations do not undermine the authority under the Procurement Act to condition contracts on nondiscrimination requirements that are consistent with Federal civil rights law.

b. Administrative Enforcement Regulations

The regulations at 41 CFR 60–1.26 authorize OFCCP to enforce its affirmative action and nondiscrimination requirements related to E.O. 11246 through administrative proceedings in which the agency may seek monetary relief, including back pay. Those proceedings operate with the force of law and are reviewed by Federal courts under a deferential standard. The regulations’ creation of a quasi-judicial enforcement mechanism within the Executive Branch required a clear grant of authority from Congress.³⁹ The regulations did not have one. As the NCLA commented, the absence of any clear statutory framework for enforcement of E.O. 11246 “stands in stark contrast to other enforcement and adjudication regimes that protect employees and were specifically authorized by Congress.” NCLA highlighted two statutory regimes enforced by OFCCP in which Congress expressly authorized the Department to conduct administrative enforcement of affirmative action or nondiscrimination requirements through clear, defined statutory limits. VEVRAA authorized the Department to receive and investigate complaints from qualified veterans alleging noncompliance by contractors and to take appropriate enforcement action consistent with the terms of the contract and applicable law. 38 U.S.C. 4212(a). Similarly, under Section 503, Congress required certain Federal contracts to include affirmative action provisions for individuals with disabilities and expressly authorized the Department to receive and investigate complaints and to take appropriate enforcement action. 29 U.S.C. 793(b). By comparison, the Procurement Act contains no language authorizing the Department to receive and investigate complaints of employment discrimination and to take appropriate enforcement actions.⁴⁰ That silence is significant in light of Congress’s ability to legislate administrative enforcement mechanisms within the Procurement

Act when it chooses to do so. Congress amended the Procurement Act in 1976 to prohibit sex discrimination in programs receiving Federal assistance, and Congress expressly authorized administrative enforcement through “agency provisions and rules similar to” those already established under Title VI. *See* Sec. 8, Public Law 94–519, 90 Stat. 2456 (1976) (now codified at 40 U.S.C. 122). Title VI, in turn, requires the agency awarding Federal assistance to follow detailed procedural safeguards in enforcement proceedings—for example, pursuing conciliation before punishment, limiting relief to the specific program or activity in which the violation occurred, and restrictions on monetary relief—that are missing from Part 60–1.26.

Title VII’s comprehensive and carefully calibrated framework for enforcing employment discrimination claims reinforces the Department’s belief that it lacks authority to adjudicate employment nondiscrimination claims under E.O. 11246. *See* 42 U.S.C. 2000e–4 through 2000e–6. Early proposed versions of Title VII proposed empowering the Department of Labor with authority to investigate discrimination claims and prosecute complaints before an administrative Equal Employment Opportunity Board, which would adjudicate claims and “issue broad remedial orders to remedy violations,” subject to judicial review of the final administrative decision. EEOC, *Legislative History of Titles VII and XI of the Civil Rights Act of 1964*, at 3070–71 (H.R. Rep. No. 88–914, at 14, 711(b) (1963)). Congress rejected that approach, opting instead to create EEOC and vest it with enforcement authority. The EEOC may investigate discrimination claims, issue subpoenas, and attempt informal resolution that can result in binding conciliation agreements enforceable in court, but it has no authority to conduct in-house adjudications or issue binding remedial orders for private employers. *See* Sec. 705–713, Public Law 88–352, 78 Stat. 241 (codified as amended at 42 U.S.C. 2000e–5). Where enforcement is pursued against private employers, the EEOC must bring suit in Federal court.

That statutory structure reflects deliberate legislative judgments concerning forum, process, and explicit authorization of relief for employment discrimination. It would therefore be inappropriate to presume that Congress implicitly authorized the Department to operate a parallel administrative enforcement system—empowered to adjudicate employment discrimination claims and award monetary relief

against private sector employers—through the Procurement Act’s general provisions, particularly where Congress affirmatively rejected that very model when enacting Title VII.⁴¹

The Department concludes that the Procurement Act does not authorize OFCCP to bring E.O. 11246-related administrative enforcement actions against contractors to compensate alleged victims of employment discrimination.

The Department also received comments regarding its proposal to relocate the administrative enforcement proceeding procedures from the revoked E.O. 11246 regulations directly into the VEVRAA and Section 503 implementing regulations. Some commenters expressed their support for this proposal, asserting that the relocation is reasonable in light of the E.O. 11246 rescission. Other commenters recommended that the Department modify the administrative enforcement proceeding procedures because of recent case law in this area.⁴² Relying on recent case law, these other commenters asserted that OFCCP’s practice of adjudicating investigations through proceedings before Administrative Law

⁴¹ An early draft of Title VII also considered ratifying E.O. 11246’s predecessors by authorizing “[t]he President . . . to take such action as may be appropriate to prevent . . . an unlawful employment practice [such as a Title VII violation] by a person in connection with the performance of a contract with . . . the United States.” EEOC, *Legislative History of Titles VII and XI of the Civil Rights Act of 1964*, at 2014 (H.R. Rep. No. 88–914, at 14, Sec. 711(b) (1963)). This approach was not taken in part because Opponents explained it “strengthened and broadened the enforcement provisions [of Title VII] by giving the President blanket and unlimited authority (sec. 711(b))” regarding government contractors. *Id.* at 2087 (H.R. Rep. No. 88–914, at 87).

⁴² *See e.g., SEC v. Jarkesy*, 603 U.S. 109 (2024) (finding that the Seventh Amendment entitles a defendant to a jury trial when the SEC seeks civil penalties against him for securities fraud, as the SEC’s antifraud provisions replicate common law fraud and it is well established that common law claims must be heard by a jury); *ABM Industry Groups, LLC vs. U.S. Department of Labor, et al*, 756 F.Supp.3d 468 (S.D. Tex. 2024) (holding that under *Jarkesy*, Plaintiff is likely to succeed on the merits of its claim that the assigned DOL ALJ is unconstitutionally protected by two layers of good-cause removal restrictions); *Sun Valley Orchards, LLC v. U.S. Department of Labor*, 148 F.4th 121 (3d Cir. 2025), *cert. granted*, 2026 WL 1127242 (Apr. 27, 2026) (finding that as DOL sought common law remedies, including civil penalties and back wages, Sun Valley was entitled to have its case decided by an Article III court); *Space Exploration Techs. Corp. v. NLRB*, 2025 U.S. App. LEXIS 21226 (5th Cir. Aug. 19, 2025) (discussing the constitutionality of the ALJ’s multi-layered removal provisions, specifically, that ALJ’s may be removed only “for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.” The Court found that ALJs are inferior officers insulated by two layers of for-cause removal protection—an arrangement the Supreme Court and the Fifth Circuit have both held unconstitutional.).

³⁹ *See, e.g., Commodity Futures Trading Comm’n v. Schor*, 478 U.S. 833, 851–57 (1986).

⁴⁰ This conclusion concerns the Department’s regulatory enforcement framework under E.O. 11246, including the use of administrative adjudication and the pursuit of monetary remedies through agency proceedings. It does not address the ordinary contract administration authorities of procuring agencies to monitor compliance with contract terms, including the authority to require contractors to furnish information relevant to compliance, to evaluate contractor responsibility, to pursue appropriate corrective action, or to enforce contractual requirements through traditional procurement remedies such as termination, suspension, or debarment.

Judges may not survive constitutional scrutiny.

The Department concludes that it is not necessary to address the constitutional question raised by these comments because E.O. 11246 has been revoked and, in any event, OFCCP's administrative enforcement of E.O. 11246 is not statutorily authorized. Moving regulations concerning procedural provisions will provide clarity about the administrative enforcement procedures applicable to VEVRAA and Section 503. The Department acknowledges that the case law in this area is evolving. To the extent that the Department determines that it may need to update these procedures in light of changing case law, such changes may be pursued in a separate rulemaking.

c. Nondiscrimination Regulations

The Department next considers regulations at Part 60–1 containing nondiscrimination requirements relating to race, ethnicity, national origin, sex, religion, sexual orientation, and gender identity. As explained above, the Department concludes that the Procurement Act's "economical and efficient" authority is limited to Federal procurement and does not extend to Federal financial assistance. That authority therefore does not delegate power to impose general nondiscrimination requirements on recipients or subrecipients of Federal assistance, nor does it authorize the Department to seek monetary relief through administrative enforcement mechanisms.

That said, the Procurement Act nonetheless authorizes the President to impose requirements through contract clauses designed to promote economy and efficiency in procurement. To keep such authority within the government's procurement powers, nondiscrimination requirements should be enforced through procurement-based remedies, such as cancellation or debarment, as opposed to back-pay or other monetary relief for nonparties to the procurement contract at issue. As noted above, the nondiscrimination requirements imposed under E.O. 11246 were not limited to conduct occurring in connection with the performance of work under a procurement contract but instead applied across a contractor's entire workforce, including employees whose duties bore no relationship to Federal procurement. This lack of a limiting procurement nexus contributed to the significant economic and political scope of the regulatory scheme. By contrast, limiting procurement-based nondiscrimination requirements to

conduct occurring in connection with the performance of Federal contract work better ensures the requisite nexus to the government's interest in economy and efficiency in procurement. Such a limitation confines the requirements to the context in which the government acts as a market participant and helps avoid the type of broad assertion of regulatory authority over a contractor's general employment practices that could raise concerns under the major questions doctrine.

Properly limited, procurement-based nondiscrimination conditions applicable solely to work performed in connection with Federal contracts fall within the President's authority under the Procurement Act to promote an economical and efficient system of Federal procurement. The Federal Government has a legitimate interest in contracting with firms that do not exclude qualified workers on grounds unrelated to merit and that therefore draw from the full available labor force, reducing inefficiencies associated with unjustified exclusionary practices. *See Contractor Association*, 442 F.2d at 170. Conditioning Federal contracts on compliance with existing Federal civil rights law prohibiting discrimination reflects a conventional exercise of the government's discretion to determine the terms on which it will enter into contracts and to decline to contract with entities that violate applicable law. For instance, E.O. 14173 forbids contractors from violating Federal anti-discrimination laws, 90 FR 8634, and E.O. 14398 further prohibits contractors from racial discrimination in connection with work performed on contracts, 91 FR 16147. Unlike the E.O. 11246 affirmative action regulations being rescinded, these requirements are fully consistent with Federal civil rights laws. They forbid rather than encourage race-conscious decision-making. They do not create administrative adjudication schemes to award monetary relief. Executive Order 14398 is specifically limited to work performed in connection with procurement contracts. While E.O. 14173 may apply beyond a contractor's workforce that performs procurement functions, it merely requires contractors to follow Federal antidiscrimination laws. It is neither "transformative" nor "unheralded" for the Federal government to stop doing business with companies that violate Federal laws. Rather, such a sensible contracting practice bears a "close nexus" to the economy and efficiency of procurement and does not claim regulatory authority of vast economic or political significance.

By contrast, imposing nondiscrimination requirements under the Procurement Act that create substantive employment obligations beyond existing Federal civil rights law or that establish parallel regulatory enforcement regimes could raise serious legal concerns. The Procurement Act's "economical and efficient" authority does not supply sufficient authorization for transformative procurement conditions, such as a vaccine mandate applicable to contractors' employees. *See Louisiana v. Biden*, 55 F.4th 1017, 1026 (5th Cir. 2022). The creation or modification of employment nondiscrimination standards is itself a matter of substantial economic and political significance. Congress has addressed those questions through comprehensive civil rights statutes specifying the scope of prohibited conduct, enforcement mechanisms, and available remedies. The Department would expect Congress to speak clearly if it intended to authorize additional employment nondiscrimination standards, exceptions from existing law, or parallel regulatory regimes applicable to contractors. The Procurement Act contains no such authorization. Rather, its authority should be interpreted to authorize compliance with nondiscrimination standards that promote "economical and efficient" merit-based decision-making, and to enforce those standards with procurement-based remedies such as cancellation of contracts. Procurement-based nondiscrimination conditions may include reporting mechanisms necessary to allow agencies to assess contractor compliance with contractual nondiscrimination obligations, such as certification requirements, reporting obligations, and information-sharing provisions tied to contract performance.

An example of an E.O. 11246 nondiscrimination obligation not found in Federal discrimination law is the compensation-discussion anti-retaliation provisions promulgated pursuant to E.O. 13665's amendments to section 202 of E.O. 11246. *See* 80 FR 54934 (Sept. 11, 2015); 41 CFR 60–1.4(a)(3), (b)(3). Those regulations prohibit contractors from retaliating against employees who inquire about, discuss, or disclose compensation information. They impose legally binding employment obligations that extend beyond merely requiring compliance with existing civil rights statutes. They apply to employees whose work has no connection with Federal procurement and are enforceable through monetary awards. In promulgating those regulations, the

Department said that economy and efficiency in Federal procurement requires contractors to compensate employees based on merit and that eliminating barriers created by pay secrecy helps ensure that contractors compensate employees based on merit. The Department also asserted that allowing employees of contractors to discuss their pay minimizes risks of enforcement actions that could result from pay secrecy policies. 80 FR 54934, 54937 (Sept. 11, 2015).

Upon reconsideration, the Department concludes that this speculative rationale does not satisfy the Procurement Act's requirement of a "close nexus" between procurement conditions and the government's interest in economy and efficiency. *AFL-CIO v. Kahn*, 618 F.2d 784, 793 (D.C. 1979). In *Kahn*, the *en banc* D.C. Circuit upheld an executive order limiting contractors' ability to raise wages and prices because the measure bore a direct and immediate relationship to contract pricing and likely savings to the Government. *Id.* at 793. The court cautioned, however, that the Procurement Act does not "write a blank check for the President to fill in at his will." *Id.* The wage controls in *Kahn* had a close nexus to contracting efficiency: limits on wage growth directly enabled contractors to pass labor cost savings to the contractors. By contrast, the regulations promulgated pursuant to E.O. 13665's amendments to section 202 of E.O. 11246 rest on far more attenuated reasoning: that restrictions on compensation discussions may impede detection of discrimination; that undiscovered discrimination may persist; that such persistence may increase the risk of enforcement actions or labor disputes; and that those downstream effects may disrupt Federal procurement. The Department believes that this speculative chain is insufficient to establish the requisite close nexus to procurement economy and efficiency. See *Chrysler*, 441 U.S. at 304 ("But in order for such regulations to have the 'force and effect of law,' it is necessary to establish a nexus between the regulations and some delegation of the requisite legislative authority by Congress."). Accepting such logic would effectively convert the Procurement Act's limited procurement authority into a general license to regulate workplace practices whenever an indirect economic benefit is asserted, a position courts have rejected. See *Nebraska v. Su.*, 121 F.4th 1, 10 (9th Cir. 2024); *Louisiana v. Biden*, 55 F.4th at 1031–1032.

Some commenters noted that the National Labor Relations Act (NLRA)

protects certain workers from retaliation for engaging in "concerted activity," including wage discussions, and argued that those protections do not extend to all categories of workers, such as agricultural workers and supervisors. These commenters urged the Department to extend such protection to all contractor workers. But the NLRA's coverage is a reflection of Congress's deliberate policy judgment. If Congress determines that the scope of anti-retaliation protections should be expanded, then it may do so through legislation.

The Department declines to rely on attenuated procurement-efficiency reasoning to expand such protections beyond the boundaries Congress established. Even where a procurement-based nondiscrimination condition would not independently trigger the major questions doctrine, the Procurement Act requires that such a condition be justified by a sufficient nexus to procurement economy and efficiency. Any additional nondiscrimination requirement must produce benefits to procurement efficiency that are not outweighed by compliance costs that are passed on to the government. Absent a demonstrated, cost-justified connection to procurement economy and efficiency, novel nondiscrimination requirements may exceed the Procurement Act's authorization.

Accordingly, the Department concludes that while the Procurement Act would support procurement-based nondiscrimination conditions that operate as contractual assurances of compliance with existing Federal employment discrimination law and that are enforceable only through traditional contract remedies, the Procurement Act does not provide authority under E.O. 11246 to impose nondiscrimination requirements on recipients of Federal financial assistance, to establish new or expanded nondiscrimination standards, or to authorize administrative adjudication or monetary relief outside traditional procurement remedies, such as contract cancellation or debarment. At the same time, the Department recognizes that the Procurement Act supports nondiscrimination requirements applicable to contractors, provided such requirements are enforced through contract remedies, consistent with existing Federal civil rights law, and have a close nexus to the economy and efficiency of Federal procurement. Thus, nothing in this rule limits or questions the President's authority under the Procurement Act to impose nondiscrimination requirements on

Federal contractors through contract terms designed to promote economy and efficiency in procurement. To the contrary, properly tailored procurement conditions prohibiting discrimination in a manner consistent with existing Federal civil rights laws fall squarely within the traditional scope of that authority.

Finally, the Procurement Act delegates this power to the President, not the Department. See 40 U.S.C. 121(a). In E.O. 14173, the President rescinded his sub-delegation to the Department. 90 FR 8634. Executive Order 14398 authorizes other agencies, rather than the Department, to enforce the contract clause prohibiting race-based discrimination. 91 FR 16148. The Department thus lacks authority to enforce these nondiscrimination requirements across any other Federal agency.

3. Alternative Sources of Statutory Authority

Several commenters advanced alternative arguments in support of the regulations' legality. The Department has carefully considered these arguments and for the reasons explained below is unpersuaded.

a. Longevity of the Regulations

Nearly all comments opposing the rescission stressed the sixty-year duration of the regulatory regime under E.O. 11246, implying or explicitly arguing that the duration of the regulations supports their statutory authorization. The Department disagrees.

Because legislative power is vested in Congress, exercise of quasi-legislative authority by executive agencies must be rooted in an affirmative delegation of authority from Congress and remain subject to the limits Congress imposes. *Chrysler*, 441 U.S. at 302. An agency cannot acquire regulatory authority through historical practice, acquiescence, or inertia. See *United States v. Morton Salt*, 338 U.S. 632, 647 (1950). Where Congress has not authorized an agency to impose legally binding obligations, the mere longevity of a regulation does not cure the absence of statutory authority. As the *en banc* Fifth Circuit explained when holding that an agency lacked statutory authority to approve race- and sex-conscious hiring requirements for corporate boards: "The Executive cannot acquire authority forbidden by law through a process akin to adverse possession." *Alliance for Fair Board Recruitment v. SEC*, 125 F.4th 159, 184 (2024) (internal quotation marks and alterations omitted) (quoting *Biden v.*

Texas, 597 U.S. 785, 830 (2022) (Alito, J., dissenting)).

b. Titles VI and VII of the 1964 Civil Rights Act

Some commenters contended that generally applicable equal employment opportunity statutes—particularly Titles VI and VII of the Civil Rights Act of 1964—authorize or require compliance with the E.O. 11246 regulatory framework. For example, the AFL–CIO asserted that “EEO laws, which were passed by Congress, require compliance” with the regulations. However, neither Title VI nor Title VII “contain[] any express delegation of substantive lawmaking authority to the President [or the Department].” *Liberty Mut. Ins. Co. v. Friedman*, 639 F.2d 164, 172 (1981). As the Supreme Court explained, the relevant inquiry has “usually been put in terms of whether E.O. 11246 is consistent with these titles,” not whether they authorize the Order or its implementing regulations. *Chrysler*, 441 U.S. at 305 n.35.

As explained above, the Department’s regulations requiring affirmative action are inconsistent with Titles VI and VII. Under existing precedent, which may no longer be viable in light of *SFFA*, *Callais*, and other recent Supreme Court decisions, race- or sex-based affirmative action is permissible only where it is remedial of identified past discrimination and appropriately tailored to that objective. As explained earlier in Section III.B.3.a, OFCCP’s E.O. 11246 affirmative action regulations do not meet those requirements. Among other issues, the regulations do not require any finding or evidence of prior unlawful discrimination by the regulated contractor and instead mandate race- and sex-based employment measures on a non-remedial basis. Titles VI and VII therefore do not authorize such requirements.

Titles VI and VII likewise do not authorize OFCCP’s nondiscrimination enforcement regime. Congress assigned enforcement authority under Title VI to the DOJ and to agencies administering Federal financial assistance, subject to specific procedural and remedial limits. Congress assigned private-sector enforcement authority under Title VII to the EEOC, which lacks authority to adjudicate claims or award monetary relief in administrative proceedings and must pursue enforcement through Federal court. Neither statute assigns any enforcement or adjudicatory role to the Department of Labor with respect to private-sector employment discrimination.

c. Ratification Under the Equal Employment Act of 1972

NNU argued that Congress ratified the E.O. 11246 affirmative action regulations through enactment of the Equal Employment Opportunity Act of 1972, pointing to 42 U.S.C. 2000e–17. As an initial matter, Congress’s rejection of proposed provisions in the 1972 Act, which would have curtailed affirmative action efforts under E.O. 11246, does not constitute ratification. *Friedman*, 639 F.2d at 172. Legislative inaction or the failure to enact limiting amendments does not amount to affirmative approval of prior executive or agency action.

To effect ratification of prior agency action, Congress must recognize that the action was unauthorized when taken and must expressly ratify it in clear and unequivocal statutory language. *EEOC v. CBS, Inc.*, 743 F.2d 969, 974 (2d Cir. 1984). Legislative acquiescence, awareness, or accommodation is insufficient. Even statutory provisions that explicitly acknowledge existing agency practices do not ratify the agency’s underlying claim of authority unless they “expressly approved the agency’s interpretation.” *Tiger Lily, LLC v. HUD*, 992 F.3d 518, 524 (6th Cir. 2021) (holding that congressional recognition and temporary extension of an eviction moratorium did not ratify the agency’s unlawful imposition of the mandate); *accord Alabama Ass’n of Realtors v. HHS*, 539 F. Supp. 3d 29, 42 (D.D.C. 2021), *aff’d*, 594 U.S. 758 (“To [ratify], however, Congress must make its intention explicit.”).

Section 2000e–17, relied on by NNU, limits the circumstances under which a Federal agency may deny, withhold, terminate, or suspend a government contract where an employer has an affirmative action plan previously accepted by the Government, unless the employer is afforded a full administrative hearing. The provision is procedural and constraining in nature. It does not acknowledge that the E.O. 11246 regulations were unauthorized when adopted, nor does it confer authority to impose affirmative action or nondiscrimination requirements.

If anything, Section 2000e–17 restricts agencies’ use of procurement sanctions to enforce equal opportunity law. While the provision reflects congressional awareness that some contractors maintained AAPs under executive orders, it nowhere authorizes the Department or any other agency to require AAPs, much less race- or sex-based employment goals. Nor does it authorize any agency to seek monetary relief in administrative proceedings.

Accordingly, neither Section 2000e–17 nor any other provision of the Equal Employment Opportunity Act of 1972 provides statutory authorization for the E.O. 11246 affirmative action, nondiscrimination, or administrative adjudication regulations.

Finally, even if Congress had purported to ratify non-remedial race- or sex-based affirmative action requirements of the type imposed by OFCCP’s regulations, such ratification would not bind the Department, compelling it to retain regulations that raise serious constitutional concerns. After Congress has expressed approval of regulations, an agency “may well reach a different judgment given changed circumstances.” *Motor Vehicle Mfrs. Ass’n, Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 45 (1983). That is particularly the case with regulations at odds with recent constitutional jurisprudence. Because the regulations mandate race- and sex-based action without the findings and tailoring required under equal-protection principles, they would exceed the scope of constitutionally permissible affirmative action. Congress cannot ratify regulations that the Constitution itself forbids.

For these reasons, the Department concludes that none of the alternative sources of statutory authority identified by commenters authorizes the regulatory framework implementing E.O. 11246. The Procurement Act’s goal of ensuring an “economical and efficient” system of Federal procurement does not authorize E.O. 11246 regulations requiring affirmative action or empowering OFCCP to seek monetary relief through administrative proceedings. The Department agrees with the state attorneys general and other commenters that those portions of the regulatory framework lack statutory authorization and would therefore require rescission even if E.O. 11246 had not been revoked. At the same time, the Department recognizes that the Procurement Act may support certain nondiscrimination requirements applicable to contractors, to the extent such requirements are enforced through contract remedies, consistent with existing Federal civil rights law, and have a close nexus to the economy and efficiency of Federal procurement.

D. Effects of Rescission

Some commenters supported the rescission of the E.O. 11246 regulations on the grounds that rescission would yield favorable economic effects, including reduced compliance costs and regulatory burdens. Other commenters who opposed rescission contended that

the regulations generated cost savings or produced broader social benefits. The Department notes, however, that it need not justify rescission by weighing the practical or policy effects of eliminating the regulations implementing E.O. 11246. The Department is rescinding these regulations because they can no longer be lawfully maintained following the revocation of E.O. 11246. Moreover, that substantial portions of the regulatory framework are unconstitutional, inconsistent with Federal civil rights statutes, and unsupported by any clear grant of statutory authority provides additional grounds, which on their own support rescission.

An agency must consider and respond to significant comments that it receives during the comment period. *Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 96 (2015). “Significant comments are those ‘which, if true, raise points relevant to the agency’s decision and which, if adopted, would require a change in an agency’s proposed rule.’” *City of Portland, Oregon v. EPA*, 507 F.3d 706, 715 (D.C. Cir. 2007) (quoting *Home Box Office, Inc. v. FCC*, 567 F.2d 9, 35 n.58 (D.C. Cir. 1977)). Comments on any other aspect of the merits of the regulations cannot require a change in the result ordained by E.O. 14173’s revocation of E.O. 11246. Though not significant, comments related to the benefits and the alleged effects of rescinding the regulations will be discussed below.

Although not determinative of the result, the Department nonetheless concludes that rescission is ultimately beneficial. As explained below, rescinding these regulations reduces regulatory burdens and compliance costs for contractors, with resulting savings passed on to contracting Federal agencies and, ultimately, to consumers and taxpayers. Rescission also eliminates regulatory mandates that required or encouraged race- and sex-based decision-making, promoted racialized frameworks that divided Americans along immutable characteristics, and conflicted with the Nation’s commitment to equal treatment under the law. Moreover, the Department finds that the regulations at issue produced no discernible benefits that could justify their continuation and, at best, duplicated existing statutory protections under Federal civil rights law and agency procurement policies. At worst, they impose costly, divisive, and unnecessary requirements that undermine meritocracy and drive social division.

1. Social and Institutional Effects

In evaluating the effects of rescinding the regulations implementing E.O. 11246, the Department begins by considering social and institutional consequences of government-mandated consideration of race and sex in employment decision-making and processes.

Beyond being at odds with the Constitution’s equal protection principles, the Department is concerned that government policies that classify individuals by race foster resentment, erodes trust, and weakens shared civic identity that underpins a pluralistic society. *Cf. Hirabayashi v. United States*, 320 U.S. 81, 100 (1943) (“Distinctions between citizens solely because of their ancestry are by their very nature odious to a free people whose institutions are founded upon the doctrine of equality.”). The state attorneys general commented that the regulations’ affirmative action requirements pit races against each other, instill in the benefited races feelings of inferiority or entitlement, and normalize the notion that race is a proper consideration. The notion that race is a proper consideration can become self-reinforcing. The Department concludes that affirmative action requirements imposed through the E.O. 11246 regulations contributed to these corrosive effects by institutionalizing race- and sex-based classifications in employment decisions across a substantial segment of the American workforce. Such governmental requirements pit groups against one another, intensifying racial tension,⁴³ and they reorient workplace decision-making away from individual merit and toward group-based expectations. Rather than reducing racial consciousness, the E.O. 11246 affirmative action regulations heighten it by signaling that race is a relevant and appropriate factor in evaluating workers.

These problems are amplified by the arbitrary nature of racial and ethnic categories. *See, e.g., SFFA*, 600 U.S. at 216–17 (noting that racial categories such as “‘Hispanic,’ are arbitrary or undefined.”). In *SFFA*, when the Supreme Court asked, “how are applicants from Middle Eastern countries classified,” counsel for the University of North Carolina replied that he did not know. *Id.* The Department would have likewise

⁴³ As with college admissions, employment opportunities “are zero-sum. A benefit provided to some applicants but not to others necessarily advantages the former group at the expense of the latter.” *SFFA*, 600 U.S. at 218–19.

struggled to provide a well-founded answer to the same question, as individuals of Middle Eastern and North African ancestry were not included in OFCCP’s regulatory definition of “minorities.”⁴⁴ *See* 41 CFR 60–4.3.

The Department is also mindful of the stigma associated with race- and sex-based employment decisions. Employment systems that rely on numerical goals or benchmarks tied to race or sex may undermine confidence in merit-based outcomes and cast doubt on the achievements of women and minority workers by creating uncertainty as to whether their selections reflect job qualifications or race- and sex-based employment goals. Such goals “stamp minorities with a badge of inferiority.” *Adarand Constructors*, 515 U.S. at 241 (Thomas, J., concurring). Independent Women agreed that “the credibility of the very individuals those policies aim to support is put in question. Indeed, Americans are less likely to take women and minorities seriously when they believe those individuals were hired to fulfill a quota rather than because of their qualification or abilities.”

Taken together, the Department believes these considerations reinforce the Department’s conclusion that rescinding the regulations implementing E.O. 11246 promotes equal treatment under law and advances social cohesion by rejecting race- and sex-based decision-making in employment. Moving away from government-imposed racial classifications and toward neutral, merit-based standards supports workplace fairness and reduces division and conflict. The proposed rescission therefore represents an overdue course correction toward individual dignity and equality under the law.

2. Efficiency of Government Contracting

In the NPRM, the Department noted that rescinding the regulations will improve the efficiency of the Federal

⁴⁴ The categories available to contractors were set to change within the next few years. On March 29, 2024, OMB published Revisions to OMB’s Statistical Policy Directive No. 15: Standards for Maintaining, Collecting, and Presenting Federal Data on Race and Ethnicity, 89 FR 22182. SPD 15 was revised to, among other things, add Middle Eastern or North African (MENA) as a minimum reporting category, separate and distinct from the White category. OMB defined MENA as “Individuals with origins in any of the original peoples of the Middle East or North Africa, including, for example, Lebanese, Iranian, Egyptian, Syrian, Iraqi, and Israeli.” 89 FR 22191. OMB has set timelines by which federal agencies’ information collections that collect race and ethnicity data must be made consistent with the updated standards. Thus, if OFCCP continued to have authority to enforce as to race and ethnicity, it would have incorporated the MENA category into its data collection requirements.

contracting process and decrease employer burden, as contractors will no longer be required to undertake the E.O. 11246 requirements. Some commenters disagreed with this position and asserted that the E.O. 11246 regulations facilitated the adoption of workplace practices that help contractors recruit and retain talent, boost their profitability, and reduce their risk, thereby resulting in efficient and effective performance of government contracts.

The Department disagrees with these comments. Rather than promoting efficient and effective performance of government contracts, the requirements imposed significant and unnecessary burdens on contractors. For example, the AAP requirements set forth at 41 CFR 60–2.10 alone required contractors to create an organizational profile, conduct a job group analysis, and conduct an availability analysis, among other requirements, on an annual basis. Further, resolving cases under E.O. 11246’s framework often resulted in prolonged disputes about the legal sufficiency of the agency’s findings and proposed remedies. With these disputes, an E.O. 11246 discrimination case would take, on average, over three years to resolve. Many contractors would also hire legal representatives, consultants, and statistical experts to help resolve these matters, which resulted in greater expenditure of time and money. Even a technical violation allegation—such as a contractor’s alleged noncompliance with an affirmative action provision—would average over 14 months to resolve. Based on the cost-benefit analysis in Section IV(B) below, the elimination of these requirements will result in quantified annual savings and benefits of approximately \$996.37 million per year.

Many commenters agreed that these burdens were significant and unnecessary. Commenters representing contractors, including Associated Builders and Contractors (ABC), generally agreed. ABC emphasized that the regulations implementing E.O. 11246 impose substantial compliance costs on contractors by requiring them to develop, implement, and continuously update detailed AAPs. These costs are ultimately passed on to the Federal government through higher contract prices. ABC further contended that these regulatory requirements operated as a barrier to entry for small businesses that lack the resources to hire specialized consultants, human resources personnel, or legal counsel to maintain compliant AAPs. According to ABC, increases in regulatory burden correlated with declining small-business

participation in Federal contracting, reducing competition and driving up prices.

State attorneys general likewise commented that regulations implementing E.O. 11246 “create barriers to entry that newer or smaller market participants cannot surmount” because they “may simply not be sophisticated enough to make it through the complicated maze of affirmative action rules, plans, and audits or cannot afford the additional financial costs associated with compliance.” The Department finds persuasive ABC’s evidence that the regulations impose disproportionate burdens on smaller firms, reduce competition for government contracts, and increase costs to the government. The Department expects that rescinding these regulations would increase competition, which could result in cost savings to the government and taxpayers. Other commenters took the opposite view. For example, NWLC asserted that E.O. 11246 and its implementing regulations improve contracting efficiency because they are “critical mechanisms” for ensuring that contractors access a wider pool of talent. The Department disagrees. Contractors have strong incentives to recruit and retain qualified workers from the broadest possible labor pool. The Department finds no persuasive basis for concluding that contractors would otherwise forgo qualified talent absent race- or sex-based employment goals. And commenters have not identified any.⁴⁵

To the contrary, the E.O. 11246 affirmative action regulations diminish the role of merit and job-related qualification in requiring contractors to consider sex- and race-based employment goals and related requirements. E.O. 14398 discusses the inefficiencies of consideration of race and sex as opposed to merit in Federal contractors’ personnel decisions and the costs such inefficiencies pass on to the Federal Government.⁴⁶ The Department received over 300 similarly worded comments arguing that the regulations “have long forced federal contractors to make hiring and promotion decisions based on race and sex rather than merit.” One woman who believes she was passed over for promotion based on her race stated that she has “seen many

⁴⁵ Unlawful discrimination remains prohibited and subject to enforcement under Federal civil rights statutes and E.O. 14173, which directs contracting agencies to enforce Federal nondiscrimination standards against contractors through the procurement process.

⁴⁶ Addressing DEI Discrimination by Federal Contractors, Sec. 1, 91 FR 16147 (Mar. 31, 2026).

examples of incompetency and rampant costs simply because hiring and contracts were based on race or sex rather than qualifications.” State attorneys general explained that when government mandates require employers to prioritize characteristics such as race or sex—characteristics unrelated to skills or aptitude—the relative importance of merit-based considerations is diminished, with attendant costs to productivity and efficiency.

Some commenters, including labor organization and advocacy groups, argued that rescinding regulations requiring contractors to take action to meet race- and sex-based employment goals will result in fewer qualified minorities and women being hired or promoted. The Department disagrees. There are many talented, hardworking women and minority workers who succeed based on their qualifications and merit and would be hired or promoted regardless of whether contractors are subject to race- or sex-based employment goals. As noted above, the existence of race- and sex-based employment goals may undermine the standing of those individuals by calling into question whether their achievements are attributable to merit or to regulatory mandates.

NWLC relied in part on a General Services Administration survey purporting to show positive associations between diversity, equity, and inclusion efforts and workplace well-being. The Department finds this evidence unpersuasive. The survey is based on subjective self-reported responses, and it does not examine the specific regulatory requirements at issue here—namely, compliance with government-imposed race- and sex-based employment goals. It does not provide a reliable basis for evaluating the economic or competitive effects of the E.O. 11246 regulatory framework.

The AFL–CIO further warned that “[w]ith the removal of these procedures, contractors will have a much more complicated and potentially costly regulatory environment where they will need to be compliant with a host of state and local laws instead of the predictable federal requirements.” But E.O. 11246 did not preempt state and local anti-discrimination laws with a common purpose. *See Colo. Anti-Discrimination Comm’n v. Cont’l Airlines*, 372 U.S. 714, 725 (1963) (“It is impossible for us to believe that the Executive intended for its orders to regulate air carrier discrimination among employees so pervasively as to preempt state legislation intended to accomplish the

same purpose.”). The regulations implementing E.O. 11246 do not displace State or local employment and contracting laws that do not conflict with them, and contractors are required to comply with those laws regardless of whether Federal regulations remain in effect. Moreover, as several state attorneys general explained, the Federal regulatory framework has increasingly conflicted with state law. States including Indiana, Ohio, Florida, and Texas prohibit employers contracting with those states to have race- or sex-based hiring preferences of any sort. Those anti-discrimination provisions conflict with E.O. 11246 regulations that require employers to apply every good faith effort to satisfy race- and sex-based employment goals. As a result, it is the continued existence of E.O. 11246 regulations that creates needless confusion and tension with state law.

3. Effects on Employment Discrimination

Some commenters asserted that rescinding the regulations implementing E.O. 11246 will result in increased employment discrimination against minorities and women by contractors, contending that the enforcement framework established under Title VII of the Civil Rights Act of 1964 is insufficient to deter or remedy such discrimination.

In particular, these commenters argued that E.O. 11246 nondiscrimination regulations are broader in scope and applicability than civil rights laws enacted by Congress. For instance, they noted that Title VII does not apply to small businesses with fewer than 15 employees, whereas the E.O. 11246 nondiscrimination regulations apply to such small businesses, as long as they have more than \$10,000 in Federal contracts. Commenters also noted that E.O. 11246 had additional protections compared to Title VII. For example, the E.O. 11246 regulations included more details about what constitutes sex discrimination under the regulations and included sexual orientation and gender identity as protected bases.

As some commenters noted, the E.O. 11246 regulations also prohibit contractors from taking adverse employment actions against applicants or employees who inquire about, discuss, or disclose information about their pay or their co-workers’ pay, subject to certain limitations. The E.O. 11246 regulations’ administrative enforcement mechanism is also more expedient than Title VII’s enforcement framework through the Federal courts, where the defendant has substantially

greater rights. These points, however, only reinforce the Department’s determination that many aspects of OFCCP’s nondiscrimination regulations conflict with Title VII. *See* Section III(B)(3)(a).

The Federal Government will continue to enforce nondiscrimination requirements outside the Title VII framework through the procurement process. For example, E.O. 14173 directs agencies to combat illegal private-sector DEI preferences, mandates, policies, programs, and activities. Executive Order 14398 requires procuring agencies to ensure that contractors do not engage in unlawful race-based discrimination, placing enforcement responsibility with the contracting agencies themselves rather than OFCCP. Violation of this clause can lead to contract cancellation or debarment. Further, Federal agencies have long enforced nondiscrimination requirements in analogous contexts, including under Title VI for recipients of Federal financial assistance. Agency oversight over their own programs has operated for decades and provides a familiar and workable mechanism for addressing unlawful discrimination. Accordingly, the Department concludes that rescission of the E.O. 11246 nondiscrimination regulations will not weaken protections against unlawful discrimination and will instead align Federal procurement enforcement with established statutory frameworks and principles of agency accountability.

Commenters also noted that while the EEOC investigates charges of discrimination under Title VII, the Department conducted E.O. 11246 compliance evaluations in addition to complaint investigations. During these compliance evaluations, the Department reviewed contractors’ records and employment activity data (e.g., pay and hiring data) to determine whether contractors were meeting their nondiscrimination and affirmative action requirements. The commenters believed that these compliance evaluations allowed the Department to uncover and remedy discrimination that would otherwise remain undetected.

The Department also received several comments which asserted rescinding the E.O. 11246 regulations’ data collection and affirmative action requirements would weaken discrimination protections. Some commenters asserted that these requirements protected all workers, not just minorities and women. Commenters also believed that these requirements ensured that contractors were undertaking proactive, regular analyses of their workplace policies to identify

and remedy discriminatory barriers to equal employment opportunity.

The Department carefully reviewed these comments and disagrees with these commenters. First, commenters’ concerns about weakening protections and stopping E.O. 11246 compliance evaluations are unfounded. In addition to Title VII, contractors are subject to extensive employment discrimination laws at the local and state level. Further, while the Department conducted compliance evaluations pursuant to the E.O. 11246 regulations, it typically reviewed less than 2% of the contractor universe each year. As a matter of policy, the Department largely limited its compliance evaluations to larger contractors who already fall under Title VII’s employee thresholds.⁴⁷ Despite the extensive burden imposed by these compliance evaluations, the Department issued E.O. 11246 discrimination findings in 3% of cases. Even when discrimination was alleged, contractors often disputed the findings, asserting, for example, that the Department failed to adequately account for non-discriminatory reasons for hiring or pay disparities.

The Department also notes that one of the reasons for rescinding the E.O. 11246 regulations is to ensure that contractors are not using the E.O. 11246 requirements to justify illegal discrimination against workers. While the E.O. 11246 nondiscrimination obligations were designed to cover all protected groups, the regulations required affirmative action regarding only women and minorities. In effect, these requirements induced contractors to create policies and programs designed to account for race and sex in hiring and personnel decisions. In addition to being unlawful, using race- and sex-based preferences diminishes the importance of individual merit when making employment decisions. Several commenters agreed with this position, stating that the E.O. 11246 regulations conflicted with prohibitions against race and sex-based decision making or required contractors to prioritize demographic targets over individual merit and qualifications, ultimately undermining the

⁴⁷ DOL’s scheduling methodologies are available at <https://www.dol.gov/agencies/ofcccp/scheduling/Methodologies>. (Per DOL’s most recent methodology, “Methodology for Developing the Supply and Service Scheduling List FY 2025, Release—1,” employee count was one of numerous criterion used to determine the eligible pool of contractors. Specifically, for each parent company with at least one contract of \$50,000 anywhere in the organization, all U.S. establishments with at least 400 employees and U.S. territories with at least 50 employees were included in the eligible pool of contractors.)

foundational American principle of equal treatment.⁴⁸ By rescinding the E.O. 11246 regulations, the Department is restoring merit-based opportunity for the Federal contractor workforce and is ensuring that contractors are not engaging in discriminatory race- and sex-based preferences in their employment processes. Rather than weakening protections, the rescission is ensuring that civil rights protections extend to all workers.

4. Regulatory Alternative and Reliance Interests

The Department considered as a regulatory alternative rescinding the affirmative action requirements of the E.O. 11246 regulations while retaining OFCCP-administered nondiscrimination requirements that are consistent with Federal civil rights law and that could be authorized under the Procurement Act's authority to promote economy and efficiency in Federal contracting. Under this approach, OFCCP would have continued to enforce prohibitions on unlawful discrimination through the use of procurement remedies despite the elimination of affirmative action obligations. The Department also considered as an alternative modifying the regulations to state that the utilization goals are purely aspirational and contractors have no obligation to take action to meet race- and sex-based goals.

The Department concludes, however, that these alternatives are not available. Executive Order 14173 expressly revoked E.O. 11246 and withdrew the President's prior sub-delegation of Procurement Act authority to the Department of Labor for enforcement of nondiscrimination requirements in Federal contracting. Because the Department no longer possesses delegated authority under the Procurement Act to generally enforce contractor nondiscrimination obligations, it lacks a lawful basis to retain any piece of the OFCCP-administered nondiscrimination regulatory framework tied to E.O. 11246. Accordingly, partial rescission is not a legally viable alternative.

The Department also considered potential reliance interests implicated by rescission of the E.O. 11246 regulations. But E.O. 11246 has been

revoked and there can be no legitimate reliance on authorities that are no longer in force.

To the extent employees and applicants of contractors have a legitimate reliance interest in continued protection from unlawful employment discrimination, that interest is preserved because Title VII provides a comprehensive and well-established framework prohibiting employment discrimination. In addition, E.O. 14173 directs Federal procuring agencies to ensure that contractors do not engage in unlawful discrimination, and those agencies retain authority to enforce nondiscrimination requirements within their respective procurement programs. The Department therefore concludes that rescission will not diminish protections against unlawful discrimination. To the extent any individual may claim a reliance interest in being hired or promoted because of the E.O. 11246 affirmative action regulations, the Department concludes that such an individual has no cognizable reliance interest in having his or her race or sex be a consideration in employment opportunities.

5. Other Comments

The Department received several comments that generally supported or opposed the rescission without providing substantive comments on the proposal. The Department also received a comment requesting guidance on how contractors can comply with E.O. 14173's requirement to certify compliance with all applicable Federal anti-discrimination laws as well as guidance on how to ensure that employment practices are non-discriminatory. In response, the Department notes that the E.O. 11246 regulations were not promulgated pursuant to E.O. 14173 and that, in any event, compliance with E.O. 14173 is outside the scope of this rulemaking.

Some commenters presented alternatives to the rescission, including modifying E.O. 11246 rather than rescinding it altogether or replacing E.O. 11246 with a new Executive Order. The Department also received a comment claiming that the severability clause located at 41 CFR 60-1.48 should allow the Department to maintain the regulations related to pay transparency, despite the Department's proposed rescission of the remaining regulations, as pay transparency is facially neutral on the subjects of race, color, religion, sex, sexual orientation, gender identity, and national origin. The Department declines to adopt these recommendations. With the revocation of E.O. 11246, the Department no longer

has legal authority to enforce the E.O. 11246 implementing regulations. Therefore, the Department is rescinding the E.O. 11246 implementing regulations in their entirety. The pay transparency provisions at 41 CFR 60-1.4(a)(3), 60-1.4(b)(1)(3) and 60-1.35 are also part of this rescission, as they were issued as amendments to the E.O. 11246 regulations.⁴⁹

Alliance Defending Freedom (ADF) asserted that E.O. 11246 and its implementing regulations raised concerns for religious organizations seeking to serve as Federal contractors and subcontractors. Specifically, ADF asserted that many religious organizations' sincerely held beliefs precluded them from complying with certain aspects of E.O. 11246 and its implementing regulations, particularly those related to sex discrimination, sexual orientation, and gender identity. ADF believed that the Department's past rulemaking removed religious organizations' protections to exercise their religious beliefs when it came to personnel decisions and caused confusion about the scope of E.O. 11246's religious exemption provision. ADF also believed that rescinding the regulations would help address these concerns for religious organizations. Although the NPRM did not directly address these issues, the Department agrees that rescinding the E.O. 11246 implementing regulations will address confusion and uncertainty about the scope of the regulations and their alignment with other laws. It is the Department's view that the revocation of E.O. 11246 and the rescission of its implementing regulations eliminate the need for a religious employer exemption from E.O. 11246 in the first place. Since E.O. 11246 regulations no longer have the force of law, religious employers who are contractors do not need an exemption and may continue to exercise their sincerely held religious beliefs in the employment of individuals in their businesses, consistent with existing Federal civil rights law.

Another commenter also suggested that the Department revise its regulatory definition of "minority" at 41 CFR 60-4.3(a)(1)(d) because it believed that the criteria about who belongs in this group is unclear, specifically as to who belongs to a Hispanic minority group. In response, the Department notes that this definition will be rescinded, as it is part of the E.O. 11246 regulations. To the extent that this definition needs to be revisited in other parts of the agency's

⁴⁸ Note that some commenters were similarly concerned about the impact of the regulations on Federal contracting more broadly, noting concerns about race- and sex-based preferences in awarding contracts. While the E.O. 11246 regulations did contain some pre-award provisions at 41 CFR 60-1.29, DOL's enforcement focused on the nondiscrimination and affirmative action requirements for existing contractors.

⁴⁹ The pay transparency regulations were adopted pursuant to an amendment to section 202 of E.O. 11246. 80 FR 54934 (Sept. 11, 2015).

programs, such changes will be addressed separately from this rulemaking.

The commenter also recommended that the Department conduct a review of all rules to ensure compliance with the policy objectives of the current administration. In response, the Department notes that it has and will continue to review its rules for consistency with the policy objectives of the current administration. To the extent that the Department determines that additional regulatory changes are necessary, those changes will be pursued in a separate rulemaking.

Another commenter suggested that the Department reconsider rescinding the UGESP provisions at 41 CFR part 60–3. This commenter believed that UGESP promotes meritocracy in hiring and promotions, as it provides guidelines for determining which practices are job related and consistent with business necessity. In response, the Department notes that 41 CFR part 60–3 will be rescinded in its entirety, as these guidelines are part of the E.O. 11246 regulations. However, as noted in the NPRM and in this final rule, this rescission does not affect other agencies' application and interpretation of the UGESP provisions.⁵⁰

IV. Procedural Issues and Regulatory Review

A. Overview of Executive Orders

Executive Order 12866, “Regulatory Planning and Review,” 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated

entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. In accordance with E.O. 12866, the Department has determined that this final rule constitutes a “significant regulatory action” because it would have an annual effect on the economy of \$100 million or more. *See* E.O. 12866 sec. 3(f)(1). Accordingly, this final rule was submitted to OIRA for review under E.O. 12866. Below is an overview of the Department’s regulatory impact analysis conducted pursuant to E.O. 12866.

Executive Order 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (Jan. 21, 2011), directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits.

Executive Order 14192, “Unleashing Prosperity Through Deregulation,” was issued on January 31, 2025.⁵¹ This rule is considered a deregulatory action under E.O. 14192. Using a perpetual time horizon to allow for cost comparisons under that order, the Department estimates that the annualized cost savings amount to \$996.37 million in 2024 dollars, using a 7 percent discount rate.

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this rule as a “major rule,” as defined by 5 U.S.C. 804(2).

B. Review Under E.O. 12866

1. Executive Summary of Analysis

This final rule rescinds regulations implementing E.O. 11246, consistent with E.O. 14173’s revocation of that authority. Executive Order 14173, issued on January 21, 2025, revoked E.O. 11246 in its entirety and provided a 90-day transition period for compliance with existing regulations. That transition period has now expired.

The rescission eliminates compliance obligations that previously applied to 107,165 supply and service entities and 9,982 construction contractors, employing approximately 32 million workers. The benefits apply most directly to 9,982 construction contractors and a subset of supply and service contractors (101,850 entities) that meet the affirmative action thresholds (totaling approximately 111,832 contractor entities).⁵²

In the NPRM, the Department estimated annual cost savings of \$996.37 million based on an estimated reduction of 9,875,221 hours related to the E.O. 11246 requirements (*e.g.*, recordkeeping, reporting, and compliance costs). *See* 90 FR 28477. Commenters, however, identified additional sources of cost savings and related benefits not fully captured in that estimate. For example, some commenters, including ABC and several state attorneys general, asserted that rescission would increase participation among contractors, particularly small and medium-sized entities, thereby enhancing competition and generating downstream cost savings in Federal procurement. Other commenters emphasized difficult-to-quantify benefits, including improved hiring efficiency and productivity gains resulting from a renewed focus on merit-based employment decisions rather than efforts to conform workforces to demographic benchmarks. In light of these comments, the Department recognizes that the benefits of the final rule are likely broader than the quantified NPRM savings alone and, therefore, considers a wider range of economic and operational benefits as illustrative in its final analysis.

The Department maintains its estimate of \$996.37 million in quantifiable annual cost savings from reduced compliance burdens, as set forth in the NPRM.⁵³ At the same time, the Department believes that the overall cost savings associated with rescission are in all likelihood substantially greater. For example, commenters identified additional categories of economic effects not captured in the paperwork burden estimate, including (1) reduced litigation liability and risk; (2) improved hiring efficiency and labor

⁵⁰ The Department of Justice’s Office of Legal Counsel issued a memorandum on June 9, 2026, concluding that the UGESP “embrace an unconstitutional reading of Title VII.” DOJ, *Constitutionality of Disparate-Impact Liability Under Title VII*, 50 Op. O.L.C. ___, at 2 (June 9, 2026). Although the Department relied on different grounds in the NPRM for proposing to rescind part 60–3, namely the revocation of E.O. 11246, the OLC opinion further supports the Department’s decision to do so.

⁵¹ 90 FR 9065 (Feb. 6, 2025).

⁵² As noted above, the affirmative action thresholds for non-construction contractors are at least 50 employees and a Federal contract of at least \$50,000 and for construction contractors, a Federal contract of more than \$10,000 and any number of employees.

⁵³ Specifically, this final rule estimates \$996,373,776 in annual cost savings. This total differs slightly from the NPRM estimate of \$996,373,735 due to rounding.

productivity; and (3) reduced Federal procurement costs through increased competition.

The Department lacks sufficient data to quantify these additional effects with a reasonable degree of confidence. Accordingly, the Department discusses these impacts qualitatively and, where appropriate, provides illustrative calculations based on stated assumptions to convey their potential magnitude.

The only cost of the final rule is rule familiarization, which is likely negligible because the Department has not enforced the regulations for over a year following the revocation of E.O. 11246 in January 2025. Regulated entities have already adjusted their behavior and have no need to review this final rule.

a. Need for Regulatory Actions

The rescission of the E.O. 11246 implementing regulations is necessary to implement President Trump's mandate in E.O. 14173, which revoked the E.O. 11246 authority. In addition to E.O. 14173's revocation of E.O. 11246, the Department identified several other reasons for rescinding the regulations, including legal vulnerabilities related to the affirmative action requirements, improving the efficiency of the Federal contracting process, decreasing employer burden, and providing regulatory certainty to contractors and other stakeholders by aligning the regulations with recent executive orders impacting the Department's enforcement. *See* 90 FR 28472, 28474–28477 (July 1, 2025).

b. Regulatory Alternatives

This final rule imposes the least regulatory burden on contractors, as it rescinds all of the E.O. 11246 requirements (*see* estimated cost savings below). Alternatives include maintaining the E.O. 11246 implementing regulations or rescinding the affirmative action provisions while maintaining the nondiscrimination provisions. The Department considered these alternatives but concluded that these alternatives were not permissible because E.O. 14173 revoked the underlying E.O. 11246 authority in its entirety. Executive Order 14173 also only provided for a 90-day period in which contractors could continue to comply with the current regulatory scheme. *See* E.O. 14173 at Sec. 3(b)(i). This 90-day period has since passed. For that reason, rescinding the E.O. 11246 implementing regulations is the most appropriate regulatory action, as it aligns the regulations with the agency's legal authority and will provide clarity

to stakeholders about their current obligations.

c. Baselines

The baseline for this analysis assumes continued compliance with the rescinded regulations, including requirements to prepare and maintain annual AAPs, conduct demographic and statistical analyses, implement compliance-related practices across personnel processes (*e.g.*, hiring, promotion, compensation, and recordkeeping), respond to compliance evaluations, and bear associated legal and operational risks.

The entities affected by the final rule include supply and service contractors, construction contractors, and federally assisted construction contractors and subcontractors meeting applicable employee and contract dollar thresholds, across a wide range of industries. Compliance burdens are particularly significant for contractors operating multiple entities and for firms with limited administrative capacity relative to fixed regulatory costs.

Affected Universe: The affected universe includes 107,165 supply and service entities and 9,982 construction contractors. Employment at covered entities is estimated at approximately 32 million workers. These estimates are derived from available EEO–1 and USA Spending data.⁵⁴ The benefits apply most directly to 9,982 construction contractors and a subset of supply and service contractors (101,850 entities) that meet the affirmative action thresholds (totaling approximately 111,832 contractor entities). While construction contractors do not develop written AAPs, they are subject to the affirmative action requirements at 41 CFR part 60–4. Our analysis assumes that implementing and documenting these requirements imposes similar burdens as developing and maintaining a written AAP.

d. Potential Effects on Contract and Employment Distribution

The rescission of the E.O. 11246 implementing regulations may affect the distribution of Federal contract awards across firms and, correspondingly, employment opportunities across workers. Reducing affirmative action compliance obligations may lower

barriers to entry for some firms that were previously deterred from pursuing Federal contracting opportunities due to the costs, administrative complexity, or perceived litigation risks associated with the regulations.

These effects may be especially relevant for smaller firms and firms with more limited human resources, legal, or compliance infrastructure. As ABC and other commenters noted, preparing written affirmative action programs, conducting utilization analyses, maintaining documentation systems, and managing related compliance activities impose proportionally larger fixed costs on smaller entities. Such a pattern is consistent with empirical research finding that fixed regulatory compliance costs disproportionately reduce market participation by smaller firms.⁵⁵ To the extent smaller firms previously elected not to compete for Federal contracts, or limited their participation in covered contracting markets, rescission may increase their willingness or ability to participate in Federal procurement. As a result, some contract awards may shift toward firms that were previously less likely to compete under the E.O. 11246 regulatory framework.

Any such shifts could also affect the distribution of employment opportunities among workers employed by participating firms. For example, because minority- and women-owned businesses are disproportionately concentrated among smaller firms, barriers that fall most heavily on small businesses may also disproportionately limit minority- and women-owned enterprises' participation in Federal contracting.⁵⁶ The Department lacks sufficient data to quantify the magnitude of any resulting shifts in

⁵⁵ *See, e.g.*, Shikhar Singla, “Regulatory Costs and Market Power” (2023) (finding that increases in regulatory costs cause small firms to become smaller and large firms to become larger, contributing to increased concentration and reduced small firm participation); U.S. Senate Committee on Small Business and Entrepreneurship, “A Troubling Trend” (2023) (documenting an approximately 50 percent decline in the number of small business vendors participating in the Federal marketplace, from roughly 144,000 in FY2008 to between 65,000 and 75,000 by the early 2020s).

⁵⁴ U.S. Equal Employment Opportunity Commission, EEO–1 Employer Information Report Statistics, available at <https://www.eeoc.gov/data/eeo-1-employer-information-report-statistics> (estimates based on available 2020–2022 EEO–1 data); USA Spending Database, available at <https://www.usaspending.gov/> (estimates based on 2021–2023 USA Spending data). Following the revocation of E.O. 11246, OFCCP no longer has any use for EEO–1 data.

⁵⁶ *See* U.S. Census Bureau, Annual Business Survey (2025 release, reporting 2023 business ownership data), available at <https://www.census.gov/programs-surveys/abs.html>, and U.S. Census Bureau, Nonemployer Statistics (2023), available at <https://www.census.gov/data/datasets/2023/econ/nonemployer-statistics/2023-ns.html>. The data indicate that women-owned and minority-owned firms are disproportionately concentrated within smaller business size classes and among nonemployer businesses.

contract awards or employment outcomes.

e. Benefits of Rescission

This final rule rescinds the regulations implementing E.O. 11246, consistent with the revocation of the underlying Executive Order. The Department has examined the economic effects of this action and concludes that the rescission will result in substantial cost savings for contractors, as well as downstream benefits to Federal procurement markets and taxpayers.

The anticipated benefits of the rule go beyond quantifiable PRA-based cost savings for contractors. By eliminating the regulatory burdens of affirmative action requirements, the Department expects to foster increased competition and participation among contractors, particularly benefiting small and medium-sized businesses. This shift is expected to lead to lower Federal contracting costs, improved contractor performance, and a more efficient labor market, ultimately enhancing value for taxpayers while maintaining adherence to essential nondiscrimination laws.

2. Quantifiable Compliance Cost Savings

The July 1, 2025 NPRM estimated that the regulations implementing E.O. 11246 imposed approximately \$996.37 million⁵⁷ in quantifiable annual compliance costs, based on an estimated annual time burden of 9,875,221 hours. See 90 FR 28477.

The Department retains this estimate in the final rule as a measure of direct, quantifiable compliance costs. Commenters did not dispute the underlying methodology or the resulting estimate. This estimate derives from case data covering FY 2022 through 2024 and reflects the estimated time burden for the regulated community associated with preparing and maintaining written AAPs, demographic and statistical analyses, recordkeeping and reporting obligations, third-party disclosure and data submission requirements, audit response and investigation costs, and monetary remedies associated with conciliation agreements.

In computing the value of contractor time, the Department generally used a fully loaded hourly wage rate of \$99.11, which is consistent with prior analyses.⁵⁸ A higher rate of \$105.49 per

hour is applied to the AAP certification and Functional Affirmative Action Program (FAAP) burdens, consistent with prior analyses.⁵⁹

a. Supply and Service Contractors

The final rule eliminates requirements applicable to approximately 101,850 covered supply and service contractor establishments.

Recordkeeping. Contractors are no longer required to develop, update, and maintain written E.O. 11246 AAPs. Prior to the revocation of E.O. 11246, first-time contractors (approximately 1,019 annually) spent an estimated 108 hours developing an E.O. 11246 AAP, while existing contractors (approximately 100,832 establishments) spent 47 hours annually updating their programs. All covered establishments also incurred ongoing maintenance burdens (47 hours annually). In addition, contractors with 1 to 14 employees incurred limited recordkeeping obligations under 41 CFR part 60–3 (approximately 1,019 establishments at 2 hours each). In total, rescission eliminates approximately 9,638,144 hours of annual recordkeeping burden, valued at \$955,236,452.

Reporting. Historically, OFCCP conducted approximately 845 supply and service compliance evaluations each year. Each such compliance evaluation imposed an estimated 37.5 hours of burden on the contractor to respond to the scheduling letter. Applying a proportional attribution to E.O. 11246 requirements, rescission eliminates approximately 22,182 hours of reporting burden, valued at \$2,198,458 annually.

AAP Certification. New contractors (approximately 1,019 annually) previously spent approximately 0.42 hours certifying their compliance with the AAP requirements, while existing contractors (approximately 100,832 establishments) spent approximately 0.13 hours annually recertifying. The

for Management Analysts. The calculation uses a 60/40 split between Human Resources Managers and Management Analysts, which equals \$68.35. Fringe benefits and overhead costs are calculated as 45 percent of wages. $\$68.35 \times 1.45 = \$99.11$. See Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, https://www.bls.gov/oes/current/oes_nat.htm.

⁵⁹ The AAP certification and FAAP calculations described below assume Human Resources Managers will play a larger role in these compliance activities and use an 80/20 split between Human Resources Managers and Management Analysts, which equals \$72.75. Fringe benefits and overhead costs are calculated as 45 percent of wages. $\$72.75 \times 1.45 = \$105.49$. See Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, https://www.bls.gov/oes/current/oes_nat.htm.

final rule eliminates approximately 13,536 hours of burden, valued at approximately \$1,427,913 annually (at \$105.49 per hour).

Conciliation Costs. Contractors resolving compliance findings through E.O. 11246 conciliation agreements incurred monetary costs. Based on recent agreements, the Department estimates approximately \$17,443,922 in annual conciliation-related costs associated with E.O. 11246 requirements that would be eliminated. Additional E.O. 11246 complaint-related conciliation costs are estimated at \$104,059 annually.

Complaint Investigations. Approximately 15 E.O. 11246 complaint investigations annually imposed an estimated 192.4 hours of burden per case, resulting in 2,950 hours eliminated, valued at \$292,408 annually.

Operating Costs. Paper submission costs associated with supply & service compliance evaluations (copying and mailing) are estimated at \$9,603 annually.

Total supply and service contractor cost savings: \$976,712,815 annually.

b. Construction Contractors

The final rule eliminates compliance requirements applicable to approximately 9,982 construction contractors.

Recordkeeping. Contractors are no longer required to maintain documentation demonstrating compliance with affirmative action obligations, including incorporation of contract clauses, solicitation notices, employment record retention, and compliance with equal opportunity specifications. These changes eliminate approximately 102,875 hours of annual burden, valued at \$10,195,941.

Reporting. Compliance evaluation reporting burdens are reduced by approximately 3,660 hours annually, valued at \$362,783. In addition, contractors are no longer subject to the construction award notification requirements at 41 CFR 60–4.2, removing approximately 18,125 hours of burden, valued at \$1,796,369.

Operating Costs. Paper submission costs associated with construction award notifications and compliance evaluations are reduced by approximately \$3,376 annually.

Total Construction Savings: \$12,358,469 annually.

c. Functional Affirmative Action Program Requirements

The E.O. 11246 regulations at 41 CFR 60–2.1(d)(4) permitted contractors to establish an AAP based on functional or

⁵⁷ This final rule estimates \$996,373,776 in quantifiable annual cost savings. This total differs slightly from the NPRM estimate of \$996,373,735 due to rounding.

⁵⁸ The calculations are based on Bureau of Labor Statistics wage estimates of \$77.15 per hour for Human Resources Managers and \$55.15 per hour

business units rather than establishments, provided they enter into an agreement with OFCCP on the use of this functional AAP (FAAP) structure. Costs related to entering or renewing these FAAP agreements previously imposed approximately 1,160 hours of burden annually, valued at approximately \$122,368.

d. Pre-Complaint Inquiry and Complaint Submissions

OFCCP estimates an average of 1,125 annual E.O. 11246 pre-complaint inquiry and complaint intake submissions and estimates that it takes an individual 0.26 hours to provide the intake information. This amounts to 295 total hours eliminated, valued at approximately \$15,132.

e. Supply & Service and Construction Compliance Evaluations

Compliance Evaluation Investigations. Approximately 56 annual technical violation cases imposed 588.8 hours of additional burden per case, resulting in 33,090 hours eliminated, valued at \$3,279,550. And approximately 32 annual discrimination cases imposed 1,238 hours per case, resulting in 39,203 hours eliminated, valued at approximately \$3,885,442.

f. Total Quantified Compliance Cost Savings

Across all affected parties, based on the above analysis, the Department estimates that the final rule eliminates approximately 9,875,221 hours of annual burden. The 10-year quantifiable cost savings amount to \$8,499,270,061 at a 3% discount rate or \$6,998,112,173 at a 7% discount rate. Using a perpetual time horizon to allow for cost comparisons under E.O. 14192, the Department estimates that the annualized cost savings amount to \$996,373,776 in 2024 dollars, using a 7 percent discount rate.⁶⁰

3. Illustrative Cost-Savings and Benefits

The Department also considered three additional categories of cost savings identified by commenters as illustrative of additional savings: (1) reduced litigation liability and risk; (2) improved hiring efficiency and labor productivity; and (3) reduced Federal procurement costs through increased competition. The Department does not have sufficient data to quantify these effects with precision but nonetheless believes they may be substantial. In the absence of comprehensive data, the Department

relies on stated assumptions and provides illustrative estimates based on those assumptions to convey the potential magnitude of these beneficial effects.

a. Legal Liability and Litigation Risk Reduction

The affirmative action regulatory regime created exposure to private litigation risk under Title VII of the Civil Rights Act of 1964 and analogous state laws. The Department believes that the required use of demographic classifications, placement goals, and race- or sex-conscious decision-making create additional avenues for legal challenge since these types of actions have been subject to judicial scrutiny and litigation alleging discrimination against non-minority or male employees.

Recent legal developments further increase forward-looking exposure. In *SFFA*, the Supreme Court applied strict scrutiny to race-conscious decision-making, and courts and commenters have recognized that similar reasoning may be applied in employment contexts under Title VII and Section 1981. Early post-*SFFA* litigation and enforcement trends reflect increased challenges to employer diversity, equity, and inclusion programs and race-conscious employment practices. For instance, the Department of Justice filed a lawsuit against Minnesota's race-and sex-based affirmative action laws and regulations, which use similar underutilization analysis and employment goals. *Complaint, United States v. Minnesota*, case no. 26-cv-00273, Doc. 1 (D. Minn. Jan. 14, 2026).

Industry estimates further suggest that the typical U.S. firm faces approximately a 12 percent probability of being subject to an employment-related lawsuit each year.⁶¹ The Department lacks sufficient data to quantify the extent to which this rule would reduce litigation risk and costs. Nonetheless, the Department believes the rule may reduce certain categories of litigation exposure and legal uncertainty.

b. Hiring Delays, Labor Misallocation, and Productivity Effects

Commenters, including ABC, Independent Women, and CEI, reported that AAP compliance requirements lengthen hiring workflows by introducing additional procedural steps and documentation obligations, particularly in time-sensitive or

deadline-driven occupations where managers would otherwise prefer speed. Commenters also reported that the requirements constrain managerial discretion in candidate selection and internal mobility.

These requirements may impose economic costs through three primary channels:

- Extended vacancies, resulting in foregone output or increased reliance on overtime;
- Delayed production or project completion, particularly in capital-intensive and project-based operations; and
- Labor misallocation, in which hiring frictions or procedural constraints lead to suboptimal worker-job matches and reduced productivity.

To estimate the scale of hiring subject to potential delay, the Department relies on data from the Bureau of Labor Statistics (BLS) Job Openings and Labor Turnover Study (JOLTS).

In 2024, the annual average hires rate (hires in a month as a percentage of employment) was 3.4%.⁶²

• *Interpreted on an annual basis, this implies:* $0.034 \times 12 = 0.408$ hires per worker per year.

• *Applying this rate to covered employment yields:* $32,000,000 \times 0.408 = 13,056,000$ hires annually.

This figure represents the baseline annual flow of hires at covered establishments potentially affected by regulation-induced hiring frictions.

Industry benchmarking indicates that median time-to-fill for non-executive positions is approximately 44 days, with average values above 50 days.⁶³ However, AAPs tend to encompass substantive elements that alter contractors' hiring processes. Part 60–2 provides that an AAP is a “management tool” and is “more than a paperwork exercise;” it encompasses policies, practices, and procedures throughout the employment process. Proponents and opponents of written AAP requirements can generally agree that several commonly recommended AAP best practices tend to increase recruiting costs and often lengthen time-to-fill relative to a “post-and-select” process.

These practices include: (1) expanding outreach beyond passive job postings to additional sourcing channels (e.g., targeted career fairs and recruitment programs at institutions with more diverse candidate pools,

⁶² U.S. Bureau of Labor Statistics, Annual average hires rates by industry and region, not seasonally adjusted, available at <https://www.bls.gov/news.release/jolts.t18.htm>.

⁶³ SHRM, “Talent Trends Report, 2025,” available at <https://www.shrm.org/topics-tools/research/2025-talent-trends>.

⁶⁰ This total differs slightly from the NPRM estimate of \$996,373,735 due to rounding.

⁶¹ Hiscox, “Guide to Employee Lawsuits: Employee Charge Trends Across the United States” (2015), at 4.

including HBCUs); (2) relationship-based pipeline development with underrepresented communities; (3) assembling more diverse candidate slates, which may require additional sourcing when initial applicant pools or shortlists are not diverse; (4) increased use of structured interviews, panels, standardized rubrics, and related training for hiring managers; and (5) additional monitoring, self-analysis, and documentation steps associated with written AAP compliance. Each step can add calendar time to a standard hiring workflow.

Indeed, to comply with affirmative action obligations related to E.O. 11246 and prepare for potential OFCCP compliance evaluations, covered contractors are advised to undertake a number of time-intensive activities during recruitment. These include devoting additional time and resources to race-conscious recruitment efforts intended to increase the representation of particular demographic groups in applicant pools.⁶⁴ Before a contractor can start recruiting for a vacant position, they are advised to establish and document basic qualifications for the position and train interviewers on compliance requirements.⁶⁵ During recruitment, contractors are further advised to devote substantial time to tracking and documenting applicant information, consideration decisions, and disposition outcomes at each stage of the process, including for minimally qualified applicants who have little realistic prospect of being hired.⁶⁶ Taken together, these additional steps delay the initiation of recruitment efforts, slow the progression of candidates through the hiring pipeline, and lengthen the overall time required to fill vacant positions.

The Department does not assume that any single practice is required in every hiring decision; rather, the incremental delay estimates reflect the combined effect of compliance-oriented recruiting, screening, documentation, and review practices that E.O. 11246 regulations describe as integral to AAPs, and that contractors report implementing in order to satisfy those requirements in practice. For illustrative purposes, if, in

the aggregate, these practices result in just one additional calendar day to fill each of the 13,056,000 annual hires among the approximately one-fifth of the U.S. workforce covered by the E.O. 11246 implementing regulations, there would result in 13,056,000 employee-days of extended vacancies.

To contextualize the magnitude of potential hiring delays, the Department converts median earnings into an implied daily labor value. The median weekly earnings for full-time wage and salary workers are \$1,235 in 2026.⁶⁷ Assuming a five-day workweek, this corresponds to an implied daily wage of approximately \$247. Under the Department's illustrative assumption that compliance-related hiring practices extend time-to-fill by one additional calendar day for each of the estimated 13,056,000 annual hires at covered establishments, the resulting 13,056,000 employee-days of extended vacancies would correspond to approximately \$3.2 billion in delayed labor utilization on an undiscounted basis. This estimate is illustrative and is intended to contextualize the scale of potential delay, rather than quantify a precise economic loss. If hiring delays are shorter or longer than one day, this loss estimate would increase or decrease proportionally.

Earnings is an intermediate result toward the goal of estimating worker surplus, which is a net value amount that accounts for the opportunity cost of time and effort. Bartik (2013)⁶⁸ estimates such net value to range from 8 to 32 percent of earnings. Based on this finding, we assign a midpoint value of 20 percent to total earnings to quantify the social benefit derived from increased earnings. Applying the 20 percent estimate of societal value to the additional earnings increase of \$3.2 billion yields a societal benefit of \$654 million annually. Moreover, a benefit accruing to broader society, in the form of taxes collected on the additional earnings, is estimated as 17 percent of

those additional earnings, or \$548 million annually.⁶⁹

Beyond vacancy duration, commenters, including state attorneys general, claimed that hiring practices that do not focus on merit can reduce match quality. Economic research suggests that mismatches between workers and job requirements can impose meaningful productivity costs. Empirical research on CEO-firm matching finds that mismatches between a firm's needs and the skills of its chief executive officer are associated with large productivity losses: in a sample of approximately 4,800 manufacturing firms across 42 countries, firms that had leaders whose skills were poorly aligned with firm needs exhibited productivity up to 20 percent lower than well-matched firms.⁷⁰ While such extreme outcomes are not assumed here, the evidence indicates that even modest distortions in hiring decisions can impose real economic costs.

Public comments similarly described perceived inefficiencies associated with employment decisions based on demographic considerations rather than qualifications. Although these accounts are anecdotal and do not provide systematic evidence, they reflect broader concerns that hiring processes that deemphasize merit may lead to suboptimal worker-job matches and cause productivity losses. The Department does not attempt to quantify these losses but believes that they will be mitigated by this final rule.

c. Reduced Competition and Federal Procurement Market Effects

Compliance obligations associated with AAP requirements impose fixed and quasi-fixed costs that do not scale proportionally with firm size. As ABC and other commenters noted, such regulatory costs tend to weigh more heavily on small and medium-sized firms, for which compliance expenses represent a larger share of revenues and managerial capacity. Economic theory and regulatory guidance recognize that such fixed costs can discourage entry and participation by smaller firms and may alter market structure over time.⁷¹

⁶⁴ See, e.g. Temple University Affirmative Action Program (Nov. 1, 2023), available at: https://diversity.temple.edu/about-ideal/units/equal-opportunity-compliance/university-policies-resources/affirmative-action?utm_source=chatgpt.com (advertising in publications that target Black and Hispanic audiences).

⁶⁵ See Berkshire, Affirmative Action Planning: How to Ensure a Compliant Recruiting Process (Nov. 16, 2023), available at: <https://www.berkshireassociates.com/blog/how-to-ensure-a-compliant-recruiting-process>.

⁶⁶ *Id.*

⁶⁷ U.S. Bureau of Labor Statistics, Usual Weekly Earnings of Wage and Salary Workers First Quarter 2026 (Apr. 16, 2026), available at: <https://www.bls.gov/news.release/pdf/wkyeng.pdf>.

⁶⁸ Bartik, T., "Social Costs of Jobs Lost Due to Environmental Regulations," Upjohn Institute Working Paper 13–193, Kalamazoo, MI: W.E. Upjohn Institute for Employment Research (2013); <https://doi.org/10.17848/wp13-193>. A revised version of this paper has been published as Bartik, T., "The Social Value of Job Loss and Its Effect on the Costs of U.S. Environmental Regulations," Review of Environmental Economics and Policy 9, No. 2 (2015). Illustration of use of estimates from the revised version appears in and near Table 26 of the Food and Drug Administration's Nicotine Preliminary Regulatory Impact Analysis, <https://www.fda.gov/media/185035/download?attachment>.

⁶⁹ The source for the 17 percent input is <https://aspe.hhs.gov/sites/default/files/documents/639756a60f7e51786bceec176ad52f1/Standard-RIA-Values-2025.pdf>.

⁷⁰ Axel Dahlstrand, David László, Helena Schweiger, Oriana Bandiera, Andrea Prat, and Raffaella Sadun, "CEO-Firm Matches and Productivity in 42 Countries," NBER Working Paper No. 33324 (Jan. 2025), available at <https://www.nber.org/papers/w33324>.

⁷¹ Office of Mgmt. & Budget, Exec. Office of the President, OMB Circular A–4, Regulatory Analysis (Sept. 17, 2003), available at <https://>

When OFCCP established the written E.O. 11246 AAP thresholds in the late 1960s and early 1970s, the \$50,000 contract threshold and 50-employee threshold were intended to exempt small businesses from detailed AAP requirements while focusing enforcement resources on larger contractors.⁷² However, the E.O. 11246 AAP thresholds have never been adjusted for inflation. A \$50,000 contract in 1968—when the contract threshold was first established—would be equivalent to approximately \$450,000 in 2024 dollars.⁷³ Similarly, a \$50,000 contract in 1971—when Revised Order No. 4 formalized the written AAP requirements—would be equivalent to approximately \$385,000 in 2024 dollars.⁷⁴ This failure to index the thresholds to inflation has dramatically expanded regulatory coverage over time, bringing many small and medium-sized businesses within the scope of AAP requirements that would have been considered exempt under the original regulatory design.

Public comments submitted during the rulemaking process suggest that regulatory burden has contributed to a decline in the number of small business contractors over the past decade.⁷⁵ The Department does not attribute this decline to AAP requirements alone but evaluates how fixed compliance costs may contribute to reduced participation and bidding intensity in Federal procurement markets.

A substantial body of empirical and theoretical research in auction theory and public procurement economics finds that reduced competition leads to higher prices, and that bidder participation is a central determinant of procurement outcomes. McAfee and McMillan (1987) establish in their foundational literature survey that increasing the number of bidders intensifies competition and reduces expected procurement costs across

auction formats,⁷⁶ while Klemperer (1999) provides a comprehensive review confirming this relationship holds across diverse auction mechanisms.⁷⁷

The Department cannot estimate a constant elasticity of price with respect to bidder participation because empirical studies reveal important nonlinear patterns in this relationship. Brannman, Klein, and Weiss (1987) demonstrate in their analysis of timber auctions that the price reduction from adding a second or third bidder substantially exceeds the effect of adding additional bidders beyond that point.⁷⁸ Li and Perrigne (2003) find similar nonlinear competition effects in timber sale auctions.⁷⁹ This body of evidence indicates that preserving competition has the greatest price impact when preventing bidder counts from falling to very low levels. Federal oversight bodies have similarly recognized that small business participation increases bidder counts and competitive pressure in procurement markets.⁸⁰

In recent fiscal years, total Federal contract obligations have averaged approximately \$750 billion annually.⁸¹ Federal law establishes a goal that 23 percent of Federal contract obligations be awarded to small businesses.⁸² This yields an affected procurement volume of approximately \$172.5 billion per year in markets where small and medium-sized firms are plausible competitors.

To the extent that fixed compliance costs reduce small business participation in Federal contracting, procurement prices may increase through reduced competitive pressure. Given the nonlinear relationship between bidder participation and prices documented in the empirical literature, even modest reductions in competition among marginal bidders can generate measurable price effects.

⁷⁶ R. Preston McAfee and John McMillan, "Auctions and Bidding," 25 *Journal of Economic Literature* 699 (1987).

⁷⁷ Paul Klemperer, "Auction Theory: A Guide to the Literature," 13 *Journal of Economic Surveys* 227 (1999).

⁷⁸ Lance Brannman, J. Douglas Klein, and Leonard W. Weiss, "The Price Effects of Increased Competition in Auction Markets," 69 *Review of Economics and Statistics* 24 (1987).

⁷⁹ Tong Li and Isabelle Perrigne, "Timber Sale Auctions with Random Reserve Prices," 85 *Review of Economics and Statistics* 189 (2003).

⁸⁰ U.S. Government Accountability Office, *Federal Contracting: Opportunities Exist to Increase Competition and Assess Reasons When Only One Offer Is Received*, GAO-10-833 (2010).

⁸¹ U.S. Government Accountability Office, *Federal Government Contracting: FY 2024 Snapshot*, GAO-25-105538 (2024).

⁸² Small Business Administration, *Small Business Procurement Scorecard* (2024), available at <https://www.sba.gov/federal-contracting/contracting-data/small-business-procurement-scorecard>.

4. Costs of the Final Rule; Rule Familiarization Costs

The Department expects that Human Resources Managers or Management Analysts at each contractor establishment may spend time becoming familiar with the provisions in the final rule. The Department estimates that it will take one hour for a Human Resources Manager or Management Analyst to read the final rule. This estimate likely overstates the actual burden of rule familiarization. Since the revocation of E.O. 11246 in January 2025, the Department has ceased enforcing the regulations. As a result, this final rule largely maintains the status quo, and in many cases may not require any review by regulated entities.

The Department estimates an average hourly wage rate of \$99.11 based on a 60/40 split between Human Resources Managers (\$77.15) and Management Analysts (\$55.15), resulting in an average hourly wage of \$68.35. The Department applies a 45 percent rate for fringe benefits and overhead costs, leading to a total hourly wage rate of \$99.11 ($= \$68.35 \times 1.45$).⁸³

Consequently, the estimated burden for rule familiarization is 117,147 hours ($= 107,165$ supply and service establishments $+ 9,982$ construction contractors $\times 1$ hour). The total estimated cost is \$11,610,439 ($= 117,147$ hours $\times \$99.11/\text{hour}$) in the first year. Over the 10-year analysis period, the annualized rule familiarization costs are estimated at:

- *\$1.3 million at a discount rate of 3 percent*
- *\$1.5 million at a discount rate of 7 percent*

The Department does not anticipate significant adjustment costs beyond rule familiarization, as rescission eliminates obligations rather than imposing new requirements. Contractors may choose to maintain certain employment practices previously undertaken for AAP compliance, but such practices would be voluntary and presumably

⁸³ U.S. Bureau of Labor Statistics, *Occupational Employment and Wage Statistics*, May 2024 National Occupational Employment and Wage Estimates, available at https://www.bls.gov/oes/current/oes_nat.htm (reporting mean hourly wage of \$77.15 for Human Resources Managers (SOC 11-3121) and \$55.15 for Management Analysts (SOC 13-1111)). The blended rate applies a 60/40 weighting to these occupations, yielding a weighted average hourly wage of \$68.35. U.S. Bureau of Labor Statistics, *Employer Costs for Employee Compensation*, December 2024, available at <https://www.bls.gov/news.release/ecec.toc.htm> (fringe benefits and overhead costs equal 45 percent of wages). Loaded blended rate: $\$68.35 \times 1.45 = \$99.11$.

www.whitehouse.gov/wp-content/uploads/2025/08/Circular-A-4.pdf.

⁷² Office of Federal Contract Compliance Programs, Revised Order No. 4, *Affirmative Action Programs*, 36 FR 23152, 23153 (Dec. 4, 1971) (explaining that written AAP requirements apply to contractors "of a specified size" to focus enforcement on larger contractors while recognizing administrative limitations of smaller entities).

⁷³ U.S. Bureau of Labor Statistics, *CPI Inflation Calculator*, available at https://www.bls.gov/data/inflation_calculator.htm (converting \$50,000 in 1968 to 2024 dollars yields approximately \$450,000).

⁷⁴ *Id.* (converting \$50,000 in 1971 to 2024 dollars yields approximately \$385,000).

⁷⁵ Comment of Associated Builders and Contractors at 2.

maintained only where contractors judge them to be cost-effective.

5. Net Benefits and Distribution

The Department estimates quantifiable cost savings of approximately \$996.37 million annually from reduced paperwork and compliance burdens. Over a 10-year period, these savings are estimated at \$8.5 billion using a 3 percent discount rate and \$7.0 billion using a 7 percent discount rate. As discussed above, this estimate likely understates total compliance-related cost savings. In addition, the Department provides illustrative estimates of further economic benefits associated with rescission.

Costs associated with this rule are limited to rule familiarization, which the Department estimates at a one-time cost of \$11.6 million. Annualized over a 10-year period, these costs are approximately \$1.3 million at a 3 percent discount rate and \$1.5 million at a 7 percent discount rate.

Overall, the Department concludes that the rule will generate substantial net benefits, even when considering only quantifiable savings, with additional unquantified benefits reinforcing this conclusion.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

The Department reviewed this final rule under the provisions of the Regulatory Flexibility Act. The Department has determined that a Final Regulatory Flexibility Analysis is not required because this rule is not expected to have a “significant economic impact on a substantial number of small entities” within the meaning of the Regulatory Flexibility Act. The Act directs agencies, where such impacts exist, to consider steps “to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes,” 5 U.S.C. 604(a)(6), reflecting Congress’s concern with regulatory compliance burdens imposed on small entities. *Cf. Mid-Tex Electric Cooperative v. FERC*, 773 F.2d 327, 343 (D.C. Cir. 1985) (explaining that “the costs of compliance with uniform regulations to small businesses were the

focus of congressional concern”). “Congress envisioned that the relevant ‘economic impact’ was the impact of compliance with the [agency’s] rule on regulated small entities.” *Id.* at 348.

This final rule has no compliance impacts on small entities and instead rescinds existing regulatory burdens, thereby eliminating associated reporting, recordkeeping, compliance, and administrative costs. Small entities, including small Federal contractors and subcontractors, within the scope of the rescinded requirements may experience economic effects from this rule. However, those effects are expected to be beneficial due to burdens and barriers to participation being eliminated. Because the rule does not impose compliance obligations or associated costs of the type the RFA is designed to address and that agencies must take steps to “minimize,” the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Department will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act

The purpose of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. *See* 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by OMB under the

PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 44 U.S.C. 3512.

To comply with E.O. 14173, the Department modified OMB # 1250–0002, “Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor.”⁸⁴ The modifications removed E.O. 11246 elements from the agency’s pre-complaint inquiry and complaint forms. The information collection still covers complaints under Section 503 and VEVRAA.

E. Review Under E.O. 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. E.O. 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

The Department has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Review Under E.O. 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements:

⁸⁴ Following the revocation of E.O. 11246, the Department sought emergency approval from OMB to remove items related to E.O. 11246 from OFCCP’s pre-complaint inquiry and complaint forms. OMB approved the request on July 2, 2025. The Department also responded to public comments on the changes and received OMB approval for the revised collection on Feb. 23, 2026. *See* 91 FR 168 (Jan. 2, 2026); Notice of Action at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202512-1250-001.

(1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether the applicable standards are met or if it is unreasonable to meet one or more of these standards. The Department has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Sec. 201, Public Law 104–4 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a)–(b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

The Department examined this final rule according to UMRA and its statement of policy and determined that the final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any 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.

I. Review Under E.O. 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (March 18, 1988), the Department has determined that this final rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002). The Department has reviewed this final rule under the OMB guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under E.O. 13175

The Department has examined this final rule and determined that it does not have any tribal implications under E.O. 13175 that would require a tribal summary impact statement. It does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.”

L. Review Under Additional Executive Orders and Presidential Memoranda

This final rule ensures compliance with E.O. 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” which directs OFCCP within the Department to immediately cease promoting “diversity,” holding Federal contractors and subcontractors responsible for taking “affirmative action,” and allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin. This final rule also ensures compliance with E.O. 14398, “Addressing DEI Discrimination by Federal Contractors.” E.O. 14398 prohibits contractors from racial discrimination in connection with work performed on contracts and places enforcement responsibility with procuring agencies rather than with the Department. This final rule is also consistent with E.O. 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” which directs Federal agencies to modify regulations or policies that use the terms “gender” and “gender identity.” This final rule also aligns with E.O. 14281, “Restoring Equality of Opportunity and Meritocracy,” which directs Federal agencies to deprioritize enforcement of all statutes and regulations to the extent they include disparate impact liability. Further, it supports the objectives of E.O. 14192, “Unleashing Prosperity Through Deregulation,” E.O. 14275, “Restoring Common Sense to Federal Procurement,” E.O. 14267, “Reducing Anti-Competitive Regulatory Barriers,” and Presidential Memorandum, “Directing the Repeal of Unlawful Regulations,”⁸⁵ by alleviating unnecessary regulatory burdens, amending the Federal Acquisition Regulations to ensure they contains only provisions required by statute or are otherwise necessary to support simplicity and usability, strengthen the efficacy of the procurement system, or protect economic or national security interests, and removing regulatory requirements that could have created barriers to entry for contractors who are new market participants. This final rule

⁸⁵ Presidential Memorandum on Directing the Repeal of Unlawful Regulations, 2025 Daily Comp. Pres. Doc. 466 (Apr. 9, 2025).

is designated as an E.O. 14192 deregulatory action.

List of Subjects

41 CFR Part 60–1

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Labor, Reporting and recordkeeping requirements.

41 CFR Part 60–2

Equal employment opportunity, Government procurement, Reporting and recordkeeping requirements.

41 CFR Part 60–3

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government property management, Individuals with disabilities, Labor, Reporting and recordkeeping requirements, Veterans.

41 CFR Part 60–4

Construction industry, Equal employment opportunity, Government procurement, Reporting and recordkeeping requirements.

41 CFR Part 60–20

Civil rights, Equal employment opportunity, Government procurement, Labor, Sex discrimination, Women.

41 CFR Part 60–30

Administrative practice and procedure, Civil rights, Equal employment opportunity, Government contracts, Government procurement, Government property management, Individuals with disabilities, Reporting and recordkeeping requirements, Veterans.

41 CFR Part 60–40

Freedom of information, Reporting and recordkeeping requirements.

41 CFR Part 60–50

Equal employment opportunity, Government procurement, Religious discrimination, Reporting and recordkeeping requirements.

41 CFR Part 60–999

Reporting and recordkeeping requirements.

For the reasons stated in the preamble, and under the authority of E.O. 14173, 90 FR 8633 (Jan. 31, 2025), the Department amends chapter 60 in title 41 of the Code of Federal Regulations as follows:

PART 60—1 [REMOVED AND RESERVED]

- 1. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–1.

PART 60—2 [REMOVED AND RESERVED]

- 2. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–2.

PART 60—3 [REMOVED AND RESERVED]

- 3. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–3.

PART 60—4 [REMOVED AND RESERVED]

- 4. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–4.

PART 60—20 [REMOVED AND RESERVED]

- 5. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–20.
- 6. Revise 41 CFR Part 60–30 to read as follows:

PART 60—30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS

General Provisions

Sec.

- 60–30.1 Applicability of this part.
- 60–30.2 Waiver, modification.
- 60–30.3 Computation of time.
- 60–30.4 Form, filing, service of pleadings and papers.

Prehearing Procedures

- 60–30.5 Administrative complaint.
- 60–30.6 Answer.
- 60–30.7 Notice of prehearing conference.
- 60–30.8 Motions; disposition of motions.
- 60–30.9 Interrogatories, and admissions as to facts and documents.
- 60–30.10 Production of documents and things and entry upon land for inspection and other purposes.
- 60–30.11 Depositions upon oral examination.
- 60–30.12 Prehearing conferences.
- 60–30.13 Consent findings and order.

Hearings and Related Matters

- 60–30.14 Designation of Administrative Law Judges.
- 60–30.15 Authority and responsibilities of Administrative Law Judges.
- 60–30.16 Appearances.
- 60–30.17 Appearance of witnesses.
- 60–30.18 Rules of evidence.
- 60–30.19 Objections; exceptions; offer of proof.
- 60–30.20 Ex parte communications.
- 60–30.21 Oral argument.
- 60–30.22 Official transcript.
- 60–30.23 Summary judgment.
- 60–30.24 Participation by interested persons.

Post-Hearing Procedures

- 60–30.25 Proposed findings of fact and conclusions of law.
- 60–30.26 Record for recommended decision.
- 60–30.27 Recommended decision.
- 60–30.28 Exceptions to recommended decisions.
- 60–30.29 Record.
- 60–30.30 Administrative order.

Expedited Hearing Procedures

- 60–30.31 Expedited hearings—when appropriate.
- 60–30.32 Administrative complaint and answer.
- 60–30.33 Discovery.
- 60–30.34 Conduct of hearing.
- 60–30.35 Recommended decision after hearing.
- 60–30.36 Exceptions to recommendations.
- 60–30.37 Final Administrative order.
- 60–30.38 Severability.

Authority: 29 U.S.C. 793, as amended and 38 U.S.C. 4212, as amended.

General Provisions

§ 60–30.1 Applicability of this part.

This part provides the rules of practice for all administrative proceedings instituted by the Office of Federal Contract Compliance Programs (OFCCP), including but not limited to proceedings instituted against construction contractors or subcontractors, which relate to the enforcement of equal opportunity under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, and section 503 of the Rehabilitation Act of 1973 (section 503), as amended. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

§ 60–30.2 Waiver, modification.

Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him, modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 60–30.3 Computation of time.

In computing any period of time under this part or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

§ 60–30.4 Form, filing, service of pleadings and papers.

(a) *Form.* The original of all pleadings and papers in a proceeding conducted under the regulations in this part shall

be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless otherwise ordered for good cause by the Administrative Law Judge regarding specific papers and pleadings in a specific case, all such papers and pleadings are public documents.

(b) *Service.* Service upon any party shall be made by the party filing the pleading or document in accordance with 29 CFR part 26. When a party is represented by an attorney, the service shall be upon the attorney.

(c) *Proof of service.* A certificate of the person serving the pleading or other document, setting forth the manner of service, shall be proof of the service.

Prehearing Procedures

§ 60–30.5 Administrative complaint.

(a) *Filing.* The Solicitor of Labor, Associate Solicitor for Labor Relations and Civil Rights Regional Solicitors and Regional Attorney upon referral from OFCCP, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, shall be designated as the plaintiff.

(b) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(c) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the

complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. An amended answer shall be responded to within 14 days of its service.

§ 60–30.6 Answer.

(a) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney, and served on the Government in accordance with § 60–30.4(b).

(b) *Contents; failure to file.* (1) The answer shall:

(i) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or

(ii) State that the defendant admits all the allegations of the complaint.

(2) The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing.

(3) The answer shall contain the name and address of the defendant, or of the attorney representing the defendant.

(4) Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(c) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision and to file briefs in support of the exceptions.

§ 60–30.7 Notice of prehearing conference.

The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days and shall serve a notice of prehearing conference on the parties. The notice shall contain the time and place of the conference.

§ 60–30.8 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon

and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(b) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: Provided, That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

§ 60–30.9 Interrogatories, and admissions as to facts and documents.

(a) *Interrogatories.* Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whoever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory.

(b) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either:

(1) Denying specifically the matter as to which an admission is requested; or

(2) Setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(c) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

§ 60–30.10 Production of documents and things and entry upon land for inspection and other purposes.

(a) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and, which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

§ 60–30.11 Depositions upon oral examination.

(a) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to

every other party to the proceeding, and may use an administrative subpoena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(b) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(c) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable

to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: Provided, That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(d) *Subscription; certification; filing.* The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order of the Administrative Law Judge for good cause shown.

(e) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the Administrative Law Judge finds:

(i) That the witness is dead; or

(ii) That the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(iii) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(iv) Upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 60–30.12 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the issues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(3) Stipulations, admissions of fact and of contents and authenticity of documents;

(4) Limitation of number of witnesses;

(5) Scheduling dates for the exchange of witness lists and of proposed exhibits; and

(6) Such other matters as may tend to expedite the disposition of the proceedings.

(b) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 60–30.13 Consent findings and order.

(a) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(b) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(1) That the order shall have the same force and effect as an order made after full hearing;

(2) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(3) That any further procedural steps are waived; and

(4) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(c) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Administrative Law Judge for his consideration; and

(2) Inform the Administrative Law Judge that agreement cannot be reached.

(d) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based upon the agreed findings, and his decision shall constitute the final Administrative order.

Hearings and Related Matters

§ 60–30.14 Designation of Administrative Law Judges.

Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and papers shall be filed with the Chief Administrative Law Judge.

§ 60–30.15 Authority and responsibilities of Administrative Law Judges.

The Administrative Law Judge shall propose findings and conclusions to the Secretary of Labor (Secretary) on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(b) Require parties to state their position with respect to the various issues in the proceeding;

(c) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;

(d) Administer oaths;

(e) Rule on motions, and other procedural items or matters pending before him;

(f) Regulate the course of the hearing and conduct of participants therein;

(g) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(h) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(i) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under this part which may include:

(1) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it from introducing designated matters in evidence;

(2) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(3) Expelling any party or person from further participation in the hearing;

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(l) Recommend whether the respondent is in current violation of the order, regulations, or its contractual obligations, as well as the nature of the relief necessary to insure the full enjoyment of the rights secured by the order;

(m) Issue subpoenas; and

(n) Take any action authorized by this part.

§ 60–30.16 Appearances.

(a) *Representation.* The parties or other persons or organizations participating pursuant to this part have the right to be represented by counsel.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an

election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

§ 60–30.17 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpoena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

§ 60–30.18 Rules of evidence.

In any hearing, decision, or administrative review conducted pursuant to this part, all evidentiary matters shall be governed by Office of Administrative Law Judges' Rules of evidence at 29 CFR part 18, subpart B.

§ 60–30.19 Objections; exceptions; offer of proof.

(a) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the

record may be relied upon subsequently in the proceedings.

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

(c) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 60–30.20 Ex parte communications.

The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision in the case, except as witness or counsel in the proceeding.

§ 60–30.21 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

§ 60–30.22 Official transcript.

The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

§ 60–30.23 Summary judgment.

(a) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without

supporting affidavits for a summary judgment upon all claims or any part.

(b) *For defendant.* The defendant may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(c) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(d) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(e) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(f) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further

proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

§ 60–30.24 Participation by interested persons.

(a)(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state:

- (i) Petitioner's interest in the proceedings;
- (ii) Who will appear for petitioner;
- (iii) The issues on which petitioner wishes to participate; and
- (iv) Whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: Provided, That the representative of a labor organization qualifying to participate under paragraph (a)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The Administrative Law Judge shall give written notice to each party of each petition granted.

(b)(1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before

the commencement of the final hearing with the Administrative Law Judge.

Such petition shall concisely state:

- (i) The petitioner's interest in the hearing;
- (ii) Who will represent the petitioner; and
- (iii) The issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this section.

(2) An amicus curiae may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

Post-Hearing Procedures

§ 60–30.25 Proposed findings of fact and conclusions of law.

Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received no later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

§ 60–30.26 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

§ 60–30.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Administrative Review Board, United States Department of Labor, for a final

Administrative order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

§ 60–30.28 Exceptions to recommended decisions.

Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Administrative Review Board, United States Department of Labor, for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

§ 60–30.29 Record.

After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a decision, which shall be the Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

§ 60–30.30 Administrative order.

After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a decision which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated VEVRAA, section 503, the equal opportunity clauses at 41 CFR 60–300.5 or 60–741.5, the VEVRAA regulations in 41 CFR part 60–300, or section 503 regulations in 41 CFR part 60–741, an Administrative order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative order shall result in the immediate cancellation, termination, and suspension of the respondent's contracts and/or

debarment of the respondent from further contracts.

Expedited Hearing Procedures

§ 60–30.31 Expedited hearings—when appropriate.

Expedited hearings may be used, *inter alia*, when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

§ 60–30.32 Administrative complaint and answer.

(a) Expedited hearings shall be commenced by filing an administrative complaint in accordance with § 60–30.5. The complaint shall state that the hearing is subject to these expedited hearing procedures.

(b) The answer shall be filed in accordance with § 60–30.6(a) and (b).

(c) Failure to request a hearing within the 20 days provided by § 60–30.6(a) shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor, U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with § 60–30.36.

(d) If a request for a hearing is received within 20 days as provided by § 60–30.6(a), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

§ 60–30.33 Discovery.

(a) Any party may serve requests for admissions in accordance with § 60–30.9(b) and (c).

(b) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(c) For good cause shown, and upon motion made in accordance with § 60–30.8, the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

§ 60–30.34 Conduct of hearing.

(a) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(b) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

§ 60–30.35 Recommended decision after hearing.

Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended decision shall be served on all parties and amici to the proceeding.

§ 60–30.36 Exceptions to recommendations.

Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by

other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Briefs or exceptions and responses shall be served simultaneously on all parties to the proceeding.

§ 60–30.37 Final Administrative order.

After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue an Administrative order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues an Administrative order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this section, § 60–30.30 shall be applicable to this section.

§ 60–30.38 Severability.

Should a court of competent jurisdiction hold any provision(s) of this part to be invalid, such action will not affect any other provision of this part.

PART 60–40 [REMOVED AND RESERVED]

■ 7. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–40.

PART 60–50 [REMOVED AND RESERVED]

■ 8. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–50.

PART 60–999 [REMOVED AND RESERVED]

■ 9. Under the authority of E.O. 14173, remove and reserve 41 CFR Part 60–999.

Dated: August 19, 2026.

Kenneth Wolfe,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2026–17114 Filed 8–20–26; 8:45 am]

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Part III

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Parts 60–30 and 60–741

Modifications to the Regulations Implementing Section 503 of the
Rehabilitation Act of 1973, as Amended; Interim Final Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60–30 and 60–741

[Docket No. OFCCP–2025–0003]

RIN 1250–AA18

Modifications to the Regulations Implementing Section 503 of the Rehabilitation Act of 1973, as Amended

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor is revising its implementing regulations for Section 503 of the Rehabilitation Act of 1973, as amended (Section 503). The revisions align the regulations with applicable law and recent executive orders, including Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” and Executive Order 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative.”

DATES: This rule is effective September 21, 2026, except for amendatory instruction 1 (amendment to 41 CFR part 60–30) which is effective on December 21, 2026.

FOR FURTHER INFORMATION CONTACT: Kenneth Wolfe, Director, OFCCP, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0101. Email: ofccp_guidance@dol.gov.

SUPPLEMENTARY INFORMATION:**I. Executive Summary**

The U.S. Department of Labor (DOL) enforces Section 503, which prohibits covered Federal contractors and subcontractors (“contractors”)¹ from discriminating against employees and applicants because of their disability status and also requires certain contractors to take “affirmative action” to employ and advance in employment qualified individuals with disabilities. 29 U.S.C. 793. The Section 503 implementing regulations include specific affirmative action requirements at 41 CFR part 60–741, subpart C.

On July 1, 2025, DOL published a Notice of Proposed Rulemaking (NPRM)

for the Section 503 implementing regulations. 90 FR 28494 (July 1, 2025). In the NPRM, DOL proposed removing the implementing regulations’ cross-references to Executive Order (E.O.) 11246, “Equal Employment Opportunity,” which was revoked by E.O. 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity,” on January 21, 2025. For the reasons described in the background section below, DOL also proposed rescinding (1) the regulations at 41 CFR 60–741.42, which required contractors to ask applicants and employees to identify their disability status; (2) the related data collection requirements at 41 CFR 60–741.44(k); and (3) the utilization requirements at 41 CFR 60–741.45.²

DOL has carefully reviewed public comments on these proposed changes. As set forth in the preamble below, DOL is largely adopting its NPRM revisions, with a clarification related to the requirement to measure the effectiveness of affirmative action efforts. Additionally, the final rule makes several necessary technical corrections to the regulations. Specifically, since the publication of the NPRM, the basic coverage threshold for Section 503 increased from \$15,000 to \$20,000 in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025). Therefore, in the final rule, DOL is making technical revisions to the basic coverage threshold throughout the Section 503 regulations. The final rule also includes additional technical revisions, such as corrections to typographical errors in the existing regulations and updates to website addresses, as several of the web pages have moved or are no longer available at the listed website addresses.

II. Background*A. The Section 503 Implementing Regulations and 2013 Revisions*

The Section 503 regulations’ basic nondiscrimination and recordkeeping requirements apply to contractors with a government contract in excess of \$20,000.³ Regulations at 41 CFR 60–741.40(b) further require contractors

with 50 or more employees and a Federal contract or subcontract of \$50,000 or more to develop and maintain an affirmative action program (AAP), where they must implement and document their affirmative action efforts on an annual basis.

In 2013, DOL made extensive revisions to the regulations implementing Section 503, including major changes to the affirmative action provisions in 41 CFR part 60–741, subpart C. *See* 78 FR 58682 (Sept. 24, 2013). Notably, the 2013 rule revised the regulations to include, at 41 CFR 60–741.45, a 7 percent utilization goal for individuals with disabilities.⁴ Additionally, in the 2013 rulemaking, DOL added a utilization analysis provision at 41 CFR 60–741.45(d), which requires contractors to annually evaluate their utilization of individuals with disabilities against the 7 percent utilization goal. If a contractor’s utilization is less than the 7 percent utilization goal, the regulations at 41 CFR 60–741.45(e)–(f) require the contractor to take steps to determine “whether and where impediments to equal employment opportunity exist” and to develop and execute “action-oriented programs” designed to correct any identified problem areas.

The 2013 rule also modified the Section 503 regulatory requirement for contractors to inquire about an applicant or employee’s disability status (hereinafter referred to as the “disability inquiry requirement”).⁵ Prior to the 2013 rule, the regulations required contractors to inquire about an individual’s disability status after making an offer of employment to a job applicant, but before the applicant began his or her employment. 78 FR 58682, 58690–95 (Sept. 24, 2013). The 2013 rule expanded the scope of this requirement. Specifically, the 2013 rule added the requirement at 41 CFR 60–741.42(a) that contractors inquire about whether an applicant believes that he or she is an individual with a disability at

⁴ The 7 percent utilization goal applies to each of the job groups in the contractor’s workforce. However, if a contractor has a total workforce of 100 or fewer employees, the regulations provide the option to measure the representation of individuals with disabilities in a contractor’s entire workforce, rather than in each job group. The Section 503 regulations require contractors to conduct the utilization analysis using the same job groups established for their analyses under E.O. 11246. As discussed in more detail below, this requirement is now unworkable due to the revocation of E.O. 11246.

⁵ The regulations frame these requirements as an “invitation to self-identify.” *See* 41 CFR 60–741.42. However, as discussed in section III(A)(2) below, this “invitation” amounts to an employer-initiated disability inquiry that is impermissible under the Americans with Disabilities Act (ADA).

¹ Hereinafter, the terms “contractor” or “Federal contractor” are used to refer collectively to Federal contractors and subcontractors that fall under OFCCP’s authority, unless otherwise expressly stated. This approach is consistent with OFCCP’s regulations, which define “contract” to include subcontracts and “contractor” to include subcontractors. *See* 41 CFR 60–741.2.

² Hereinafter, “utilization requirements” refers to the utilization goal and utilization analyses set forth in 41 CFR 60–741.45, unless otherwise stated.

³ Effective October 1, 2025, the basic coverage threshold under Section 503 increased from \$15,000 to \$20,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

the pre-offer stage of the hiring process. The 2013 rule also added the requirement at 41 CFR 60–741.42(c) that contractors inquire about whether an employee believes he or she is an individual with a disability every 5 years and provide a reminder at least once during the 5-year period that each employee may “voluntarily” update his or her disability status. In conjunction with the 2013 rule, DOL created a prescribed form (the CC–305 form) for contractors to use when making disability inquiries. The most recent version of the CC–305 form provides three response options: (1) Yes, I have a disability or have had one in the past; (2) No, I do not have a disability and have not had one in the past; and (3) I do not want to answer.⁶

The 2013 rule also created additional data collection requirements at 41 CFR 60–741.44(k), which require contractors to document and maintain specific computations or comparisons pertaining to applicants and hires with disabilities. Additionally, the 2013 rule made several changes to conform the regulations with the Americans with Disabilities Act Amendments Act (ADAAA) of 2008. *See* 78 FR 58682, 58687–58712 (Sept. 24, 2013) (describing changes necessitated by the ADAAA such as revisions to the definition of “disability”).

B. Need for the Rulemaking

In the NPRM, DOL proposed rescinding the disability inquiry requirement at 41 CFR 60–741.42 and the related data collection requirements at 41 CFR 60–741.44(k). DOL also proposed rescinding the utilization goal requirements at 41 CFR 60–741.45. Consistent with these proposed changes, DOL also proposed removing various cross-references and language related to these requirements.

DOL also proposed removing the Section 503 regulations’ cross-references to E.O. 11246, which was revoked by E.O. 14173 on January 21, 2025. For example, the Section 503 regulations, at 41 CFR 60–741.65(b), incorporated the E.O. 11246 administrative proceeding procedures at 41 CFR part 60–30. With the revocation of E.O. 11246, DOL proposed removing these cross-references and adding the administrative proceeding provisions directly into the Section 503 regulations. In a separate rulemaking, DOL proposed similar changes to the Vietnam Era Veterans’ Readjustment Assistance Act (VEVRAA) regulations.

90 FR 28485 (July 1, 2025). As the administrative proceeding procedures would be incorporated directly into the Section 503 and VEVRAA regulations, the 41 CFR part 60–30 regulations would be duplicative and unnecessary. Therefore, DOL also proposed rescinding 41 CFR part 60–30 using a delayed effective date.⁷

In the NPRM, DOL identified several reasons for the proposed changes. Specifically, DOL provided that while the Section 503 regulations state that the use of quotas is prohibited, contractors may, in practice, be induced to use quotas to meet the utilization goal. DOL also detailed concerns that the disability inquiry requirement at 41 CFR 60–741.42 and utilization goal requirements at 41 CFR 60–741.45 were inconsistent with the ADA. *See* 90 FR 28494 (July 1, 2025); *See also* ADA Discussion at Section III(A)(2) below.

Further, DOL noted that the Section 503 utilization analysis requirements are now unworkable, as they are dependent on requirements promulgated under E.O. 11246, which was revoked. Specifically, 41 CFR 60–741.45(d)(2) requires contractors to conduct the utilization analysis using the same job groups established for their analyses under E.O. 11246. The utilization goal also requires knowledge of disability status, which results in impermissible disability inquiries under the ADA. In addition, the utilization analysis and disability inquiry requirements are not required by the statutory text of Section 503. *See* 29 U.S.C. 793 (which refers to “affirmative action” generally but does not statutorily prescribe specific efforts or methods to achieve affirmative action).⁸

⁷ As noted above, DOL also proposed correcting typographical errors in the regulations. For example, DOL proposed correcting a typographical error in 41 CFR 60–741.46(d) (correcting the spelling of “Veterans”). As noted in the executive summary, the final rule is also updating outdated jurisdictional thresholds and other information such as outdated web addresses.

⁸ The 93rd Congress both enacted Section 503 as an affirmative action statute and amended VEVRAA to include a similar affirmative action requirement. *Compare* 29 U.S.C. 793, with 38 U.S.C. 4212. A conference committee report issued in connection with the VEVRAA amendments explains that the 93rd Congress understood affirmative action to encompass “goals and timetables” under certain circumstances. S. Conf. Rep. No. 1240, 93rd Cong., 2nd Sess. 1974, *reprinted in* 1974 U.S.C.A.N. 6336, 6343–44, 1974 WL 11633. To the extent commenters argue this legislative history requires utilization goals under Section 503, DOL disagrees. DOL must interpret the statute based on “what the statute means,” not “what the legislature meant.” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018) (quoting *Schwegmann Brothers v. Calvert Distillers Corp.*, 341 U.S. 384, 397 (1951) (Jackson, J., concurring)). At their own discretion, contractors remain free to conduct utilization analyses. In doing so, contractors should ensure they are acting in

By rescinding these burdensome requirements, DOL is also fulfilling E.O. 14219’s mandate to rescind regulations that are not authorized by clear statutory authority. *See* E.O. 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” 90 FR 10583 (Feb. 25, 2025).

III. Discussion

A. Public Comments

On July 1, 2025, DOL published an NPRM in the **Federal Register** (90 FR 28494) proposing to revise the Section 503 implementing regulations. DOL invited written comments on the NPRM through September 2, 2025. DOL received requests from some commenters to extend the comment period. In response, DOL extended the comment period through September 17, 2025. *See* 90 FR 42712 (Sept. 4, 2025).

DOL received 651 comment submissions in response to the NPRM.⁹ DOL received some comments in favor of the NPRM and some comments against the NPRM. Commenters represented a wide range of stakeholders including individuals, employer associations, consultants, law firms, governmental entities, education and research centers, political organizations, public policy organizations, and various disability and disabled veteran organizations. DOL addresses the public comments by topic in the sections below.

1. Public Comments Addressing the Need for the Rulemaking

DOL received numerous comments addressing the need for the rulemaking. Some commenters questioned the need for the rulemaking, asserting that DOL’s concerns about the disability inquiry and utilization goal requirements were speculative or unsupported by evidence. For example, several commenters disagreed with DOL’s assertion that the utilization goal could, in practice, induce the use of quotas. Commenters cited the current regulations’ express prohibition on quotas found at 41 CFR 60–741.45(h) and past agency guidance that highlighted the prohibition against quotas. Commenters also stated that contractors were not penalized for failing to meet the goal and asserted that even if the goal resulted in a quota, a person without a disability would not have standing to challenge the goal.

accordance with all applicable laws and regulations, including the ADA.

⁹ The “comments received” count on *regulations.gov* is higher, as some commenters counted their comment as more than one submission.

⁶ *See* Form CC–305, available at https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202306-1250-001&icID=200170.

Some commenters also believed that the regulations already align with the administration's focus on promoting meritocracy.

DOL disagrees with these comments. As set forth in section III(A)(2) below, the current regulatory framework is not supported by the statutory text of Section 503, and conflicts with the plain text of the ADA's nondiscrimination standards, which are incorporated into the Rehabilitation Act. *See* 29 U.S.C. 793(d). OFCCP has an obligation to ensure agency action complies with the law independent of whether non-disabled individuals have standing to challenge the utilization requirements. The current requirements also impose significant burdens on and create confusion among contractors.

Further, while some commenters claimed that DOL's concerns over the disability inquiry and utilization requirements were speculative or unsupported by evidence, DOL's past enforcement of these requirements supports the need for the rulemaking. Since implementing the revised Section 503 regulations in 2013, DOL received numerous inquiries from stakeholders about the permissibility of the disability inquiry in light of privacy concerns. While failing to meet the utilization goal is not a violation in itself, DOL routinely issued violations if contractors failed to conduct the utilization analysis or failed to execute "action-oriented programs" to address underutilization of individuals with disabilities, as set forth in 41 CFR 60–741.45. Since fiscal year 2020, DOL issued over 75 violations related to these issues. Contractors therefore faced a non-speculative risk of enforcement if they did not conduct utilization analyses, which as a practical matter required employer-initiated inquiries into applicants' and employees' disability status. As explained above, DOL can no longer enforce a disability inquiry requirement—or utilization analysis requirement that relies on the data yielded from such inquiries—that it interprets as conflicting with the ADA.

DOL also received comments from various stakeholders who agreed with the need for the rulemaking. One commenter, who identified himself as an individual with a disability, stated that he had deep concerns about the way the current regulatory framework has been applied in practice. This commenter explained that the disability inquiry requirement has not created meaningful progress and believed that the disability data contractors obtained through this process was unreliable because many employees with non-obvious disabilities, including the

commenter, often chose not to disclose their disability status for various reasons, including stigmatization or the fact that they did not trust the process to result in real change. This commenter also discussed the ineffectiveness of the utilization goal and stated that in practice, companies treat this requirement as a "box-checking exercise." This commenter stated that "the focus is on compliance paperwork, not dismantling the systemic barriers that keep people with disabilities from being hired, promoted, or retained equitably."

In this same vein, another commenter, a lawyer, also believed that the disability inquiry requirement lacked utility. He also disagreed with the utilization goal. He believed that the goal was poorly constructed, as the goal applied uniformly to all job groups, even though individuals with disabilities are typically not distributed uniformly across job groups. The commenter also expressed concerns about the burden imposed by these requirements and the liability concerns pertaining to recruitment and hiring managers improperly using disability information.

Another commenter, a 501(c)(3) research and education foundation, urged adherence to the plain text of the ADA. This commenter agreed that DOL's proposed changes in the NPRM address ongoing conflicts between the Rehabilitation Act's goals and the privacy protections central to the ADA, and clarify compliance expectations, reduce administrative burdens on contractors, and ensure that protections for individuals with disabilities remain robust yet consistent with merit-based employment principles.

2. Inconsistencies With the ADA

The NPRM expressed DOL's concerns that the disability inquiry requirement is inconsistent with the ADA and that the utilization goal, as structured, depends on that unlawful disability inquiry framework. After considering the comments related to these issues, DOL concludes that these concerns are well founded and that the NPRM reflects the best interpretation of the governing Section 503 framework.

a. Section 503's Existing Regulatory Structure Requires Disability Inquiries That Contravene the Plain Language of the ADA

The ADA's prohibitions apply directly to Federal contractors because as an employer a Federal contractor is a "covered entity" as defined by 42 U.S.C. 12111(2). With respect to job applicants, the ADA's text is clear: "a

covered entity shall not . . . make inquiries of a job applicant as to whether such applicant is an individual with a disability." 42 U.S.C. 12112(d)(2)(A). Yet, under section 60–741.42(a) of the Section 503 regulations, a contractor "shall invite applicants to inform the contractor whether the applicant believes that he or she is an individual with a disability." Although "shall invite" frames the disability inquiry requirement as an "invitation" for applicants to "self-identify" disability status, this is a requirement imposed on the contractor. Describing the applicant's response as "voluntary" does not alter the legal character of these requirements. The inconsistency is plain. DOL's existing regulations require contractors to make disability inquiries that the ADA explicitly forbids.

With respect to employees, the ADA's text is once again clear: a "covered entity shall not make inquiries of an employee as to whether such employee is an individual with a disability . . . unless such . . . inquiry is shown to be job-related and consistent with business necessity." 42 U.S.C. 12112(d)(4)(A). Yet, the Section 503 regulations at 41 CFR 60–741.42(c) require a contractor to invite employees "to voluntarily inform the contractor whether the employee believes that he or she is an individual with a disability," without any limitation or caveat for the invitation to be job-related and consistent with business necessity.

Employers' invitations to applicants and employees to disclose disabilities under section 60–741.42(a) and (c) constitute "inquiries" prohibited by 42 U.S.C. 12112(d)(2)(A) and 12112(d)(4)(A). Labeling the disclosures as "voluntary" does not alter the mandatory nature of the employer's obligation to inquire about disability status. The ADA regulates the employer's act of asking, not the act of answering. Courts have distinguished between information voluntarily disclosed by an employee on their own initiative and information elicited by employer questioning—only the former falls outside the scope of 42 U.S.C. 12112(d). For example, in *EEOC v. C.R. England, Inc.*, the court explained that 42 U.S.C. 12112(d) "does not apply to or protect information that is voluntarily disclosed by an employee unless it is elicited during an authorized employment-related medical examination or inquiry," and concluded that the provision did not apply because there was no evidence that the employer "asked [the employee] a question likely to elicit" disability information. 644 F.3d 1028, 1047–48 (10th Cir. 2011). By

contrast, any disability information, even if “voluntarily” disclosed under 41 CFR 60–741.42(a) and (c), would be elicited by an employer’s inquiry that is mandated under the regulation, and thus 42 U.S.C. 12112(d) applies.

Likewise, in *Cash v. Smith*, the court held that 42 U.S.C. 12112(d) and its regulations “do not govern voluntary disclosures initiated by the employee.” 231 F.3d 1301, 1307 (11th Cir. 2000). Disclosures under 41 CFR 60–741.42(c) are not initiated by the employee—nor are disclosures under 41 CFR 60–741.42(a) and (b) initiated by the applicant—because the regulations state that the “contractor shall invite” employees and applicants, respectively, to “inform the contractor” of their disability status. An invitation to voluntarily disclose disability information may be less coercive than other methods, but it remains a form of employer-initiated inquiry. Accordingly, this regulation is functionally a mandate that employers broadly inquire into disability status, which is unlawful under the ADA’s plain text.

Although some commenters contended that the post-offer disability inquiry requirement for affirmative action purposes was consistent with the ADA’s business necessity exception at 42 U.S.C. 12112(d)(4)(A), DOL agrees with other commenters who observed that it is difficult to characterize a general invitation to disclose disability status as universally “job-related” or for reasons of “business necessity.”

Further, as one commenter noted, eliminating the disability inquiry requirement and utilization goal would neither diminish a contractor’s statutory obligations under Section 503 nor prevent a contractor from complying with those obligations. Contractors complied with Section 503’s statutory requirements for affirmative action prior to the addition of the utilization goal in the 2013 rule, and they will be able to do so after DOL’s rescission of this requirement.

Apart from mandatory disability inquiries, as commenters noted, contractors may still comply with their Section 503 obligations by using several measures that do not depend on knowledge of a particular applicant’s or employee’s disability status. For example, contractors could conduct skills-based barrier analysis and remediation in which the contractor reviews job position descriptions, vacancies, job requirements, and physical/mental standards in order to eliminate requirements and tasks that are not essential to performing the job (e.g., lifting, standing, or driving a car).

A contractor could also conduct structured outreach and recruitment by partnering with disability employment organizations (e.g., vocational rehabilitation agencies, centers for independent living, and disability service providers) to share vacancies and job fair opportunities. Next, contractors can leverage accessibility and usability for hiring systems by ensuring that online applications, assessments, and hiring platforms are accessible to applicants using screen readers, voice-to-text, and other assistive technologies. The measure could focus on equal opportunity in the application process. Contractors can also be proactive about accommodations for applicants by offering all applicants clear and welcoming information about how to request an accommodation during any stage of the hiring process. Contractors can also provide examples of reasonable accommodations. This would remove functional barriers to employment without requiring data collection.

Further, if a contractor learns of an applicant’s or an employee’s disability without asking—for example, through unsolicited disclosure during the interview process or a request for reasonable accommodation—then the contractor may take additional affirmative action to “employ or advance in employment” that individual consistent with Section 503.

Some commenters claimed there was no conflict between the ADA and the disability inquiry and utilization requirements. But, as discussed above, DOL’s authority under Section 503 must be governed by the ADA’s nondiscrimination standards, which are expressly incorporated into Section 503. 29 U.S.C. 793(d). The ADA clearly provides that an employer may not, prior to an offer of employment, make any disability-related inquiries of job applicants, even if that inquiry is related to the job. 42 U.S.C. 12112(d)(2)(A). The ADA also clearly provides that, after an employee starts a job, an employer may make disability-related inquiries only if such inquiries are job-related and consistent with business necessity. 42 U.S.C. 12112(d)(4)(A). But, under 41 CFR 60–741.42, contractors must ask applicants and employees about their disability status. In order for a contractor to measure progress towards or achievement of a utilization “goal” under 41 CFR 60–741.45, the contractor must know or determine which employees have disabilities. These requirements create an unworkable framework under the ADA.

Some commenters argued that the ADA is ineffective in advancing the

employment of individuals with disabilities. Even if true, this argument would not justify interpreting Section 503 to mandate disability inquiries that the ADA explicitly prohibits. DOL should not be requiring contractors to take actions that contravene the plain language of the ADA’s statutory text.

Several commenters pointed to *Associated Builders & Contractors v. Shiu*, 773 F.3d 257 (D.C. Cir. 2014), as an obstacle to removing the disability inquiry requirement. That reliance is misplaced. First, *Shiu* upheld the 2013 final rule based on the then-controlling framework set forth in *Chevron, U.S.A., Inc. v. Natural Res. Def. Council*, 467 U.S. 837 (1984). At step one of the then-controlling *Chevron* framework, the *Shiu* court held that the challenger had not demonstrated that DOL’s interpretation was unambiguously foreclosed by the statutory text of Section 503. *Id.* at 262–64. The *Shiu* court rejected the challenger’s *Chevron* step two argument for the same reason. *Id.* The Supreme Court has since overruled *Chevron* and clarified that the “best” interpretation of a statute governs. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 391 (2024). *Shiu*’s analysis does not meet this standard because the D.C. Circuit explicitly required the plaintiff to “do more than offer . . . even the best[] interpretation” of the statute, 773 F.3d at 263 (citation omitted), and it did not examine the interaction between Section 503 and the ADA’s restrictions on employer-initiated inquiries into applicants’ and employees’ disability status.

b. A Harmonious Reading of Section 503 and the ADA Supports DOL’s Interpretation

Because Section 503 explicitly incorporates the ADA’s standards, *see* 29 U.S.C. 793(d), and because the ADA was enacted against the backdrop of Section 503, these two statutes must be read together. A commenter who objected to the NPRM stated that when Congress passed the ADA, “it was well aware that Section 501 of the Rehabilitation Act required federal agencies to develop and implement affirmative action plans for individuals with disabilities and Section 503 of the Rehabilitation Act mandated that Federal contractors and subcontractors take affirmative action to recruit, hire, and promote qualified individuals with disabilities.” The commenter further stated, “If Congress had intended to make it impossible for federal agencies or contractors to identify disabled applicants and employees in order to implement affirmative action plans,

they would have done so explicitly.” To the contrary, the ADA does not make express statutory exceptions for contractors covered by Section 503.

The district court in *Shiu* cited congressional committee reports that suggested that the ADA’s ban on preemployment inquiries would not apply to data collected for Section 503 affirmative action purposes. See *Associated Builders & Contractors v. Shiu*, 30 F.Supp.3d 25, 37–38 (D.D.C. 2014). But legislative history cannot overcome the statute’s plain meaning because “legislative history is not the law.” *Epic Sys. Corp. v. Lewis*, 584 U.S. 497, 523 (2018). DOL must interpret the statute based on “what the statute means,” not “what the legislature meant.” *Id.* (quoting *Schwegmann Bros. v. Calvert Distillers Corp.*, 341 U.S. 384, 397 (1951) (Jackson, J., concurring)). Therefore, legislative history cannot change what the ADA commands: a covered entity “shall not” make preemployment “inquiries” as to an applicant’s disability status, except in only a few situations expressly enumerated in the ADA. 42 U.S.C. 12112(d)(2)(A)–(B). See *Milner v. Dep’t of Navy*, 562 U.S. 562, 574 (2011). (“Legislative history, for those who take it into account, is meant to clear up ambiguity, not create it.”).

The structure of 42 U.S.C. 12112 reinforces this reading and forecloses an implied “affirmative action” exception. What is allowed or not depends on whether the inquiry is made pre-offer, post-offer, or after an individual begins employment. Subsections (2) and (4), covering pre-offer and post-employment inquiries, both begin with a statement of prohibited activities, followed by a set of exceptions. In paragraph (4)(B), an exception from the ban on post-employment inquiries and examinations is made for “voluntary medical examinations . . . which are part of an employee health program.” 42 U.S.C. 12112(d)(4)(B). There is no similar exception for pre-offer inquiries: the only exception is for “inquiries into the ability of an applicant to perform job-related functions.” 42 U.S.C. 12112(d)(2)(B). The mention of an exception for voluntary examinations in one section, but not the other, means Congress knew how to make such an exception, but chose not to. DOL therefore declines to read it into the statute by implication.

Regardless of the original objectives revealed through the legislative history of the Rehabilitation Act generally, and Section 503 specifically, and regardless of what interpretation of Section 503 might have been plausible if the ADA had never been enacted, Congress

subsequently incorporated the ADA’s Title I nondiscrimination standards into the Rehabilitation Act. See 29 U.S.C. 793(d). Accordingly, the ADA defines the permissible contours of employer inquiries into disability status under the nondiscrimination framework applicable to Section 503. Section 503 cannot be read to authorize or require what the incorporated portions of the ADA subsequently and expressly prohibit. The ADA’s prohibition therefore constrains the scope of permissible regulation under Section 503.

DOL agrees with a commenter who argued that “since the Rehabilitation Act and the ADA both address discrimination against individuals with disabilities, the two statutes are *in pari materia* and should be construed” together—although for the reasons stated above, DOL disagrees with the commenter’s belief that the disability inquiry requirement and the utilization goal are consistent with the ADA. This conclusion is reinforced, as another commenter noted, by Congress’s 2008 amendments, which harmonized the ADA and the Rehabilitation Act. See Public Law 110–325, 122 Stat. 3553.

c. ADA Regulations Do Not Generally Permit Disability Inquiries

Several commenters challenged DOL’s interpretation of the Equal Employment Opportunity Commission (EEOC) regulations implementing the ADA. After considering those arguments, DOL continues to conclude that the NPRM sets forth the best interpretation of Section 503 in light of the ADA and its implementing regulations. The ADA establishes a comprehensive framework governing employer disability-related inquiries at different stages of the employment relationship. 42 U.S.C. 12112(d)(2)–(4). These provisions prohibit disability-related inquiries except in the narrow circumstances specified by the statute. *Id.* The ADA regulations at 29 CFR 1630.13 generally prohibit medical examinations or inquiries into disability status at the preemployment stage or prior to an offer of employment except in the circumstances laid out in 29 CFR 1630.14(b). The ADA regulations at 29 CFR 1630.14(b)(3) further provide that such medical examinations and inquiries “do not have to be job-related and consistent with business necessity.” However, if certain criteria are used to screen out an employee or employees with disabilities as a result of such an examination or inquiry, the exclusionary criteria must be job-related and consistent with business necessity, and performance of the essential job

functions cannot be accomplished with reasonable accommodation as required in Part 1630 of the ADA regulations. *Id.* After employment begins, such examinations and inquiries are permissible only when job-related or consistent with business necessity. 29 CFR 1630.14(c).

Read together, 29 CFR 1630.13 and 1630.14 provide that: (1) except in narrow circumstances related to the reasonable accommodation process,¹⁰ an employer may not conduct a medical examination or make a disability-related inquiry of a job applicant prior to receipt of a job offer; (2) medical examination or inquiry into disability status after a conditional job offer is permissible only so long as such request for information applies to all entering employees in the same job category and may not be used to “screen out” individuals with disabilities unless the exclusionary criteria is job-related and consistent with business necessity, and the essential job functions cannot be performed with reasonable accommodation; and (3) once employment begins, a medical examination or inquiry into disability status is allowed only where it is job-related and consistent with business necessity.

The Section 503 regulations at 60–741.42(a), however, require contractors to “invite” applicants to disclose whether they are individuals with disabilities at the pre-offer stage, thereby mandating an inquiry at a point where 29 CFR 1630.13 and 1630.14 permit none. Section 60–741.42(c) likewise requires contractors to “invite” current employees to disclose disability status on a recurring basis, without any requirement that such inquiry be job-related or consistent with business necessity. In both instances, the regulation compels employer-initiated disability-status inquiries at stages where the ADA regulations either categorically prohibit such inquiries or permit them only under conditions not incorporated into 41 CFR 60–741.42.

Given the ADA regulations’ careful limitations on disability-related inquiries—particularly the categorical prohibition at the pre-offer stage and the business-necessity requirement for inquiries after employment begins, DOL agrees with the commenters who urged removal of the disability inquiry requirement. Rescission of this requirement ensures that the Section 503 regulations do not compel conduct

¹⁰ ADA contemplates limited pre-offer disability-related inquiries when necessary to respond to applicant-initiated requests for reasonable accommodation. See 42 U.S.C. 12112(d)(2)(B), (d)(3); 29 CFR 1630.14(a).

that the ADA either prohibits outright or permits only in limited, narrowly defined circumstances. These narrowly defined circumstances are not incorporated into the Section 503 regulations.

One commenter asserted “that the ADA regulations at 29 CFR 1630.15(e) already provide that employers are not liable for violations of the ADA for actions they are required to take by other federal statutes or regulations.” But that provision does not eliminate the underlying statutory question. Rather, section 1630.15(e) merely provides contractors with a potential defense to liability for a charge of discrimination; it does not expand the scope of what the ADA substantively permits, nor does it authorize another agency to require conduct inconsistent with the ADA’s nondiscrimination standards, which Section 503 expressly incorporates. *See* 29 U.S.C. 793(d). This liability defense presumes the possibility of tension between statutory or regulatory commands and the ADA—it does not resolve that tension or supply independent authority for a requirement to violate the ADA.

Moreover, the existence of such a defense is not a reason to retain regulations that place contractors in the position of having to invoke it. Agencies should not structure regulatory regimes in a manner that requires regulated entities to rely on an interagency conflict defense to avoid liability. The better course is to interpret and implement Section 503 in harmony with the ADA’s statutory limits so that contractors are not compelled to choose between compliance with DOL regulations and adherence to the ADA’s substantive prohibitions. *See* 29 U.S.C. 793(e) (requiring DOL to develop procedures that “avoid[] duplication of effort and prevent[] the imposition of inconsistent or conflicting standards” in the handling of administrative complaints under Section 503 and the ADA).

DOL is not prohibiting contractors from exercising their own legal and business judgment about making disability inquiries consistent with the ADA and its implementing regulations. Instead, DOL simply no longer requires that contractors do so as part of their affirmative action or other obligations under Section 503.¹¹

DOL’s rescission of the disability inquiry requirement would not cause regulatory confusion, as some commenters suggest, because the elimination of this requirement, as contemplated herein, will bring DOL in alignment with the EEOC and its treatment of ADA regulations. When pursuing a Section 503 discrimination violation, the Secretary of Labor is also charged with ensuring that DOL’s standards do not conflict with the ADA, which is expressly incorporated into Section 503. 29 U.S.C. 793(d)–(e).

d. EEOC Subregulatory Guidance Is Unpersuasive

In the NPRM, DOL disagreed with the 2013 rule’s reliance on past EEOC guidance to support the disability inquiry requirement. Specifically, the 2013 rule asserted that EEOC’s Title I Technical Assistance Manual and an informal discussion letter from EEOC’s Office of Legal Counsel (OLC) permitted the disclosure of disability information for affirmative action purposes.¹² In response to the NPRM, some commenters disagreed with DOL’s rescission of the disability inquiry requirement and continued to cite the OLC discussion letter. Other commenters correctly observed, however, that this is not a formal opinion letter, approved by a vote of the Commission. Rather, it represents the view of a single EEOC career attorney. As such, it does not constitute the EEOC’s official position on the matter.

The OLC letter is also unpersuasive on its own terms. As one commenter who previously served as a senior advisor to the EEOC General Counsel explained, the letter does not engage in statutory analysis and its conclusion conflicts with the plain text of the ADA, which explicitly prohibits all pre-offer employer inquiries into disability status and permits post-employment inquiries only where they are job-related and consistent with business necessity. 42 U.S.C. 12112(d)(2)(A), (4)(A). Further, though courts are to give “due respect” to an agency’s interpretation of a statute, that commenter noted that such interpretations are not entitled to judicial deference. *Loper Bright*, 603 U.S. at 400. For the reasons stated

above, DOL finds the OLC letter neither authoritative nor persuasive.

As commenters observed, EEOC interpretive guidance provides that “inviting individuals to identify themselves as individuals with disabilities as required to satisfy the affirmative action requirements of section 503 of the Rehabilitation Act is not restricted by” the ADA’s prohibition on pre-offer disability inquiries. *See* Appendix to Part 1630, Title 29. Upon consideration, DOL concludes that this guidance is inconsistent with the best reading of Section 503 and will not defer to it. Specifically, DOL declines to administer Section 503 in violation of the ADA.

The ADA’s text is unequivocal: a covered employer “shall not . . . make inquiries of a job applicant as to whether such applicant is an individual with a disability.” 42 U.S.C. 12112(d)(2)(A). This prohibition is categorical and contains no exception for affirmative action. Congress enacted the ADA against the backdrop of existing affirmative action obligations under Section 503, yet it did not include any carveout permitting pre-offer disability inquiries in furtherance of those obligations. To the contrary, the ADA must control the best reading of Section 503, because the latter incorporates the standards of the former. *See* 29 U.S.C. 793(d). Where Congress includes exceptions in some provisions but omits them in others, DOL must presume that the omission was intentional.

Nor does the characterization of such inquiries as “voluntary self-identification” alter the analysis. The statute regulates the employer’s conduct—“mak[ing] inquiries”—not the applicant’s obligation to respond. Even if an applicant may decline to answer, the employer has still posed a prohibited question. The ADA does not provide an exception for inquiries that an applicant is free to ignore, and DOL declines to read one into the statute.

DOL also disagrees with the premise that such inquiries fall outside the scope of section 12112(d)(2)(A) based on their asserted purpose. The statutory text does not distinguish between inquiries made for discriminatory screening and those made for data collection or compliance purposes. Instead, Congress adopted a bright-line rule prohibiting pre-offer disability inquiries altogether, while permitting more flexibility at later stages of the employment process. *See* 42 U.S.C. 12112(d)(3)–(4). Reading a purpose-based limitation into 42 U.S.C. 12112(d)(2)(A) would be inconsistent with that structure.

be covered by the act and wishes to benefit under the affirmative action program.” *See* 61 FR 19336, 19344–45 (May 1, 1996).

¹² *See* EEOC, “A Technical Assistance Manual on the Employment Provisions (Title I) of the Americans with Disabilities Act,” (Jan. 1, 1992), available at <https://www.eeoc.gov/laws/guidance/technical-assistance-manual-employment-provisions-title-i-americans-disabilities-act>; 78 FR 58682, 58691 (Sept. 24, 2013) (discussing the EEOC technical assistance manual and OLC discussion letter).

¹¹ For these same reasons, DOL declines to adopt a commenter’s recommendation to return to the pre-2013 self-identification requirements, which provided that contractors shall, “after making an offer of employment to a job applicant and before the applicant begins his or her employment duties, invite the applicant to inform the contractor whether the applicant believes that he or she may

Recent Supreme Court precedent reinforces the need to adhere to the statute's best reading. In *Loper Bright*, the Court emphasized that "'statutes . . . have a single, best meaning'" that is "'fixed at the time of enactment.'" 603 U.S. at 400 (quoting *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 284 (2018)). Applying that principle here, DOL concludes that the best reading of Section 503 in light of 42 U.S.C. 12112(d)(2)(A) is that employers may not make disability-related inquiries of job applicants prior to an offer of employment, regardless of the employer's intent or the framing of the question.

Accordingly, DOL does not adopt or defer to EEOC enforcement guidance to the extent it suggests that pre-offer disability inquiries are permissible when made for affirmative action purposes under Section 503. To the extent there is tension between the ADA's prohibition and regulatory approaches that rely on applicant self-identification, that tension must be resolved in a manner consistent with the statutory text enacted by Congress.

The same conclusion applies to other EEOC statements and guidance that suggest disability inquiries are permitted for affirmative action purposes, including EEOC's 1995 Title I Technical Assistance Manual and its July 27, 2000, Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the ADA. Like other subregulatory guidance predating *Loper Bright*—these are unpersuasive to the extent they are read to authorize mandatory pre-offer disability inquiries.

Ultimately, many commenters pointed to no text in the ADA supporting their position and instead relied on subregulatory EEOC guidance. The suggestion that DOL may interpret only Section 503 while disregarding the ADA prohibitions is unpersuasive. As discussed above, DOL has an obligation to administer Section 503 consistent with other applicable federal statutes. Section 503 does not operate in isolation, and DOL must interpret and implement it in tandem with the ADA. As other commenters observed, due to the overlapping subject matter of the ADA and Section 503, the two statutes should be read together. When reading these statutes together, DOL adopts the best reading of the text and will not defer to contrary subregulatory guidance.

e. Potential Utility of Disability Data Does Not Override ADA's Privacy Protection

Many commenters argued that soliciting disability data through disability inquiries is useful to contractors in advancing affirmative action. DOL acknowledges those views but concludes that Congress has already made a policy determination in enacting the ADA to protect individual privacy by limiting employer-initiated disability inquiries. Other commenters emphasized that the ADA serves, in part, to shield applicants and employees from potentially invasive questioning and from the risk that disability information will influence employment decisions. One commenter, drawing on experience as an OFCCP practitioner, noted that individuals with observable disabilities often feel they have no meaningful choice but to disclose their disability status, while individuals with non-obvious disabilities report disclosing only out of concern that failure to do so might be perceived as dishonesty.

Although contractors are required to keep disability disclosures confidential and not use them in employment decisions, confidentiality requirements do not eliminate the practical pressures or risk of distress that individuals may experience when presented with an employer-initiated request to disclose disability status. Because DOL does not believe that the collection of disability information is necessary for contractors to satisfy their statutory affirmative action obligations under Section 503, it concludes that the privacy interests reflected in the ADA outweigh the asserted utility of collecting disability data.

Commenters also asserted that the disability data assists contractors with reviewing their job qualifications and employment practices for Section 503 compliance. For example, one commenter asserted that disability data helps contractors conduct barrier analyses where they can "assess whether there are potential compliance gaps or barriers to equal employment opportunity." But contractors can—and should—review their practices, job qualifications, and advancement opportunities as part of their ongoing equal employment opportunity compliance functions regardless of whether disability-status data has been collected. Such reviews need not depend on knowledge of which individuals have disabilities. Contractors remain free to analyze potential barriers by job category and to ensure accessibility and compliance

with equal employment opportunity requirements without asking employees or applicants to disclose their disability status.

f. The ADA's Statutory Construction Provisions Do Not Permit Disability Inquiries

Some commenters cited ADA provisions at 42 U.S.C. 12201(a) and (b), which govern statutory construction, to argue that DOL's disability inquiry requirement can override or is otherwise exempt from the ADA's limitation on employer inquiries of applicants' and employees' disabilities status. DOL disagrees.

Several commenters characterized section 12201(a) as generally providing that the ADA and the Rehabilitation Act should be construed with reference to each other and argued that, as a result, DOL may not rescind the Section 503 regulations' requirement that contractors inquire into applicants' disability status under 41 CFR 60–741.42. Several commenters asserted: "Reading the ADA and Rehabilitation Act together makes clear that the ADA's pre-offer inquiry bar is a term of art that does not apply to Section 503 self-identification forms, which are kept separate from an applicant or employee's personnel file." The commenters did not identify any term that they contend is a "term of art" because there are none. Section 12112(d)(2)(A)'s pre-offer inquiry bar is not a term of art, but a statutory prohibition, entitled "Prohibited examination or inquiry," that governs inquiries to job applicants no matter the form in which they are made. Consistent with ordinary meaning principles, statutory terms are interpreted according to their plain and ordinary meaning unless Congress indicates otherwise. Nothing in the ADA suggests that "inquiries" or any other relevant term carries a specialized meaning that would exclude employer-initiated requests for information about disability status.

Some commenters also argued that section 12201(a) "preserves" or effectively "locks in" Section 503 regulations, but they did not explain how the statutory text supports this conclusion. Section 12201(a) provides that "nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*) or the regulations issued by Federal agencies pursuant to such title." The provision "in this chapter" at issue is section 12112(d)(2)(A)'s pre-offer inquiry bar. That provision is part of the ADA's

antidiscrimination and privacy framework. It protects job applicants by prohibiting employers from asking about disability status and thereby reduces the risk that such information will be used improperly in employment decisions.

The proper comparison under section 12201(a), therefore, is whether construing section 12112(d)(2)(A) to prohibit preemployment employer-initiated disability inquiries results in either a “lesser standard” of protection against discrimination or in a lesser degree of privacy protection than the standards applied under the Rehabilitation Act or its regulations. It does not. The ADA’s limitation on disability-related inquiries is itself a substantive protection for individuals. A regulatory requirement that contractors inquire into applicants’ disability status does not provide greater or equal protection in these respects.¹³

The commenters’ reliance on *Bragdon v. Abbott*, 524 U.S. 624, 631–32 (1998), does not support a different conclusion. In *Bragdon*, the Supreme Court interpreted the ADA’s definition of “disability” consistently with the Rehabilitation Act to ensure that individuals receive the ADA’s protection against discrimination. The Court’s reference to “protection” concerned the scope of the ADA’s antidiscrimination provisions. It did not suggest that regulatory mechanisms developed under the Rehabilitation Act must be incorporated into the ADA or may override the ADA’s express statutory limitations.

The commenters read section 12201(a) to invert its function. The provision requires “constru[ing] the ADA to grant at least as much protection as provided by the regulations implementing the Rehabilitation Act.” *Bragdon*, 524 U.S. at 632. It does not, as commenters suggested, require the ADA to yield where its statutory provisions provide greater protection than a Rehabilitation Act regulation. Here, the ADA’s limitation on employer-initiated disability inquiries provides a higher level of privacy and a greater degree of antidiscrimination protection. Construing section 12112(d)(2)(A) to prohibit employer-initiated inquiries therefore complies with, rather than violates, section 12201(a).

Several commenters also asserted that the disability inquiry requirements are preserved by 42 U.S.C. 12201(b), which provides that nothing in the ADA “shall

be construed to invalidate or limit the remedies, rights, and procedures of any Federal law . . . that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter.” The Department has considered this argument and does not find it persuasive.

First, section 12201(b) is a rule of statutory construction that preserves the “remedies, rights, and procedures” provided in other “Federal laws.” It does not extend to every regulatory mechanism that an agency may adopt to implement those laws. Section 503 requires covered contractors to take affirmative action to employ and advance in employment qualified individuals with disabilities. 29 U.S.C. 793. That said, it does not mandate any particular method for achieving those objectives, such as employer-initiated inquiries into disability status and utilization goals that depend on such inquiries. The disability inquiry requirements are therefore regulatory choices, not statutory commands. This distinction is reinforced by Congress’s drafting: in section 12201(a), Congress expressly provided that the “no lesser standard” provision applies with respect to “regulations,” but it did not include such language in section 12201(b). Accordingly, section 12201(b) preserves the continued validity of Section 503 itself, not specific regulatory approaches that go beyond the statute’s text.

Second, section 12201(b) does not authorize regulatory requirements that conflict with the ADA’s express prohibitions. As explained above, the ADA establishes clear limitations on disability-related inquiries by employers, including a categorical ban against pre-offer inquiries and strict conditions on inquiries of employees. A savings clause such as section 12201(b) does not create exceptions to these limitations or permit agencies to mandate conduct that the ADA explicitly forbids. Rather, it merely ensures that the ADA is not interpreted to displace other Federal statutes that protect individuals with disabilities. It does not operate as an independent grant of authority to impose requirements inconsistent with the ADA’s substantive protections.

Third, the Department is not persuaded that the disability inquiry requirement constitutes “greater or equal protection” within the meaning of section 12201(b). The ADA’s limitations on employer-initiated disability-related inquiries are themselves substantive protections designed to safeguard individual privacy and reduce the risk

of discrimination. A requirement that compels employers to solicit disability information diminishes, rather than enhances, those protections. While commenters contended that the collection of disability data may support broader affirmative action objectives, section 12201(b) calls for a comparison of the legal protections for the “rights of individuals.” Section 12201(b) does not call for an abstract assessment of policy benefits. Ultimately, the ADA’s express limits on employer-initiated disability inquiries reflect a deliberate policy choice by Congress. DOL is obliged to give effect to that judgment, not to second-guess it by substituting DOL’s own determination of what types of employer-initiated disability inquiries should be permitted. DOL therefore does not conclude that the disability inquiry requirement provides greater or equal protection than the ADA’s restrictions.

Finally, as previously discussed in more detail, contractors may still comply with Section 503’s affirmative action obligations using measures that do not depend on knowledge of a particular applicant’s or employee’s disability status.

g. Other ADA-Related Comments

Although many commenters urged DOL to maintain the existing disability inquiry requirement, several commenters proposed alternative frameworks for this requirement. Some commenters suggested that DOL impose the requirement only for the post-offer period, or convert the requirement into a voluntary option. As explained above, DOL is not prohibiting contractors from voluntarily exercising their own legal and business judgment about making disability status inquiries at the post-offer stage, if they believe such inquiries comply with the ADA and its implementing regulations. DOL is, however, no longer requiring that contractors conduct such inquiries as part of their affirmative action obligations under Section 503. The same is true for pre-employment inquiries: if a contractor believes there is a lawful basis under the ADA and its regulations to collect disability information, then DOL is not forbidding that practice—DOL is simply no longer going to require it. At their own discretion and without being prompted by an employer, employees and applicants are still permitted to disclose their disability status at any point in the hiring or employment process (e.g., when requesting a reasonable accommodation).

One commenter stated that any conflict with the ADA could be resolved

¹³ It is not even clear that the regulation’s requirement that contractors inquire into their applicants and employees’ disability status is a standard at all, let alone a standard of protection for individuals.

by requiring contractors to conduct confidential, anonymous, or aggregated collection of disability self-identification data after a job offer. DOL does not find this to be a workable solution. The commenter's suggestion continues to require the contractor to make a disability-related inquiry. The text of the ADA does not provide an exception for anonymous or aggregated inquiries. Additionally, true anonymity would often be difficult to ensure in practice, particularly in small applicant pools or in narrowly defined job categories. Even if anonymity could be maintained, the utility of the data would be limited, as using aggregated or anonymous data would constrain meaningful analysis and could introduce issues such as duplication or data inaccuracy.

Other commenters urged DOL and the EEOC to adopt joint regulations clarifying the circumstances in which pre-employment disability inquiries are permitted. Since DOL is removing the disability inquiry requirement, DOL does not believe that joint regulations are necessary or appropriate. By rescinding the disability inquiry requirement, DOL eliminates any asserted tension and does not consider it proper to initiate joint rulemaking on a requirement it is no longer imposing on contractors.

Some commenters requested DOL maintain the CC-305 form, which contractors were previously required to use when requesting the disability information.¹⁴ DOL declines to retain this form, as the final rule rescinds the disability inquiry requirement. Other commenters asserted that the CC-305 form does not constitute a prohibited inquiry under the ADA because it is voluntary, includes an "I do not want to answer" option, and imposes no penalty for non-disclosure. DOL disagrees. A truly voluntary disclosure occurs when an applicant or employee volunteers his or her disability self-identification without being asked. When an employer hands the employee a form, that is clearly a request for information. The existence of a "I do not want to answer" option on an employer-provided form

does not change the fact that the employer has made an inquiry.

One commenter argued that other DOL requirements go beyond the text of the ADA, citing medical examinations that may be authorized under the Federal Mine Safety and Health Act or the Occupational Safety and Health Act requirements. This objection is misplaced. The cited authorities govern employees, not applicants, and thus operate only in the employment context or in the post-offer stage. The ADA draws a clear distinction between stages of employment: although it categorically prohibits disability-related inquiries at the pre-offer stage, it permits medical examinations and certain inquiries after an offer of employment, subject to certain conditions, as well as during employment when they are job-related and consistent with business necessity or part of an employee health program. The medical examinations referenced by the commenter fall within those permissible contexts. Accordingly, the commenter's examples do not present a conflict with the ADA's restrictions and do not undermine DOL's position.

3. Impact of the Proposed Changes

Several commenters believed that the proposed changes would weaken employment discrimination protections for individuals with disabilities. Some commenters were also concerned that the NPRM, if finalized, would decrease employment and economic opportunities or undo recent advancements for the disability community, including disabled veterans. Commenters also expressed concern that the proposed changes would signal that hiring individuals with disabilities is not a priority or discourage other countries from working towards disability inclusion. Several commenters also asserted that there were several benefits to the voluntary self-identification and data collection requirements, citing their belief that these requirements increased awareness of the ADA definitions, destigmatized disabilities, encouraged inclusive work environments, and signaled that employers were open to hiring, advancing or reasonably accommodating workers with disabilities. Some commenters believed that DOL's past enforcement of the regulations was effective and consistent with the administration's focus on expanding labor force participation. Commenters were also concerned that the proposed changes would conceal discrimination in workplaces and reduce accountability and transparency for contractors.

DOL reviewed these concerns and believes they are unfounded and unpersuasive. The rescinded provisions are limited to specific affirmative action requirements that conflict with the clear statutory text of the ADA and weaken the ADA's privacy protections by forcing contractors to inquire about disability status. The regulations' non-discrimination provisions remain intact, where contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. Contractors are still subject to other provisions in the regulations such as the recordkeeping requirements, various requirements in Subpart C (*e.g.*, outreach requirements), and other provisions such as the complaint procedures set forth in Subpart D. With the remaining provisions, DOL continues to preserve the agency's Section 503 program, while ensuring that qualified individuals with disabilities can fully participate in the workforce.

Ultimately, the above commenters argued that the disability inquiry requirement and utilization goal produce beneficial policy outcomes. Even assuming these claimed effects were accurate, they would not alter DOL's conclusion. Agencies may not retain the unlawful disability inquiry requirement and related analyses based on perceived policy benefits. As explained above, the ADA expressly limits disability-related inquiries by employers. DOL regulations that require contractors to solicit disability status from applicants or employees plainly violate those statutory restrictions. Where a regulation conflicts with the plain text of a statute, the agency lacks authority to maintain the regulation regardless of any asserted policy benefit. DOL cannot preserve the disability inquiry and utilization provisions based on commenters' policy preferences when those provisions are inconsistent with the ADA's statutory requirements.

DOL also received several comments on the NPRM's potential impact on reasonable accommodation procedures. Commenters believed that the proposed changes would take away the right to request reasonable accommodations, reduce the number of qualified individuals with disabilities who request reasonable accommodations, or make it more difficult for qualified individuals with a disability to request and receive reasonable accommodations. Some commenters believed that the disability inquiry requirement should be retained because employers need disability information to make reasonable accommodations.

¹⁴ One commenter suggested that DOL retain the form but modify the language by eliminating the existing responses and allowing the user to mark a box which says "I am voluntarily reporting that I have a disability or have had one in the past. I acknowledge that my employer or prospective employer has not inquired about whether I have a disability in violation of the Americans with Disabilities Act (29 U.S.C. 12112(d)), that I have been told that I need not disclose that I have a disability, and that I am doing so of my own free will." DOL declines to make this change, as this approach does not address the ADA concerns detailed above.

Commenters also discussed the benefits of reasonable accommodations for qualified individuals with disabilities and asserted that most accommodations are not costly for employers.

In response, DOL notes that the NPRM did not propose, and the final rule does not make, changes to the reasonable accommodation requirements.¹⁵ As provided in 41 CFR 60–741.21(a)(6), a contractor must make reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability unless it can demonstrate that the accommodation would impose an undue hardship on the operation of its business. At their own discretion and without being prompted by an employer, employees and applicants are also still permitted to voluntarily provide information about their disability status for reasonable accommodation purposes.

One commenter also stated that the NPRM “eliminates the requirement for contractors to conduct self-audits of their hiring, promotion, and compensation practices to evaluate inclusion of individuals with disabilities. This means contractors will no longer need to examine whether their practices are producing discriminatory outcomes or take steps to address shortfalls.” For clarification, DOL relied on the now-rescinded E.O. 11246 to require contractors to conduct in-depth analyses of their employment practices including hiring, pay, and compensation. The Section 503 regulations never included this requirement. Rather, the Section 503 regulations require contractors to use their utilization analyses to determine “whether and where impediments to equal employment opportunity exist” and “to develop and execute action-oriented programs” designed to correct any identified problem areas. *See* 41 CFR 60–741.45(e) and (f). While the final rule rescinds these requirements, contractors can continue to assess their workplace policies through other means such as barrier analyses of recruitment, hiring, retention, and promotion practices. The NPRM and the final rule also continue to include the equal employment opportunity clause at 41 CFR 60–741.5, which requires contractors to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without

discrimination on the basis of their physical or mental disability in all employment practices.

In the NPRM and the final rule, contractors meeting the AAP thresholds are still required to design and implement an audit and reporting system, which differs from the requirements referenced by the commenter. *See* 41 CFR 60–741.44(h) (focusing on the effectiveness of the AAP). While contractors are no longer required to collect the disability self-identification data, they can continue to meet these obligations through other measures such as reviewing their actions taken in response to reasonable accommodation requests or auditing their workplace accessibility. Employees and applicants also have the right to file complaints of disability discrimination pursuant to the regulations. *See* 41 CFR 60–741 at Subpart D. In this way, contractors can continue to assess what remedial measures may be necessary in their workplaces.

A few commenters believed that the proposed changes would hinder DOL’s or researchers’ ability to analyze workforce data on the employment of individuals with disabilities. However, these commenters misunderstand the use and purpose of the data collection requirements. Applicants and employees submitted the CC–305 form to the contractor, not DOL. The prescribed CC–305 form indicated that contractors were soliciting disability information for the purpose of measuring their progress towards the 7 percent utilization goal.¹⁶ Although DOL may have seen contractor-specific information when assessing a contractor’s compliance with the utilization requirements during a compliance review, it did not collect this data for all contractors and did not use or share this data for statistical or research purposes.

Lastly, commenters expressed concern that the proposed changes could impact the enforcement or interpretation of other laws or policies such as VEVRAA or Schedule A hiring in federal agencies. DOL notes that this final rule pertains to the Section 503 regulations only. The revisions to Section 503’s implementing regulations do not extend to other programs such as VEVRAA, which relates to protected veterans, or the Federal Government’s Schedule A hiring program, which are outside the scope of this final rule.

That said, DOL intends to clarify its view on one issue raised by a few commenters who suggested that the Section 503 disability inquiry requirement is comparable to the self-identification requirements in the VEVRAA regulations. For example, one such commenter asserted that “VEVRAA depends on the same foundational ideas that [41 CFR 60–741] is built on. Challenging the authority to self-identify disabilities [under Section 503] seems like it necessarily brings into question the legality of the disabled veterans category [under VEVRAA].” DOL disagrees for several reasons.

First, under the VEVRAA regulations, 41 CFR 60–300.42(a) requires contractors to invite applicants during the pre-offer stage to disclose protected veteran status, but not the particular category thereof.¹⁷ Under VEVRAA, “protected veteran” includes a veteran who may be classified as a “disabled veteran” under 41 CFR 60–300.2(i). *See* 41 CFR 60–300.2(q).¹⁸ However, the invitation to disclose protected veteran status under 41 CFR 60–300.42(a) is distinguishable from the Section 503 invitation to disclose disability status. The primary purpose of the protected veteran inquiry is to assess whether an individual is a protected veteran, not whether an individual has a disability. The protected veteran inquiry is therefore not a proxy for a disability inquiry. As OFCCP explained in the 2013 preamble to the VEVRAA regulations, “the proposed pre-offer inquiry does not ask about disability status specifically; rather, it only asks that the applicant identify whether he or she is a protected veteran generally.” 78 FR 58627 (Sept. 24, 2013). This is also consistent with the recommended text for extending the pre-offer invitation in Appendix B to Part 60–300, which asks simply whether the applicant “identifies] as one or more of the classifications of protected veteran status . . .” but does not invite the individual to list those categories. Since one cannot directly infer that an applicant is disabled from their protected veteran status, it is not an “inquiry” under the ADA.

Second, although the invitation that occurs at the post-offer stage does

¹⁷ 41 CFR 60–300.42(a) (“[t]he contractor shall invite applicants to inform the contractor whether the applicant believes that he or she is a protected veteran who may be covered by [VEVRAA].”).

¹⁸ A “protected veteran” means “a veteran who is protected under the non-discrimination and affirmative action provisions of [VEVRAA]; specifically, a veteran who may be classified as a ‘disabled veteran,’ ‘recently separated veteran,’ ‘active duty wartime or campaign badge veteran,’ or an ‘Armed Forces service medal veteran,’ as defined by this section.” *Id.*

¹⁵ The proposed revisions to the guidance in Appendix A on a contractor’s duty to provide reasonable accommodations were limited to those related to the invitation to self-identify as an individual with a disability, which DOL proposed rescinding in the NPRM.

¹⁶ *See* Form CC–305, available at https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202306-1250-001&icID=200170.

specify the particular categories of “protected veteran” to which the applicant may belong, the scope of the “disabled veteran” category is materially different from—and broader in relevant respect than—the ADA-based definition of “disability” covered by the Section 503 disability inquiry. The Section 503 disability inquiry requirement is based on whether the applicant believes that he or she is an individual with a “disability” as defined in 41 CFR 60–741.2(g)(1)(i) or (ii). This definition tracks the first two prongs of the ADA definition of “disability”: “(i) A physical or mental impairment that substantially limits one or more major life activities of such individual; [or] (ii) a record of such an impairment[.]” This definition is closely aligned with the ADA definition and therefore offers a clear illustration of a pure disability inquiry.

In contrast, under VEVRAA, “disabled veteran” is defined more broadly as: (1) A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or (2) a person who was discharged or released from active duty because of a service-connected disability. 41 CFR 60–300.2(i). This category is not coextensive with the category of individuals who meet the ADA’s definition of disability. It may include, for instance, individuals with service-connected conditions that do not “substantially limit” a major life activity—and thus would not satisfy the ADA definition—but nonetheless render individuals unfit for the specific military duties of their office, grade, rank, or rating. See 10 U.S.C. 1201, 1203. The reverse is also true. Someone disabled under the ADA would not be a “disabled veteran” if, for instance, the disability lacked any service connection. See 38 U.S.C. 1110. “Disabled veterans” under VEVRAA must satisfy different conditions than those who have a disability under the ADA and Section 503. The individuals who qualify as “disabled veterans” under VEVRAA meet fundamentally different definitions than those who are not veterans but have a disability under the ADA and Section 503. The inquiries are, therefore, not comparable as the commenters suggest.

4. Due Process Rights and Reliance Interests

Some commenters asserted that “Individuals with disabilities have historic reliance on voluntary self

identification and the 7% utilization goal, so phasing it out without a hearing is a due process violation,” citing *Perry v. Sindermann*, 408 U.S. 593 (1972). These commenters are wrong.

Perry held that a public employee could have a constitutionally protected property interest in continued employment where there was an implied tenure system creating a legitimate claim of entitlement. That holding is inapplicable here. The individuals that commenters are referencing are not government employees but applicants and employees of private contractors. Neither the disability inquiry requirement nor the utilization goal creates any individual entitlement, property interest, or other constitutionally protected interest. Importantly, these provisions regulate contractor compliance obligations and do not confer enforceable rights on applicants or employees. Accordingly, the Due Process Clause does not require a hearing before DOL revises or rescinds these regulatory provisions. See *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972).

Commenters also cited *Encino Motorcars LLC v. Navarro*, 579 U.S. 211, 212 (2016), for the proposition that agencies must “be cognizant that longstanding policies may have engendered serious reliance interests that must be taken into account” and *FCC v. Fox Television Stations*, 556 U.S. 502, 515 (2009), which states that “[i]t would be arbitrary or capricious to ignore such matters.” These cases concern the Administrative Procedure Act’s requirement that agencies consider serious reliance interests when changing policy, not constitutional due process hearing requirements.

DOL also disagrees that there is a reliance interest in the disability inquiry and utilization goal regulations. Individuals do not have a legitimate reliance interest in being asked whether they have a disability by a prospective or current employer. The commenters did not explain what individuals with disabilities have done in reliance upon the expectation that they would be asked whether they have a disability. If an individual wishes to disclose that information, nothing in this rule prevents him or her from voluntarily doing so without being asked, such as in the course of requesting a reasonable accommodation.

Nor is there any legitimate reliance interest in the utilization goal. The utilization goal does not guarantee employment, advancement, accommodation, or any other benefit to any individual with a disability. It does

not create any entitlement or preference for any particular applicant or employee. Rather, the utilization goal functions as a management tool used by contractors to evaluate their overall affirmative action efforts. Because it does not confer any individual right or benefit, commenters have not identified any concrete reliance interest. And as explained above, commenters have not explained what employees have done in reliance on the expectation that contractors would use the utilization goal to evaluate their affirmative action efforts.

5. Alternatives To Rescinding the Utilization Goal and Related Analyses

In lieu of rescinding the utilization goal, commenters suggested that DOL modify the regulations at 41 CFR 60–741.5 to further clarify the prohibition against quotas or to institute an annual certification requirement for contractors to certify that they are not using quotas. Commenters also suggested various alternatives to rescinding the utilization goal such as increasing or decreasing the goal; adopting a flexible, non-binding goal; adopting diagnostic reference points in lieu of a goal; increasing the employee threshold required to trigger the goal; instituting a hiring benchmark; or moving the utilization provisions to the regulations’ Appendices, which provide guidelines contractors can choose to implement to promote equal employment opportunity for individuals with disabilities.

DOL considered these alternatives and declines to retain the utilization goal and related analyses in any form. First, given the rescission of the disability inquiry requirement, DOL views commenters’ alternatives for assessing utilization as unworkable and therefore declines to adopt them in the final rule. Further, modifying the goal, requiring a certification, or adding new regulatory language prohibiting quotas would be ineffective. Prior to this rescission, the regulations already included express language prohibiting the use of quotas and the agency issued guidance highlighting this prohibition.¹⁹ Despite these guardrails, several commenters agreed that the utilization requirements were in practice pressuring contractors to meet quotas. DOL also notes that neither the

¹⁹ 41 CFR 60–741.45 Utilization goals, “The utilization goal is not a rigid and inflexible quota which must be met, nor is it to be considered either a ceiling or a floor for the employment of particular groups. Quotas are expressly forbidden;” and 41 CFR 60–741.45(h), “The utilization goal established in paragraph (a) of this section shall not be used as a quota or ceiling that limits or restricts the employment of individuals with disabilities.”

utilization goal nor the related analyses are required by Section 503. *See* 29 U.S.C. 793. By rescinding these burdensome requirements, DOL is fulfilling the mandate of E.O. 14219 to rescind or modify regulations that are not authorized by clear statutory authority. *See* E.O. 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” 90 FR 10583 (Feb. 25, 2025).

Some commenters disagreed with DOL’s position that the Section 503 utilization analysis is unworkable because it is dependent on the E.O. 11246 job groupings. *See* 41 CFR 60–741.45(d)(2) (requiring the Section 503 utilization analysis to use the same job groupings as the contractor’s E.O. 11246 analyses). For example, some commenters stated that contractors could continue to use E.O. 11246 job groups for their analysis. Given the rescission of the utilization goal in the final rule, DOL declines to adopt this recommendation. Further, with the revocation of the E.O. 11246 authority, requiring contractors to continue to use the E.O. 11246 job groupings for their Section 503 analyses may cause confusion.

In lieu of E.O. 11246 job groups, some commenters suggested that contractors could use EEO–1 job categories, total workforce, or their own groupings for the utilization analysis. Other commenters suggested that DOL add the 41 CFR 60–2.12 definition of job group from the E.O. 11246 regulations to the Section 503 regulations. One commenter suggested replacing the utilization goal and analysis with other types of analyses and reporting. These include barrier analyses of recruitment, hiring, retention, and promotion practices; data on average response times and resolution outcomes for reasonable accommodation requests; and reports on qualitative measures of inclusion, such as accessibility of digital systems, participation in leadership pipelines, and engagement in workplace culture. The commenter also recommended that contractors be required to integrate accessibility into procurement and supply chain reviews and to embed accessibility and disability inclusion into training, design, and operational practices. Another commenter suggested requiring a barrier analysis to assess application accessibility, screening practices, workplace culture, and career pathways when contractors fail to meet the 7 percent utilization goal.

DOL declines to adopt these recommendations. Imposing new requirements or job groupings for conducting Section 503 analyses would

be contrary to E.O. 14219, which directs Federal agencies to implement deregulatory measures and reduce undue burden on businesses. *See* E.O. 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” 90 FR 10583 (Feb. 25, 2025).²⁰

Commenters also expressed concern as to how they could measure progress without the utilization analysis and the regulations’ data collection requirements. For example, some commenters expressed concern as to how contractors could identify potential discrimination issues in their workforce or measure the effectiveness of their outreach efforts, as required by 41 CFR 60–741.44(f)(3), without these analyses. Similarly, commenters asserted that rescinding the analyses would hinder contractors’ ability to prepare and maintain other required sections of the AAP. A commenter requested that contractors be permitted to continue to conduct the analyses and to be afforded flexibility in how they do so. Another commenter also recommended that contractors be permitted to conduct periodic analyses to assess whether they are reaching qualified applicants.

In response, DOL notes that contractors can continue to meet the objectives of Section 503 without DOL mandating the specific type of analyses. This final rule is removing the disability inquiry requirement and is rescinding the related data collection and analyses set forth at 41 CFR 60–741.44(k) and 41 CFR 60–741.45, respectively. If contractors, at their own discretion, continue to take these actions, they should ensure that in doing so, they are acting in accordance with all applicable laws and regulations, including the ADA. Removing the rigid requirement to complete the utilization and data collection analyses affords contractors the flexibility to conduct analyses that are appropriate for their workforce, rather than imposing a one-size-fits-all requirement.

Further, while the final rule no longer requires contractors to collect disability data or to compute the metrics previously required under 41 CFR 60–741.44(k), they can continue to measure the effectiveness of their outreach efforts through other measures that are appropriate for their workforce. DOL does acknowledge that many contractors primarily relied on the quantitative data to assess the effectiveness of their

outreach and other affirmative action requirements. The 2013 rule also required contractors to consider the quantitative data, among other criteria. *See* 78 FR 58682, 58699 (Sept. 24, 2013). Given this final rule’s rescission of the disability inquiry requirement, DOL does agree that more clarification on this issue is necessary. To address confusion regarding contractors’ obligations, DOL is adding clarifying language to 41 CFR 60–741.44 providing that contractors are no longer required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).²¹ *See Ne. Maryland Waste Disposal Auth. v. E.P.A.*, 358 F.3d 936, 951 (D.C. Cir. 2004) (“Agencies, are free—indeed, they are encouraged—to modify proposed rules as a result of the comments they receive.”). In meeting these requirements, contractors may review other factors such as the accessibility of their outreach and hiring materials.

6. Congressional Intent

DOL received several comments regarding the congressional intent underlying Section 503. For example, some commenters noted that Section 503 requires contractors to engage in affirmative action for individuals with disabilities. These commenters asserted that DOL’s proposal to rescind the affirmative action requirements described above (e.g., the disability inquiry requirement and utilization goal and analyses) conflicts with the congressional intent underlying Section 503. More generally, commenters asserted that Section 503 was meant to strengthen protections for individuals with disabilities, and thus they believed that DOL’s proposal to rescind these affirmative action requirements conflicted with the intent or purpose of Section 503.

DOL disagrees with these comments. Section 503 requires contractors to “take affirmative action to employ and advance in employment qualified individuals with disabilities.” 29 U.S.C. 793(a). As detailed in section III(A) above, while the disability inquiry and utilization goal requirements conflict

²⁰ DOL further notes that EEOC has issued a proposed rule to rescind the EEO–1 data reporting requirement at 29 CFR 1602.7. *See* 91 FR 46332 (July 23, 2026).

²¹ The clarifying language is now included at 41 CFR 60–741.44(l) and reads as follows: “Contractors are not required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).”

with the guardrails included in the ADA statute, the regulations continue to provide for other actions contractors can take to employ and advance in employment qualified individuals with disabilities.

7. Cross-References to E.O. 11246 and 41 CFR 60–3

In the NPRM, DOL proposed removing the Section 503 regulations' cross-references to E.O. 11246, which was revoked by E.O. 14173 on January 21, 2025.

A commenter stated that removing the E.O. 11246 cross-references would result in disability-related complaints being siloed or deprioritized, particularly in cases where disability interacts with other protected bases under federal law (e.g., race or gender). Another commenter acknowledged that E.O. 11246 was now revoked but urged DOL to retain the cross-references to the revoked E.O. 11246 authority. In support of this position, the commenter asserted that E.O. 11246 helped prevent employment discrimination and noted that E.O. 11246 was in effect for decades. Another commenter suggested that E.O. 14173 could not impact Section 503 because Section 503 is statutory and remains in effect.

As a point of clarification, neither the NPRM nor this final rule propose changes to Section 503 found at 29 U.S.C. 793. Rather, the NPRM correctly noted that the implementing regulations for this statute expressly cross-reference E.O. 11246, which was revoked by E.O. 14173. Commenters' concerns about removing the E.O. 11246 cross-references are unfounded, as the proposed change is technical in nature. Rather than cross-referencing to the E.O. 11246 regulation's administrative proceeding procedures, DOL is merely moving the applicable procedures directly into the Section 503 regulatory text. This technical change will remove the outdated E.O. 11246 references, thereby ensuring greater clarity for stakeholders.

Separately, the E.O. 11246 regulations at 41 CFR part 60–3 previously incorporated the Uniform Guidelines on Employee Selection Procedures (UGESP), 29 CFR part 1607. UGESP is not applicable to Section 503. Section 60–741.21(a)(7)(iii) explained this fact by citing to the E.O. 11246 regulations at 41 CFR part 60–3. Now that E.O. 11246 has been revoked, UGESP continues to be inapplicable to Section 503, but the reference to 41 CFR part 60–3 in 41 CFR 60–741.21(a)(7)(iii) is outdated. As a result, this final rule revises 41 CFR 60–741.21(a)(7)(iii) to remove the cross-reference to 41 CFR

part 60–3 and retain the reference to UGESP. This action does not impact other agencies' interpretation and application of UGESP, or the existence of UGESP more broadly.

8. Administrative Proceeding Procedures

DOL received numerous comments on its proposal to relocate the administrative proceeding procedures formerly contained in the E.O. 11246 regulations into the Section 503 implementing regulations. Several commenters supported this proposal, stating that conforming the regulatory structure in this manner is reasonable and appropriate following the revocation of E.O. 11246. These commenters noted that consolidating the applicable procedures within the Section 503 regulations would improve regulatory clarity and transparency regarding the procedures governing enforcement of Section 503. Other commenters recommended that DOL modify or eliminate the administrative proceeding procedures because of recent case law challenging the use of Administrative Law Judges (ALJs) by federal agencies. *See, e.g., Space Exploration Tech. Corp. v. Nat'l Labor Relations Bd.*, 151 F.4th 761 (5th Cir. 2025) (challenging the structure of the NLRB, including its ALJs); *ABM Indus. Groups, LLC v. U.S. Dep't of Labor*, 756 F.Supp.3d 468 (S.D. Tex. Oct. 30, 2024) (holding that Plaintiff is likely to succeed on its claim that the assigned DOL ALJ is unconstitutionally protected by two layers of good-cause removal restrictions), *vacated*, No. 4:24–CV–03353, 2024 WL 6076919. Relying on this case law, some of these commenters asserted that DOL can no longer use the ALJ structure included in the current procedures. Commenters also cited *SEC v. Jarkesy*, 603 U.S. 109 (2024), in which the Supreme Court held that the Seventh Amendment requires the Securities and Exchange Commission to pursue civil penalties in federal court where the defendant is entitled to a jury trial. Some commenters further cited lower court decisions applying *Jarkesy* outside the SEC context, including *Sun Valley Orchards, LLC v. DOL*, 148 F.4th 121 (3d Cir. 2025), *cert. granted*, 2026 WL 1127242 (U.S. Apr. 27, 2026) (No. 25–966) (applying *Jarkesy* to hold that DOL could not seek certain monetary remedies through administrative proceedings). However, the application of *Jarkesy* outside the SEC context remains unsettled and continues to be addressed by the courts. *Compare Sun Valley with Axalta Coating Systems LLC v. FAA*, 144 F.4th 467 (3d Cir. 2025) (holding that *Jarkesy* did not bar

administrative adjudication of civil penalties for violations of hazmat regulations). DOL sought Supreme Court review of *Sun Valley*, and the Court granted a writ of certiorari. 2026 WL 1127242 (U.S. Apr. 27, 2026) (No. 25–966).

In any event, these developments do not affect DOL's decision here. This final rule does not expand DOL's remedial authority, create new causes of action, or establish new enforcement mechanisms. It merely relocates the existing procedural provisions after the revocation of E.O. 11246. To the extent future judicial decisions clarify the constitutional status of DOL's ALJs, clarify the application of *Jarkesy* to DOL enforcement actions, or otherwise require changes to DOL's administrative enforcement structure or available remedies, then the impact of potential future judicial decisions on such issues may be addressed in a separate rulemaking. DOL reaffirms its position that moving the administrative proceeding procedures directly into the Section 503 regulations is necessary due to the revocation of E.O. 11246. This change will also provide clarity about the current administrative proceeding procedures applicable to Section 503.

9. Burden and Cost

In the NPRM, DOL noted that rescinding the disability inquiry, utilization, and related data collection requirements would reduce the regulatory burden for contractors. While some commenters agreed that the NPRM revisions would reduce undue burden, others disagreed. These other commenters noted that changing the current requirements would require contractors to update their HR systems and processes, creating additional work. They also expressed concern that shifting requirements could cause confusion and increase the risk of noncompliance. Other commenters argued that the current requirements do not impose an undue burden, emphasizing that the burden is minimal because contractors already collect similar information on protected veterans. They further asserted that any burdens are minor compared to the potential costs to individuals with disabilities such as weakened discrimination protections.

DOL acknowledges that contractors might incur costs updating HR systems to remove disability inquiries and updating related analyses. But even after accounting for these potential costs, DOL estimates that these changes will lead to significant overall savings. *See* Paperwork Reduction Act discussion at section IV(C) below.

DOL also disagrees with the comments regarding the potential costs to individuals with disabilities. As noted above, the discrimination protections remain intact, and the proposed changes to the affirmative action provisions are intended to align the regulations with the ADA's guardrails and protections for individuals with disabilities. DOL is implementing changes that will better ensure that contractors are meeting their Section 503 obligations, while also complying with their other civil rights obligations.

With respect to commenters' concerns about the proposed changes causing confusion, DOL will continue to provide stakeholders with updated guidance as necessary on the Section 503 program. In this way, contractors will continue to receive notice of the changes and can stay informed about their obligations under Section 503.

10. Other Comments

Some commenters expressed general support or opposition to the NPRM without addressing specific issues discussed in the NPRM. Some commenters raised issues unrelated to DOL's authority under Section 503, such as contract bidding opportunities for individuals with disabilities. Other commenters suggested modifications unrelated to topics covered in the NPRM, such as adding a religious exemption into the Section 503 regulations or adding fines and penalties to the regulations. Some commenters suggested subregulatory changes to DOL's enforcement procedures or requested subregulatory guidance on the Section 503 program. These issues fall outside the scope of this rulemaking, and therefore DOL does not address them in this final rule. To the extent that DOL determines that additional regulatory changes may be necessary, then those changes may be pursued in a separate rulemaking. DOL may also continue to update its subregulatory materials as necessary to ensure they align with current agency procedures and requirements.

A commenter supporting the proposed rule urged the President to utilize his authority at 29 U.S.C. 793(c) to temporarily provide relief from the affirmative action requirements under Section 503 until DOL finalized a new rule. While DOL declined to implement this recommendation, DOL notes that no contractors were cited for a violation related to the disability inquiry and utilization requirements during the rulemaking period.

Some commenters encouraged DOL to delay the final rule until further study

and input from stakeholders or until the future state of OFCCP is determined. Another commenter recommended DOL wait until the Government Accountability Office (GAO) issues a pending report on the Section 503 program and stakeholders have an opportunity to assess the impact. DOL respectfully declines these recommendations. As set forth in detail above, issuing the final rule is necessary to align the Section 503 requirements with applicable law and recent executive orders, and significantly reduces the regulatory burden on contractors. Through the rulemaking process, DOL has provided stakeholders with sufficient notice of the changes and an opportunity to comment.

B. Jurisdictional Thresholds

Effective October 1, 2025, the basic coverage threshold for Section 503 increased from \$15,000 to \$20,000, in accordance with the inflationary adjustment requirements in 41 U.S.C. 1908. *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025). Therefore, DOL is updating references to the basic coverage thresholds noted throughout the Section 503 regulations. This technical revision will ensure that the regulations accurately reflect the basic coverage threshold, thereby promoting greater clarity for contractors about their obligations pursuant to Section 503. DOL finds good cause to make these changes without prior notice and comment pursuant to 5 U.S.C. 553(b)(B). Specifically, DOL finds that notice and comment are unnecessary because the inflationary adjustments are minor and technical amendments that were previously subject to notice and comment through the Federal Acquisition Regulatory (FAR) Council's rulemaking process and are now binding on the Section 503 regulations.²²

C. Other Technical Revisions

The final rule also includes additional technical changes such as corrections to typographical errors and updates to several website addresses that have changed or are no longer available. DOL finds good cause to make these corrections under the "good cause" exemption of the Administrative Procedure Act, 5 U.S.C. 553(b)(B). Specifically, DOL finds that notice and comment are unnecessary because these

changes are technical in nature and do not substantively amend the regulations.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Section 6(a) of E.O. 12866 also requires agencies to submit "significant regulatory actions" to the Office of Information and Regulatory Affairs (OIRA) for review. In accordance with E.O. 12866, DOL has determined that this final rule does not constitute a "significant regulatory action." *See* E.O. 12866 sec. 3(f)(1). Accordingly, this final rule was not submitted to OIRA for review under E.O. 12866.

1. Costs of the Final Rule

Rescinding the disability inquiry and utilization requirements impacts the time burden and costs related to Section 503 compliance. With the removal of the rescinded requirements, DOL estimates the following:

a. System Updates Related to Recordkeeping Changes

DOL estimates that covered entities will take an average of 10 hours to remove the CC-305 form and data collection information from their recordkeeping/Human Resource Information Systems. This will result in a total of 299,040 burden hours.²³

²² *See* Federal Acquisition Regulation: Inflation Adjustment of Acquisition-Related Thresholds, 90 FR 41872 (Aug. 27, 2025).

²³ As Human Resources Information Systems (HRIS) are typically maintained by the parent company rather than individual establishment, DOL

b. Recordkeeping Burden

With the rescinded provisions, covered entities will no longer have recordkeeping costs related to the disability inquiry requirement and utilization analyses. The regulations at 41 CFR 60–741.44(f)(4) still require a contractor to document all outreach activities it undertakes for individuals with disabilities and retain these documents for a period of 3 years. DOL estimates that it will take each covered entity 10 minutes to maintain the outreach and recruitment documentation. Therefore, the recurring burden for this provision is 19,995 hours (119,971 covered entities $\times$ 10 minutes/60 = 19,995 hours).

Section 60–741.44(h)(1)(vi) requires contractors to document the actions taken to meet the audit and reporting system requirements outlined in Section 60–741.44(h). DOL estimates that it will take covered entities 10 minutes to document compliance with this provision. Documentation may include, as an example, the standard operating procedure of the system including roles and responsibilities, and audit and reporting timeframes and lifecycles. The annual recordkeeping burden of this provision is 19,995 hours (119,971 covered entities $\times$ 10 minutes/60 = 19,995 hours).

c. Third-Party Disclosure Burden

With the rescinded provisions, affected parties (covered entities and applicants/employees) no longer have a third-party disclosure burden related to administering and completing the CC–305 form. The remaining third-party disclosure burden is related to 41 CFR 60–741.44(f)(1)(ii), which requires a contractor to “send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part.” DOL estimates that contractors will take 15 minutes to prepare the notification and send it to subcontractors, vendors, and suppliers, and an additional 15 minutes to update email address changes in the company’s email system. Likewise, DOL estimates the burden for any information technology assistance needed to send the written communication as 15 minutes. Accordingly, the annual third-party disclosure burden is 89,978 hours

calculated the burden hours for this estimate by the total number of parent companies subject to the Section 503 requirements. Based on EEO–1 data, DOL estimates that 29,904 contractors will need to undergo HRIS updates (29,904 $\times$ 10 hours = 299,040 burden hours).

(119,971 contractor establishments $\times$ 45 minutes/60 = 89,978 hours).

Based on the above, the monetized burden is as follows:

- *First-year monetized recordkeeping burden:* (299,040 hours $\times$ \$78.05 ²⁵) + [(19,995 hours + 19,995 hours) $\times$ \$86.35 ²⁶] = \$23,340,072 + \$3,453,137 = \$26,793,209.

- *Monetized recordkeeping burden for each subsequent year:* [(19,995 hours + 19,995 hours) $\times$ \$86.35 ²⁷] = \$3,453,137.

- *Monetized annual third-party disclosure burden* is \$7,769,600 (89,978 hours $\times$ \$86.35 ²⁸).

Together, these costs amount to \$26,793,209 in first-year recordkeeping burden costs, \$7,769,600 in first-year third-party disclosure burden costs, and \$11,222,737 in recurring annual costs (recordkeeping and third-party disclosure burden costs) for subsequent years. With a total of \$34,562,809 in first year costs and \$11,222,737 in recurring costs in subsequent years, and using a 7 percent discount rate, the annualized cost is \$14,328,439.

DOL estimates that affected parties incurred an estimated \$105,173,444 in costs under the previous requirements (\$104,698,359 in annualized monetized time burden and \$475,085 in operating costs related to the CC–305 form).²⁹

2. Rule Familiarization Costs

DOL expects that Human Resources Managers or Management Analysts at each covered entity will spend time becoming familiar with the provisions in the final rule. DOL estimates that it will take one hour on average for a Human Resources Manager or Management Analyst to read the final

²⁴ Based on EEO–1 data, the covered entities consist of approximately 119,971 contractor establishments covered by the Section 503 regulations.

²⁵ Because these costs relate to the system changes, the calculation is based on the average wage rate for a Computer Systems Analyst plus 45 percent of wages for fringe benefits. $\$53.83 \times 1.45 = \$78.05$. See Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, <https://data.bls.gov/oes/#/industry/000000>.

²⁶ See Bureau of Labor Statistics, Occupational Employment Statistics, Occupational Employment and Wages, May 2024, <https://data.bls.gov/oes/#/industry/000000>. \$55.15 per hour for Management Analysts and \$77.15 per hour for Human Resources Managers. The calculation uses an 80/20 split between Management Analysts and Human Resources Managers, which equals \$59.55 plus 45 percent of wages for fringe benefits. $\$59.55 \times 1.45 = \$86.35$.

²⁷ *Id.*

²⁸ *Id.*

²⁹ See Burden and cost estimates in the April 2026 supporting statement for OMB #1250–0005, available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202604-1250-002.

rule or the compliance assistance materials provided by DOL.

DOL estimates an average hourly wage rate of \$99.11 based on a 60/40 split between Human Resources Managers (\$77.15) and Management Analysts (\$55.15), resulting in an average hourly wage of \$68.35. DOL applies a 45 percent rate for fringe benefits and overhead costs, leading to a total hourly wage rate of \$99.11 (= $\$68.35 \times 1.45$).³⁰

Consequently, the estimated burden for rule familiarization is 119,971 hours (= 119,971 covered entities based on 2022 EEO–1 data $\times$ 1.0 hours). The total estimated cost is \$11,890,326 (= 119,971 hours $\times$ \$99.11/hour) in the first year. Over the 10-year analysis period, the annualized rule familiarization costs are estimated at:

- \$1.4 million at a discount rate of 3 percent.
- \$1.6 million at a discount rate of 7 percent.

DOL does not anticipate significant adjustment costs beyond rule familiarization.

This rule is considered a deregulatory action under Executive Order 14192. Using a perpetual time horizon and 7 percent discount rate, DOL estimates that the annualized cost savings resulting from this final rule amount to \$80,047,091 in 2024 dollars.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

DOL reviewed this final rule under the provisions of the Regulatory Flexibility Act. The Department has determined that a Final Regulatory Flexibility Analysis is not required because this rule is not expected to have a “significant economic impact on a substantial number of small entities”

³⁰ See U.S. Bureau of Labor Statistics (BLS), Occupational Employment and Wage Statistics, May 2024 National Occupational Employment and Wage Estimates, available at https://www.bls.gov/oes/current/oes_nat.htm (reporting mean hourly wage of \$77.15 for Human Resources Managers (SOC 11–3121) and \$55.15 for Management Analysts (SOC 13–1111)). The blended rate applies a 60/40 weighting to these occupations, yielding a weighted average hourly wage of \$68.35. BLS, Employer Costs for Employee Compensation, December 2024, available at <https://www.bls.gov/news.release/ecec.toc.htm> (fringe benefits and overhead costs equal 45 percent of wages). Loaded blended rate: $\$68.35 \times 1.45 = \$99.11$.

within the meaning of the Regulatory Flexibility Act. The Act directs agencies, where such impacts exist, to consider steps “to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes,” 5 U.S.C. 604(a)(6), reflecting Congress’s concern with regulatory compliance burdens imposed on small entities. *Cf. Mid-Tex Elec. Coop. v. FERC*, 773 F.2d 327, 343 (D.C. Cir. 1985) (explaining that “the costs of compliance with uniform regulations to small businesses were the focus of congressional concern”). “Congress envisioned that the relevant ‘economic impact’ was the impact of compliance with the proposed rule on regulated small entities.” *Id.* at 348.

This final rule has no compliance impacts on small entities and would instead eliminate burdensome regulations. Small entities, including small Federal contractors and subcontractors, within the scope of the rescinded requirements may experience economic effects from this rule. However, those effects are expected to be beneficial due to burdens and barriers to participation being eliminated. Because the rule does not impose compliance obligations or associated costs of the type that the RFA is designed to address and that agencies must take steps to “minimize,” DOL has concluded that the final rule would not have a “significant economic impact on a substantial number of small entities” and that the preparation of an FRFA is not warranted. DOL will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act (PRA)

The purpose of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, includes minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, DOL conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the

PRA. *See* 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands DOL’s collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and DOL can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless it is approved by the Office of Management and Budget (OMB) under the PRA and it displays a currently valid OMB control number. The public is also not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. 44 U.S.C. 3512.

This rulemaking affects DOL’s information collection, “U.S. Department of Labor Office of Federal Contract Compliance Programs Recordkeeping Requirements—29 U.S.C. 793 Section 503 of the Rehabilitation Act of 1973, As Amended,” which is currently approved under OMB Control Number 1250–0005. This information collection covers various Section 503 requirements and includes the CC–305 form, which contractors use to ask applicants and employees if they have a disability or have had one in the past. On August 25, 2025, DOL published a 60-day notice in the **Federal Register** proposing changes to the information collection to align the information collection with the proposed changes in the NPRM. 90 FR 41415. Specifically, DOL proposed removing the requirements related to the disability inquiry requirement from the information collection, including removing the prescribed CC–305 form. The agency received 24 comments during the 60-day period from a variety of stakeholders including individuals, employer associations, law firms, consultants, and advocacy groups. The comments on the proposed changes to the information collection are described below.

1. Information Collection Comments on Disability Inquiries

Many of the comments received in response to the information collection request were similar to the NPRM public comments. For example, several commenters disagreed with the proposed information collection changes, asserting that the disability

inquiry requirement and related CC–305 form helped DOL and contractors assess compliance with the Section 503 affirmative action obligations, better identify potential discrimination, and develop best practices for disability inclusion. A commenter stated that “removing Section 503 data-collection framework would eliminate the only mechanism that allows both contractors and OFCCP to measure whether affirmative action is meaningful” and that without the data, DOL enforcement would rely on individual complaints and case-by-case investigations, which they view as slower, less efficient, and less effective at identifying systemic discrimination.

Similar to the NPRM comments, commenters urged the agency to maintain the CC–305 form because, if eliminated, contractors would need to develop their own form to collect information they believe necessary to comply with Section 503. Likewise, a commenter stated that they expect many contractors will continue soliciting employees’ disability status as part of their Section 503 compliance programs, even if not expressly required by DOL’s regulations. A commenter expressed concern that rescinding the CC–305 form would detract from employers’ ability to obtain disability information for lawful purposes, such as the ability to evaluate the effectiveness of outreach and recruiting efforts.

One commenter asserted that rescinding the CC–305 form would make it less likely for individuals to disclose their disabilities and seek reasonable accommodation in the workplace, increasing the possibility of discrimination and decreasing productivity. This commenter also believed the CC–305 form was useful because it includes a comprehensive list of disabilities that helps qualified workers determine if a condition they have constitutes a disability. The commenter further noted that this determination can empower workers who may not realize they are protected by the ADA and Section 503, leading some workers with disabilities to seek accommodations that support their success in the workplace, thereby increasing productivity.

Commenters further supported the continued use of the CC–305 form because they believe it streamlines the process for contractors and promotes uniformity among contractors and across contractors’ multiple locations, specifically multi-state employers. In particular, one commenter stated that discontinuing the CC–305 form is burdensome for multi-state employers. The commenter argued it is less

burdensome for multi-state employers to use one common form or set of approved words that is acceptable across all 50 states and U.S. territories rather than having to implement multiple, different versions of a disability self-identification form.

Commenters offered additional support for maintaining the CC–305 form, citing their belief that it reinforces the government's leadership role in modeling inclusive employment practices and provides the government data on federal hiring of individuals with disabilities. Another commenter similarly expressed concern that the proposed information collection changes would reduce transparency, accountability, and the ability to measure whether accessibility and inclusion commitments are truly being met.

Several commenters suggested edits to the CC–305 form, including simplifying the introductory language and revising the form to allow contractors to include information on how applicants can request a reasonable accommodation at any point during the selection process. Some commenters suggested the agency adopt a shorter form, with one recommending the agency adopt a form that is mobile-friendly while maintaining the language stating the form is voluntary and confidential. This commenter also suggested that contractors be permitted to hyperlink to the definition of disability and list of medical conditions in order to shorten the form.

A commenter requested that DOL retain the CC–305 form as an optional form, and that DOL provide contractors with flexibility to modify the contents or the format in a way that is consistent with their own corporate culture. The commenter likened this approach to the VEVRAA model in which DOL identifies the core elements that a disability inquiry must contain but leaves the development and execution of the form itself to the contractor. Further, the commenter requested that contractors be permitted to require applicants and employees to complete the form, provided it includes an 'opt out' or 'I do not want to answer' option. The commenter asserted that because respondents can select 'I do not want to answer,' the form remains voluntary.

Some commenters also discussed agency guidance related to the CC–305 form. For example, a commenter requested that DOL restore to the agency's website a prior FAQ related to the electronic implementation of Form CC–305. Another commenter suggested that DOL provide additional resources to encourage higher response rates.

Finally, an employer association expressed that it would be premature to eliminate the CC–305 form before any new final regulations implementing Section 503 are promulgated.

In response to the commenter's concern that it would be premature to eliminate the CC–305 form before the Section 503 final rule is promulgated, DOL notes that the proposed changes to the information collection will not take effect until the effective date of the final rule.

Further, for the reasons described above, DOL declines to retain the CC–305 form in any manner since the final rule eliminates the requirement that contractors ask applicants and employees about their disability status. As detailed in the ADA discussion at section III(A)(2) above, DOL believes that Congress made a policy determination to protect privacy with the enactment of the ADA. DOL chooses to enforce Section 503 consistent with the privacy protections of the ADA. DOL enforced, and contractors were able to comply with Section 503's statutory requirements prior to the CC–305 form, and DOL will continue to enforce, and contractors will continue to be able to comply with Section 503's statutory requirements after the discontinuation of this form. If a contractor, in exercising its own legal and business judgment, believes there is a legal basis on which it is permitted to collect certain information under the ADA and its implementing regulations, then this final rule does not prohibit the contractor from doing so. However, given DOL's view that this inquiry process contravenes the ADA, it would not be appropriate for DOL to provide a form for contractors to make potentially unlawful inquiries as to the disability status of applicants and employees.

With respect to the other concerns raised by commenters, DOL notes that the nondiscrimination provisions in the Section 503 regulations remain intact. Contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. As explained above, DOL did not propose, and the final rule does not make, changes to provisions related to reasonable accommodation. Additionally, employees and applicants are still permitted to voluntarily provide information about their disability status for reasonable accommodation purposes. Appendix B to Part 60–741 continues to provide guidance to contractors on best practices on reasonable accommodation procedures, including dissemination of reasonable

accommodation procedures to employees. DOL may continue to update its subregulatory materials, as necessary, for alignment with current agency procedures and requirements, including the agency website.

2. Burden Estimates for the Information Collection

DOL received several comments discussing the burden for the information collection. For example, one commenter argued the agency may be overestimating the burden related to implementing the CC–305 form, as the commenter believes the ongoing costs for administering the form are minimal. Other commenters similarly noted that electronic submission of the disability data minimizes employer burden. Several other commenters expressed concern that eliminating the CC–305 form would impose additional costs, noting the change would require modifications to contractors' electronic systems.

In response, DOL notes that the information collection burden estimate accounted for contractor costs related to discontinuation of the CC–305 form.³¹ The information collection estimates are based on average costs and cost savings for all contractors. DOL acknowledges that individual costs and costs savings may vary depending on the various resources and policies of contractors. However, DOL estimates that removing the disability inquiry and utilization requirements will result in a net decrease in burden. As noted above, the annualized cost savings associated with this burden decrease, when discounting at a 7% percent discount rate, is approximately \$80 million.

The information collection requirements associated with this final rule are summarized as follows:

Agency: Office of Federal Contract Compliance Programs.

Type of Review: Revision of a currently approved collection.

Title of Collection: U.S. Department of Labor Office of Federal Contract Compliance Programs Recordkeeping Requirements—29 U.S.C. 793 Section 503 of the Rehabilitation Act of 1973, As Amended.

OMB Control Number: 1250–0005.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 119,971 Contractor Establishments.

Frequency: On occasion.

Number of Responses: 119,971.

³¹ The information collection request accounted for 299,040 burden hours related to updating systems to remove the CC–305 form and utilization information. DOL continues to use this estimate in this final rule. See cost analysis in Section IV(A).

Estimated Average Time per Response: 1.91 hours per Contractor Establishment.

Estimated Total Annual Burden Hours: 229,648 total burden hours.

Total Estimated Annual Other Cost Burden: \$0 (operating and maintenance costs).

Forms: None.

D. Review Under Executive Order 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Executive Order 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The E.O. also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.

DOL has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

E. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOL has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of E.O. 12988.

F. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Sec. 201, Public Law 104–4 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a) and (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a significant “intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this final rule according to UMRA and its statement of policy and determined that the final rule does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of \$100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

G. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOL has concluded that it is not necessary to prepare a Family Policymaking

Assessment. A commenter disagreed with this assessment, asserting that promoting discrimination against individuals with disabilities directly affects family well-being. As explained in section III(A)(3) above, the regulations’ non-discrimination provisions remain intact and contractors are still prohibited from discriminating against any employee or applicant for employment because of their physical or mental disability. Therefore, DOL maintains that it is not necessary to prepare a Family Policymaking Assessment.

H. Review Under Executive Order 12630

Pursuant to E.O. 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights,” 53 FR 8859 (Mar. 18, 1988), DOL has determined that this final rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

I. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002). DOL has reviewed this final rule under the OMB guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13175

DOL has examined this final rule and determined that it does not have tribal implications under E.O. 13175 that would require a tribal summary impact statement. It does not “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.”

K. Review Under Additional Executive Orders and Presidential Memoranda

As detailed above, DOL has examined this rule and has determined that it is consistent with the policies and directives outlined in E.O. 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity;” E.O. 14219, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government

Efficiency' Deregulatory Initiative;" E.O. 14275, "Restoring Common Sense to Federal Procurement;" E.O. 14267, "Reducing Anti-Competitive Regulatory Barriers;" Presidential Memorandum, "Directing the Repeal of Unlawful Regulations;"³² and E.O. 14192, "Unleashing Prosperity through Deregulation." This final rule is considered a deregulatory action under E.O. 14192. As described in section IV(C) above, using a perpetual time horizon to allow for cost comparisons under that order, DOL estimates that the annualized cost savings amount to \$80 million in 2024 dollars, using a 7 percent discount rate.

List of Subjects

41 CFR Part 60–30

Administrative practice and procedure, Civil rights, Equal employment opportunity, Government contracts, Government procurement, Government property management, Individuals with disabilities, Reporting and recordkeeping requirements, Veterans.

41 CFR Part 60–741

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Individuals with disabilities, Investigations, Labor, Reporting and recordkeeping requirements, Veterans.

For the reasons set forth in the preamble, and under the authority of 29 U.S.C. 793, as amended, 38 U.S.C. 4212, as amended, and E.O. 14173, DOL amends chapter 60 in title 41 of the Code of Federal Regulations as set forth below:

PART 60–30 [REMOVED AND RESERVED]

- 1. Effective December 21, 2026, under the authority of 29 U.S.C. 793, as amended, 38 U.S.C. 4212, as amended, and E.O. 14173, remove and reserve 41 CFR Part 60–30.

PART 60–741—AFFIRMATIVE ACTION AND NONDISCRIMINATION OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS REGARDING INDIVIDUALS WITH DISABILITIES

- 2. The authority citation for part 60–741 continues to read as follows:

Authority: 29 U.S.C. 705 and 793; E.O. 11758 (3 CFR, 1971–1975 Comp., p. 841).

- 3. Amend § 60–741.1 by revising paragraph (b) to read as follows:

§ 60–741.1 Purpose, applicability, and construction.

* * * * *

(b) *Applicability.* This part applies to all Government contracts and subcontracts in excess of \$20,000 for the purchase, sale or use of personal property or nonpersonal services (including construction): *Provided*, That subpart C of this part applies only as described in § 60–741.40(a). Compliance by the contractor with the provisions of this part will not necessarily determine its compliance with other statutes, and compliance with other statutes will not necessarily determine its compliance with this part: *Provided*, That compliance shall also satisfy the employment provisions of the Department of Labor's regulations implementing section 504 of the Rehabilitation Act of 1973 (see 29 CFR 32.2(b)) when the contractor is also subject to those requirements.

* * * * *

- 4. Amend § 60–741.2 by revising paragraphs (d), (p), and (aa) to read as follows:

§ 60–741.2 Definitions.

* * * * *

(d) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor holding a contract in excess of \$20,000.

* * * * *

(p) *Prime contractor* means any person holding a contract in excess of \$20,000, and, for the purposes of subpart D of this part, "General Enforcement and Complaint Procedures," includes any person who has held a contract subject to the act.

* * * * *

(aa) *Subcontractor* means any person holding a subcontract in excess of \$20,000 and, for the purposes of subpart D of this part, "General Enforcement and Complaint Procedures," any person who has held a subcontract subject to the act.

* * * * *

- 5. Amend § 60–741.4 by revising paragraphs (a)(1) and (2) to read as follows:

§ 60–741.4 Coverage and waivers.

(a) * * *

(1) *Contracts and subcontracts in excess of \$20,000.* Contracts and subcontracts in excess of \$20,000 are covered by this part. No contracting agency or contractor shall procure

supplies or services in less than usual quantities to avoid the applicability of the equal opportunity clause.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the contracting agency has reason to believe that the amount to be ordered in any year under such contract will not be in excess of \$20,000. The applicability of the equal opportunity clause shall be determined at the time of award for the first year and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds \$20,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

* * * * *

- 6. Amend § 60–741.5 by revising paragraph (a)(6) to read as follows:

§ 60–741.5 Equal opportunity clause.

(a) * * *

(6) The contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$20,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

* * * * *

- 7. Amend § 60–741.21 by revising paragraph (a)(7)(iii) to read as follows:

§ 60–741.21 Prohibitions.

(a) * * *

(7) * * *

(iii) The Uniform Guidelines on Employee Selection Procedures do not apply to the Rehabilitation Act and are similarly inapplicable to this part.

* * * * *

- 8. Amend § 60–741.23 by revising paragraph (a) and removing and reserving paragraph (c) to read as follows:

³² Presidential Memorandum on Directing the Repeal of Unlawful Regulations, 2025 Daily Comp. Pres. Doc. 466 (Apr. 9, 2025).

§ 60–741.23 Medical Examinations and Inquiries.

(a) *Prohibited medical examinations or inquiries.* Except as stated in paragraph (b) of this section, it is unlawful for the contractor to require a medical examination of an applicant or employee or to make inquiries as to whether an applicant or employee is an individual with a disability or as to the nature or severity of such disability.

* * * * *

■ 9. Amend § 60–741.24 by revising paragraph (b)(3) to read as follows:

§ 60–741.24 Drugs and alcohol.

* * * * *

(b) * * *

(3) Any information regarding the medical condition or history of any employee or applicant obtained from a test to determine the illegal use of drugs, except information regarding the illegal use of drugs, is subject to the requirements of § 60–741.23(b)(5).

■ 10. Revise § 60–741.41 to read as follows:

§ 60–741.41 Availability of affirmative action program.

The full affirmative action program shall be available to any employee or applicant for employment for inspection upon request. The location and hours during which the program may be obtained shall be posted at each establishment.

§ 60–741.42 [Removed and Reserved]

■ 11. Remove and reserve § 60–741.42.

■ 12. Amend § 60–741.44 by:

■ a. Revising paragraphs (f)(2)(i)(D) and (E), and (f)(3);

■ b. Removing and reserving paragraph (k); and

■ c. Adding paragraph (l).

The revisions and addition read as follows:

§ 60–741.44 Required contents of affirmative action programs.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(D) Entities funded by the Department of Labor that provide recruitment or training services for individuals with disabilities, such as the services currently provided through the Employer Assistance and Resource Network (EARN) (<https://askearn.org>);

(E) Local Employment Network (EN) organizations (other than the contractor, if the contractor is an EN) listed in the Social Security Administration's Ticket to Work Employment Network Directory (<https://yourtickettowork.ssa.gov>);

* * * * *

(3) *Assessment of external outreach and recruitment efforts.* The contractor shall, on an annual basis, review the outreach and recruitment efforts it has taken over the previous twelve months to evaluate their effectiveness in identifying and recruiting qualified individuals with disabilities. The contractor shall document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and the contractor's conclusion as to whether each effort was effective. The contractor's conclusion as to the effectiveness of its outreach efforts must be reasonable as determined by OFCCP in light of these regulations. If the contractor concludes the totality of its efforts were not effective in identifying and recruiting qualified individuals with disabilities, it shall identify and implement alternative efforts listed in paragraphs (f)(1) or (f)(2) of this section in order to fulfill its obligations.

* * * * *

(l) Contractors are not required to consider quantitative data on the numbers of individuals with disabilities who were referrals, applicants, or hires when assessing the effectiveness of their outreach efforts and affirmative action program pursuant to 41 CFR 60–741.44(f)(3) and 41 CFR 60–741.44(h)(1).

§ 60–741.45 [Removed and Reserved]

■ 13. Remove and reserve § 60–741.45.

■ 14. Amend § 60–741.46 by removing and reserving paragraph (a)(2) and revising paragraph (d) to read as follows:

§ 60–741.46 Voluntary affirmative action programs for employees with disabilities.

* * * * *

(d) These voluntary training and development programs should not result in discrimination against other groups and do not relieve a contractor from liability for discrimination under this act or the Vietnam Era Veterans' Readjustment Assistance Act.

■ 15. Amend § 60–741.61 by revising paragraph (f)(1) to read as follows:

§ 60–741.61 Complaint procedures.

* * * * *

(f) * * *

(1) If the complaint investigation finds no violation of the act or this part, or if the Director decides not to refer the matter to the Solicitor of Labor for enforcement proceedings against the contractor pursuant to § 60–741.65(a)(1), the complainant and contractor shall be so notified. The Director, on his or her own initiative, may reconsider his or her determination or the determination of any of his or her designated officers

who have authority to issue Notifications of Results of Investigation.

* * * * *

■ 16. Revise § 60–741.65 to read as follows:

§ 60–741.65 Enforcement proceedings.

(a) *General.* (1) If a compliance evaluation, complaint investigation, or other review by OFCCP finds a violation of the act or this part, and the violation has not been corrected in accordance with the conciliation procedures in this part, or OFCCP determines that referral for consideration of formal enforcement (rather than settlement) is appropriate, OFCCP may refer the matter to the Solicitor of Labor with a recommendation for the institution of enforcement proceedings to enjoin the violations, to seek appropriate relief, and to impose appropriate sanctions, or any combination of these outcomes. OFCCP may seek back pay and other make whole relief for aggrieved individuals identified during a complaint investigation or compliance review. Such individuals need not have filed a complaint as a prerequisite to OFCCP seeking such relief on their behalf. Interest on back pay shall be calculated from the date of the loss and compounded quarterly at the percentage rate established by the Internal Revenue Service (IRS) for the underpayment of taxes.

(2) In addition to the administrative proceedings set forth in this section, the Director may, within the limitations of applicable law, seek appropriate judicial action to enforce the contractual provisions set forth in § 60–741.5, including appropriate injunctive relief.

(b) *Hearing practice and procedure.*

(1) In administrative enforcement proceedings the contractor shall be provided an opportunity for a formal hearing. All hearings conducted under the act and this part shall be governed by the regulations at 41 CFR 60–741.65(c) to (mm) and the Rules of Evidence set out in the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges contained in 29 CFR part 18, subpart B: *Provided*, That a final administrative order shall be issued within one year from the date of the issuance of the recommended findings, conclusions, and decision of the Administrative Law Judge, or the submission of any exceptions and responses to exceptions to such decision (if any) whichever is later.

(2) Complaints may be filed by the Solicitor, the Associate Solicitor for Civil Rights and Labor-Management, Regional Solicitors, and Associate Regional Solicitors.

(3) [Reserved]

(c) *Applicability of rules of practice for administrative proceedings.* The regulations at 41 CFR 60–741.65(c) to (mm) provide the rules of practice for all administrative proceedings that relate to the enforcement of Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended, including but not limited to proceedings instituted against contractors or subcontractors covered by 41 CFR part 60–741. In the absence of a specific provision, procedures shall be in accordance with the Federal Rules of Civil Procedure.

(d) *Waiver, modification.* Upon notice to all parties, the Administrative Law Judge may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

(e) *Computation of time.* In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government in which event it includes the next business day.

(f) *Form, filing, service of pleadings and papers.* (1) *Form.* The original of all pleadings and papers in a proceeding conducted under the 41 CFR 60–741.65 regulations shall be filed with the Administrative Law Judge assigned to the case or with the Chief Administrative Law Judge if the case has not been assigned. Every pleading and paper filed in the proceeding shall contain a caption setting forth the name of the agency instituting the proceeding, the title of the action, the case file number assigned by the Administrative Law Judge, and a designation of the pleading or paper (e.g., complaint, motion to dismiss, etc.). The pleading or papers shall be signed and shall contain the address and telephone number of the person representing the party or the person on whose behalf the pleading or paper was filed. Unless otherwise ordered for good cause by the Administrative Law Judge regarding specific papers and pleadings in a specific case, all such papers and pleadings are public documents.

(2) *Service.* Service upon any party shall be made by the party filing the pleading or document in accordance with 29 CFR part 26. When a party is represented by an attorney, the service shall be upon the attorney.

(3) *Proof of service.* A certificate of the person serving the pleading or other

document, setting forth the manner of service, shall be proof of the service.

(g) *Prehearing procedures: Administrative complaint.* (1) *Filing.* The Solicitor of Labor, Associate Solicitor for Labor Relations and Civil Rights Regional Solicitors and Regional Attorney upon referral from the Office of Federal Contract Compliance Programs, are authorized to institute enforcement proceedings by filing a complaint and serving the complaint upon the contractor which shall be designated as the defendant. The Department of Labor, OFCCP, shall be designated as the plaintiff.

(2) *Contents.* The complaint shall contain a concise jurisdictional statement, and a clear and concise statement sufficient to put the defendant on notice of the acts or practices it is alleged to have committed in violation of the order, the regulations, or its contractual obligations. The complaint shall also contain a prayer regarding the relief being sought, a statement of whatever sanctions the Government will seek to impose and the name and address of the attorney who will represent the Government.

(3) *Amendment.* The complaint may be amended once as a matter of course before an answer is filed, and the defendant may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the complaint or of the answer to the complaint shall be made only by leave of the Administrative Law Judge or by written consent of the adverse party; and leave shall be freely given where justice so requires. An amended complaint shall be answered within 14 days of its service, or within the time for filing an answer to the original complaint, whichever period is longer. An amended answer shall be responded to within 14 days of its service.

(h) *Prehearing procedures: Answer.* (1) *Filing and service.* Within 20 days after the service of the complaint, the defendant shall file an answer with the Chief Administrative Law Judge if the case has not been assigned to an Administrative Law Judge. The answer shall be signed by the defendant or its attorney and served on the Government in accordance with § 60–741.65(f)(2).

(2) *Contents; failure to file.* The answer shall:

(i) Contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny, each of the allegations of the complaint unless the defendant is without knowledge, in which case the answer shall so state; or

(ii) State that the defendant admits all the allegations of the complaint. The answer may contain a waiver of hearing; and if not, a separate paragraph in the answer shall request a hearing. The answer shall contain the name and address of the defendant, or of the attorney representing the defendant. Failure to file an answer or to plead specifically to any allegation of the complaint shall constitute an admission of such allegation.

(3) *Procedure, upon admission of facts.* The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge, without further hearing, may prepare his decision in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The parties shall be given an opportunity to file exceptions to his decision and to file briefs in support of the exceptions.

(i) *Prehearing procedures: Notice of prehearing conference.* The Administrative Law Judge shall respond to defendant's request for a hearing within 15 days and shall serve a notice of prehearing conference on the parties. The notice shall contain the time and place of the conference.

(j) *Prehearing procedures: Motions; disposition of motions.* (1) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the Administrative Law Judge. If made before or after the hearing itself, the motions shall be in writing. If made at the hearing, motions may be stated orally; but the Administrative Law Judge may require that they be reduced to writing and filed and served on all parties in the same manner as a formal motion. Unless otherwise ordered by the Administrative Law Judge, written motions shall be accompanied by a supporting memorandum. Within 10 days after a written motion is served, or such other time period as may be fixed, any party may file a response to a motion.

(2) *Disposition of motions.* The Administrative Law Judge may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing, but may overrule or deny such motion without awaiting response: *Provided*, That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions.

(k) *Prehearing procedures: Interrogatories and admissions as to facts and documents.* (1) *Interrogatories.*

Not later than 25 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party written interrogatories. Each interrogatory shall be answered separately and fully in writing under oath, unless objected to. Answers are to be signed by the person making them and objections by the attorney or by whoever is representing the party. Answers and objections shall be filed and served within 25 days of service of the interrogatory.

(2) *Admissions.* Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the Administrative Law Judge may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in and exhibited with the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within 25 days after service, the party to whom the request is directed serves upon the requesting party a sworn statement either:

(i) Denying specifically the matter as to which an admission is requested; or

(ii) Setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(3) *Objections or failures to respond.* The party submitting the interrogatory or request may move for an order with respect to any objection or other failure to respond.

(1) *Prehearing procedures: Production of documents and things and entry upon land for inspection and other purposes.* (1) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations, including computer tapes and printouts which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(2) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and, which is in the possession or

control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(3) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(4) The party upon whom the request is served shall respond within 25 days after the service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

(m) *Prehearing procedures:*

Depositions upon oral examination. (1) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding, and may use an administrative subpoena. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(2) *Production of witnesses; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Unless the parties agree otherwise, depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the Administrative Law Judge an objection within 5 days after notice of production of such witness is served, stating with particularity the reasons why the party

cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(3) *Before whom taken; scope of examination; failure to answer.*

Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, each party shall be permitted to examine and cross-examine the witness under oath upon any matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the Administrative Law Judge or the Administrative Law Judge rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided*, That the examining party shall note on the record during the deposition the question which the deponent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(4) *Subscription; certification; filing.*

The testimony shall be reduced to typewriting, either by the officer taking the deposition or under his direction, and shall be submitted to the witness for examination and signing. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver the original copy of the transcript, together with his certificate, in person or by mail to the Administrative Law Judge. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges, unless distribution is restricted by order

of the Administrative Law Judge for good cause shown.

(5) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the Administrative Law Judge, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice, in accordance with the following provisions:

(i) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(ii) The deposition of a party or of any one who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(iii) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the administrative law judge finds:

(A) That the witness is dead; or

(B) That the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or

(C) That the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or

(D) Upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(iv) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(6) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

(n) *Prehearing procedures: Prehearing conferences.* (1) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(i) Simplification of the issues;

(ii) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitation;

(iii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iv) Limitation of number of witnesses;

(v) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(vi) Such other matters as may tend to expedite the disposition of the proceedings.

(2) The record shall show the matters disposed of by order and by agreement in such pretrial conferences. The subsequent course of the proceeding shall be controlled by such action.

(o) *Prehearing procedures: Consent findings and order.* (1) *General.* At any time after the issuance of a complaint and prior to or during the reception of evidence in any proceeding, the parties may jointly move to defer the receipt of any evidence for a reasonable time to permit negotiation of an agreement containing consent findings and an order disposing of the whole or any part of the proceeding. The allowance of such deferment and the duration thereof shall be in the discretion of the Administrative Law Judge after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement being reached which will result in a just disposition of the issues involved.

(2) *Content.* Any agreement containing consent findings and an order disposing of a proceeding shall also provide:

(i) That the order shall have the same force and effect as an order made after full hearing;

(ii) That the entire record on which any order may be based shall consist solely of the complaint and the agreement;

(iii) That any further procedural steps are waived; and

(iv) That any right to challenge or contest the validity of the findings and order entered into in accordance with the agreement is waived.

(3) *Submission.* On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(i) Submit the proposed agreement to the Administrative Law Judge for his consideration;

(ii) Inform the Administrative Law Judge that agreement cannot be reached.

(4) *Disposition.* In the event an agreement containing consent findings and an order is submitted within the time allowed, the Administrative Law Judge, within 30 days, shall accept such agreement by issuing his decision based

upon the agreed findings, and his decision shall constitute the final Administrative order.

(p) *Hearings and Related Matters: Designation of Administrative Law Judges.* Hearings shall be held before an Administrative Law Judge of the Department of Labor who shall be designated by the Chief Administrative Law Judge of the Department of Labor. After commencement of the proceeding but prior to the designation of an Administrative Law Judge, pleadings and papers shall be filed with the Chief Administrative Law Judge.

(q) *Hearings and Related Matters: Authority and responsibilities of Administrative Law Judges.* The Administrative Law Judge shall propose findings and conclusions to the Secretary on the basis of the record. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(1) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(2) Require parties to state their position with respect to the various issues in the proceeding;

(3) Require parties to produce for examination those relevant witnesses and documents under their control; and require parties to answer interrogatories and requests for admissions in full;

(4) Administer oaths;

(5) Rule on motions, and other procedural items or matters pending before him;

(6) Regulate the course of the hearing and conduct of participants therein;

(7) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(8) Receive, rule on, exclude, or limit evidence and limit lines of questioning or testimony which are irrelevant, immaterial, or unduly repetitious;

(9) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(10) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(i) Refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting it

from introducing designated matters in evidence;

(ii) Excluding all testimony of an unresponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(iii) Expelling any party or person from further participation in the hearing;

(11) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(12) Recommend whether the respondent is in current violation of the order, regulations, or its contractual obligations, as well as the nature of the relief necessary to insure the full enjoyment of the rights secured by the order;

(13) Issue subpoenas; and

(14) Take any action authorized by these rules.

(r) *Hearings and Related Matters: Appearances.* (1) *Representation.* The parties or other persons or organizations participating pursuant to 41 CFR 60–741.65 have the right to be represented by counsel.

(2) *Failure to appear.* In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the Administrative Law Judge. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the Administrative Law Judge's recommended decision and to file exceptions to it.

(s) *Hearings and Related Matters: Appearance of witnesses.* (1) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice, which may be accomplished by an administrative subpoena, setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing, if any. A copy of the notice shall be filed with the Administrative Law Judge and additional copies shall be served upon the opposing parties.

(2) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such

person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(3) The party or prospective witness may file an objection within 5 days after notice of production of such witness is served stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

(t) *Hearings and Related Matters: Rules of evidence.* In any hearing, decision, or administrative review conducted pursuant to this part, all evidentiary matters shall be governed by Office of Administrative Law Judges' Rules of evidence at 29 CFR part 18, subpart B.

(u) *Hearings and Related Matters: Objections; exceptions; offer of proof.* (1) *Objections.* If a party objects to the admission or rejection of any evidence or to the limitation of the scope of any examination or cross-examination or the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made on the record may be relied upon subsequently in the proceedings.

(2) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Secretary, but shall be considered by the Secretary upon filing exceptions to the Administrative Law Judge's recommendations and conclusions.

(3) *Offer of proof.* An offer of proof made in connection with an objection taken to any ruling excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

(v) *Hearings and Related Matters: Ex parte communications.* The Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final

decision in the case, except as witness or counsel in the proceeding.

(w) *Hearings and Related Matters: Oral argument.* Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral arguments shall be included in the official transcript of the hearing.

(x) *Hearings and Related Matters: Official transcript.* The official transcripts of testimony taken, together with any exhibits, briefs, or memorandums of law, shall be filed with the Administrative Law Judge. Transcripts of testimony may be obtained from the official reporter by the parties and the public as provided in section 11(a) of the Federal Advisory Committee Act (86 Stat. 770). Upon notice to all parties, the Administrative Law Judge may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

(y) *Hearings and Related Matters: Summary judgment.* (1) *For the Government.* At any time after the expiration of 20 days from the commencement of the action, or after service of a motion for summary judgment by the respondent, the Government may move with or without supporting affidavits for a summary judgment upon all claims or any part.

(2) *For defendant.* The defendant may, at any time after commencement of the action, move with or without supporting affidavits for summary judgment in its favor as to all claims or any part.

(3) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Government or respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(4) *Statement of uncontested facts.* All motions for summary judgment shall be accompanied by a "Statement of Uncontested Facts" in which the moving party sets forth all alleged uncontested material facts which shall provide the basis for its motion. At least 5 days prior to the time fixed for hearing on the motion, any party contending that any material fact regarding the matter covered by the motion is in dispute, shall file a "Statement of Disputed Facts." Failure to file a "Statement of Disputed Facts" shall be deemed as an admission to the "Statement of Uncontested Facts."

(5) *Motion and proceedings.* The motion shall be served upon all parties at least 15 days before the time fixed for the hearing on the motion. The adverse

party or parties may serve opposing affidavits prior to the day of hearing. The judgment sought shall be rendered forthwith if the complaint and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Summary judgment rendered for or against the Government or the respondent shall constitute the findings and recommendations on the issues involved. Hearings on motions made under this section shall be scheduled by the Administrative Law Judge.

(6) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case or for all the relief asked and a final hearing is necessary, the Administrative Law Judge at the hearing of the motion, by examining the notice and answer and the evidence before him and by interrogating counsel, shall, if practicable, ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

(z) *Hearings and Related Matters: Participation by interested persons.* (1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final Administrative order could adversely affect them or the class they represent, and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this section shall file with the Administrative Law Judge and serve on all parties a petition within 25 days after the commencement of the action or at such other time as ordered by the Administrative Law Judge, so long as it does not disrupt the proceeding. Such petition shall concisely state:

- (i) Petitioner's interest in the proceedings;
- (ii) Who will appear for petitioner;

(iii) The issues on which petitioner wishes to participate; and

(iv) Whether petitioner intends to present witnesses.

(4) The Administrative Law Judge shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the Administrative Law Judge may request all such petitioners to designate a single representative to represent all such petitioners: Provided, That the representative of a labor organization qualifying to participate under paragraph (z)(1) of the section must be permitted to participate in the proceedings. The Administrative Law Judge shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as *amicus curiae*. The Administrative Law Judge shall give written notice to each party of each petition granted.

(5) Any other interested person or organization wishing to participate as *amicus curiae* shall file a petition before the commencement of the final hearing with the Administrative Law Judge. Such petition shall concisely state:

- (i) The petitioner's interest in the hearing;
- (ii) Who will represent the petitioner; and
- (iii) The issues on which petitioner intends to present argument. The Administrative Law Judge may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An *amicus curiae* is not a party but may participate as provided in this section.

(6) An *amicus curiae* may present a brief oral statement at the hearing at the point in the proceeding specified by the Administrative Law Judge. He may submit a written statement of position to the Administrative Law Judge prior to the beginning of a hearing and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and he shall serve a copy on each party.

(aa) *Post-Hearing Procedures: Proposed findings of fact and conclusions of law.* Within 20 days after receipt of the transcript of the testimony, each party and *amicus* may file a brief. Such briefs shall be served simultaneously on all parties and amici,

and a certificate of service shall be furnished to the Administrative Law Judge. Requests for additional time in which to file a brief shall be made in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the Administrative Law Judge.

(bb) *Post-Hearing Procedures: Record for recommended decision.* The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but excepting the correspondence section of the docket, shall constitute the record for decision.

(cc) *Post-Hearing Procedures: Recommended decision.* Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended findings, conclusions, and decision shall be served on all parties and amici to the proceeding.

(dd) *Post-Hearing Procedures: Exceptions to recommended decisions.* Within 14 days after receipt of the recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 14 days of their receipt by said parties. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Service of such briefs or exceptions and responses shall be made simultaneously on all parties to the proceeding. Requests to the Administrative Review Board, United States Department of Labor, for additional time in which to file exceptions and responses shall be in writing and copies shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

(ee) *Post-Hearing Procedures: Record.* After expiration of the time for filing briefs and exceptions, the Administrative Review Board, United States Department of Labor, shall make a decision, which shall be the Administrative order, on the basis of the record. The record shall consist of the record for recommended decision, the rulings and recommended decision of the Administrative Law Judge and the

exceptions and briefs filed subsequent to the Administrative Law Judge's decision.

(ff) *Post-Hearing Procedures: Administrative Order.* After expiration of the time for filing, the Administrative Review Board, United States Department of Labor, shall make a decision which shall be served on all parties. If the Administrative Review Board, United States Department of Labor, concludes that the defendant has violated Section 503, the equal opportunity clause, or the regulations, an Administrative Order shall be issued enjoining the violations, and requiring the contractor to provide whatever remedies are appropriate, and imposing whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate cancellation, termination, and suspension of the respondent's contracts and/or debarment of the respondent from further contracts.

(gg) *Expedited Hearing Procedures: Expedited hearings—when appropriate.* Expedited Hearings may be used, *inter alia*, when a contractor or subcontractor has violated a conciliation agreement; has not adopted and implemented an acceptable affirmative action program; has refused to give access to or to supply records or other information as required by the equal opportunity clause; or has refused to allow an on-site compliance review to be conducted.

(hh) *Expedited Hearing Procedures: Administrative complaint and answer.* (1) Expedited hearings shall be commenced by filing an administrative complaint in accordance with 41 CFR 60–741.65(g). The complaint shall state that the hearing is subject to these expedited hearing procedures.

(2) The answer shall be filed in accordance with 41 CFR 60–741.65(h)(1) and (2).

(3) Failure to request a hearing within the 20 days provided by 41 CFR 60–741.65(h)(1) shall constitute a waiver of hearing, and all the material allegations of fact contained in the complaint shall be deemed to be admitted. If a hearing is not requested or is waived, within 25 days of the complaint's filing, the Administrative Law Judge shall adopt as findings of fact the material facts alleged in the complaint, and shall order the appropriate sanctions and/or penalties sought in the complaint. The Administrative Law Judge's findings and order shall constitute a final Administrative order, unless the Office of the Solicitor, U.S. Department of Labor, files exceptions to the findings and order within 10 days of receipt thereof. If the Office of the Solicitor,

U.S. Department of Labor, files exceptions, the matter shall proceed in accordance with 41 CFR 60–741.65(ll).

(4) If a request for a hearing is received within 20 days as provided by 41 CFR 60–741.65(h)(1), the hearing shall be convened within 45 days of receipt of the request and shall be completed within 15 days thereafter, unless more hearing time is required.

(ii) *Discovery.* (1) Any party may serve requests for admissions in accordance with 41 CFR 60–741.65(k)(2) and (3).

(2) Witness lists and hearing exhibits will be exchanged at least 10 days in advance of the hearing.

(3) For good cause shown, and upon motion made in accordance with 41 CFR 60–741.65(j), the Administrative Law Judge may allow the taking of depositions. Other discovery will not be permitted.

(jj) *Conduct of hearing.* (1) At the hearing, the Government shall be given an opportunity to demonstrate the basis for the request for sanctions and/or remedies, and the contractor shall be given an opportunity to show that the violation complained of did not occur and/or that good cause or good faith efforts excuse the alleged violations. Both parties shall be allowed to present evidence and argument and to cross-examine witnesses.

(2) The hearing shall be informal in nature, and the Administrative Law Judge shall not be bound by formal rules of evidence.

(kk) *Recommended decision after hearing.* Within 15 days after the hearing is concluded, the Administrative Law Judge shall recommend findings, conclusions, and a decision. The Administrative Law Judge may permit the parties to file written post-hearing briefs within this time period, but the Administrative Law Judge's recommendations shall not be delayed pending receipt of such briefs. These recommendations shall be certified, together with the record, to the Administrative Review Board, United States Department of Labor, for a final Administrative order. The recommended decision shall be served on all parties and amici to the proceeding.

(ll) *Exceptions to recommendations.* Within 10 days after receipt of the recommended findings, conclusions and decision, any party may submit exceptions to said recommendations. Exceptions may be responded to by other parties within 7 days after receipt by said parties of the exceptions. All exceptions and responses shall be filed with the Administrative Review Board, United States Department of Labor. Briefs or exceptions and responses shall

be served simultaneously on all parties to the proceeding.

(mm) *Final Administrative Order.* After expiration of the time for filing exceptions, the Administrative Review Board, United States Department of Labor, shall issue an Administrative Order which shall be served on all parties. Unless the Administrative Review Board, United States Department of Labor, issues an Administrative Order within 30 days after the expiration of the time for filing exceptions, the Administrative Law Judge's recommended decision shall become a final Administrative Order which shall become effective on the 31st day after expiration of the time for filing exceptions. Except as to specific time periods required in this paragraph (mm), paragraph (ff) of this section shall be applicable.

■ 17. Amend § 60–741.80 by revising paragraph (b) to read as follows:

§ 60–741.80 Recordkeeping.

* * * * *

(b) *Records with three-year retention requirement.* Records required by § 60–741.44(f)(4) shall be maintained by all contractors for a period of three years from the date of the making of the record.

* * * * *

■ 18. Amend Appendix A to Part 60–741 by revising paragraph 2 to read as follows:

Appendix A to Part 60–741—Guidelines on a Contractor's Duty To Provide Reasonable Accommodation

* * * * *

2. Although the contractor would not be expected to accommodate disabilities of which it is unaware, the contractor has an affirmative obligation to provide reasonable accommodation for applicants and employees of whose disabilities the contractor has actual knowledge. Section 60–741.44(d) provides that if an employee with a known disability is having significant difficulty performing his or her job and it is reasonable to conclude that the performance problem may be related to the disability, the contractor is required to confidentially inquire whether the problem is disability related and if the employee is in need of a reasonable accommodation.

* * * * *

Dated: August 19, 2026.

Kenneth Wolfe,

Director, Office of Federal Contract Compliance Programs.

[FR Doc. 2026–17115 Filed 8–20–26; 8:45 am]

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Part IV

Securities and Exchange Commission

17 Part 200, 201, 228, et al.

Regulation Crypto Assets; Proposed Rule

**SECURITIES AND EXCHANGE
COMMISSION****17 CFR Parts 200, 201, 228, 230, 232,
and 239****[Release Nos. 33–11434; 34–106150; File
No. S7–2026–27]****RIN 3235–AN38****Regulation Crypto Assets****AGENCY:** Securities and Exchange
Commission.**ACTION:** Proposed rule.

SUMMARY: The Securities and Exchange Commission (“Commission”) is proposing new rules to create a tailored offering regime for certain investment contracts involving crypto assets. The proposed offering regime is intended to facilitate capital formation and accommodate innovation within the crypto asset markets while, at the same time, ensuring that investors are adequately protected and provided with the information they need to make informed investment decisions. The proposed rules would be set forth in a new regulation titled “Regulation Crypto Assets” and would include two exemptions from the registration requirements of section 5 of the Securities Act of 1933. The first exemption would permit offerings of up to \$5 million during a four-year period. The second exemption would permit offerings of up to \$75 million during each 12-month period. Under both exemptions, issuers would be required to make certain principles-based narrative disclosures available to their investors. In addition, issuers under the second exemption would be required to provide financial statements and would

be subject to ongoing reporting requirements. Issuers that rely on these exemptions would remain subject to the antifraud and antimanipulation provisions of the Federal securities laws. The proposed rules also would include a conditional safe harbor from the term “investment contract” in the definitions of “security” in the Securities Act of 1933 and the Securities Exchange Act of 1934. If the conditions of that proposed safe harbor are satisfied, then a crypto asset would be deemed not to be subject to an investment contract for purposes of those definitions of “security.”

DATES: This release was published in the **Federal Register** on August 21, 2026. Comments should be received on or before October 20, 2026.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<https://sec.gov/comments/s7-2026-27/regulation-crypto-assets>).
- Send an email to rule-comments@sec.gov. Please include File Number S7–2026–27 on the subject line.

Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–2026–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use

only one method of submission. The Commission will post all submitted comments on its website (<https://sec.gov/rules-regulations/public-comments/s7-2026-27>). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. The Commission may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission’s website. To ensure direct electronic receipt of such notifications, sign up through the “Stay Connected” option at www.sec.gov to receive notifications by email.

A summary of the proposal of not more than 100 words is posted on the Commission’s website (<https://sec.gov/rules-regulations/2026/08/s7-2026-27>).

FOR FURTHER INFORMATION CONTACT:

Patrick Faller, Special Counsel, Office of Chief Counsel, at (202) 551–3500, John Fieldsend, Special Counsel, Office of Rulemaking, at (202) 551–3430, or Irene Paik, Attorney-Advisor, Office of Crypto Assets, at (202) 551–2076, Division of Corporation Finance, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are proposing amendments to or proposing to add the following rules and forms:¹

¹ The text of the forms listed in this table are located in the appendices of this release.

Commission Reference		CFR Citation (17 CFR)
Organization; Conduct and Ethics; and Information Requests	Rule 30-1	§ 200.30-1
Rules of Practice	Rule 431	§ 201.431
Regulation Crypto Assets	Rule 100 through 500	§§ 228.100 through 228.500
Securities Act of 1933 (“Securities Act”) ²	Rule 152	§ 230.152
	Rule 175	§ 230.175
	Form 1-CRYPTO	§ 239.600
	Form 1-KC	§ 239.601
	Form 1-SC	§ 239.602
	Form 1-UC	§ 239.603
	Form TR	§ 239.604
	Form NOR	§ 239.605
Regulation S-T	Rule 101	§ 232.101

Table of Contents

I. Introduction

A. The Commission’s Regulatory Approach to Crypto Assets

1. Approach Before 2025
2. Developments Beginning in 2025
- B. Written Input Provided to the Crypto Task Force

1. Security Status
2. Scoping Out
3. Public Offerings
4. Safe Harbor From Registration

C. Summary of the Proposed Rules

II. Discussion of Proposed Rules

A. Regulation Crypto Assets and General Rules (Subpart A, Rules 100 Through 104)

1. Definitions (Rule 100)
2. General Provisions (Rule 101)
3. Inflation Adjustment for Offering Limits (Rule 102)
4. Disclosure Requirements (Rule 103)
5. Disqualification (Rule 104)

B. Startup Exemption (Subpart B, Rule 200)

1. Background
2. Proposed Rule

C. Fundraising Exemption (Subpart C, Rules 300 Through 307)

1. Background
2. Proposed Rules

D. Investment Contract Safe Harbor (Subpart D, Rule 400)

1. Background
2. Proposed Rules

E. Preemption of State Registration and Qualification Requirements (Definition of “Qualified Purchaser” in Subpart E, Rule 500)

1. Background
2. Proposed Rule

III. Other Matters

IV. Economic Analysis

A. Economic Baseline

1. Current Methods of Raising Up to \$75 Million in Capital

2. Affected Issuers

3. Disclosures Provided by Current Issuers of Crypto Asset-Related Offerings

4. Affected Financial Intermediaries

B. Economic Effects of Individual Provisions

1. Benefits and Costs of Proposed Regulation Crypto Assets
2. Benefits and Costs of the Proposed Startup Exemption

3. Benefits and Costs of the Proposed Fundraising Exemption
4. Benefits and Costs of the Proposed Investment Contract Safe Harbor

5. Benefits and Costs of the Proposed Preemption of State Registration and Qualification Requirements

C. Effects on Efficiency, Competition, and Capital Formation

1. Effects on Efficiency
2. Effects on Competition
3. Effects on Capital Formation
- D. Reasonable Alternatives
- E. Request for Comment

V. Paperwork Reduction Act

A. Background

B. Estimate of Issuers

1. Startup Exemption
2. Fundraising Exemption
3. Investment Contract Safe Harbor

C. Estimate of Issuer Burdens

1. Startup Exemption
2. Fundraising Exemption
3. Form TR
4. Form ID

D. Collections of Information Are Mandatory

E. Confidentiality

F. Retention Period of Recordkeeping Requirements

G. Request for Comment

VI. Present Values and Annualized Values of Monetized Benefits and Costs

VII. Congressional Review Act

VIII. Initial Regulatory Flexibility Act Analysis

A. Reasons for, and Objectives of, the Proposed Action

B. Legal Basis

C. Small Entities Subject to the Proposed Rules

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

E. Duplicative, Overlapping, or Conflicting Federal Rules

F. Significant Alternatives

G. Request for Comment

Statutory Authority

I. Introduction

We are proposing new rules to create a tailored offering regime for certain investment contracts involving crypto assets.³ We refer to those investment contracts throughout this release as “covered investment contracts.”⁴ The proposed offering regime is intended to facilitate capital formation and accommodate innovation within the crypto asset markets while, at the same

³ Under the proposed rules, the term “crypto asset” would be defined to mean any digital representation of value that is recorded on a cryptographically-secured distributed ledger. *See* proposed 17 CFR 228.100. The term “distributed ledger” generally refers to databases that maintain information across a network of computers in a decentralized or distributed manner. These networks commonly use cryptographic protocols to ensure data integrity and consensus mechanisms to ensure data congruity. Blockchains are one type of distributed ledger, and they are often used to issue and transfer ownership of crypto assets.

⁴ Under the proposed rules, the term “covered investment contract” would be defined to mean a contract, transaction, or scheme that constitutes an investment contract; provided that the investment contract must meet the following requirements: (1) a crypto asset is subject to the investment contract; (2) such crypto asset is not a security; and (3) no asset other than such crypto asset (including any security or non-security asset) is subject to the investment contract. *See id.*

² 15 U.S.C. 77a *et seq.*

time, ensuring that investors are adequately protected and provided with the information they need to make informed investment decisions.

Since the advent of Bitcoin in 2008,⁵ the crypto asset markets have grown significantly.⁶ Although still only a fraction of the size of the global debt and equity markets,⁷ the rapid rise in the market capitalization of crypto assets is one of several indicators of the growing importance of crypto assets to the global financial system.

Despite this growth, the Commission has not to date adapted its rules to address the unique aspects of the crypto asset markets. Instead, the Commission generally has looked to the test developed by the Supreme Court of the United States in *SEC v. W.J. Howey Co.*⁸ (known as the “Howey test”⁹) to determine whether crypto assets, and transactions involving such assets, fall within the purview of the Federal securities laws. If the Federal securities laws applied, an issuer was required to comply with existing requirements.

Although relying on familiar and well-established legal standards in lieu of tailored rules has some merit, this approach has two primary drawbacks in the context of crypto assets. First, it can be difficult to apply the *Howey* test to crypto assets and transactions involving crypto assets. Second, the Commission’s existing rules are not fully “fit-for-purpose” with respect to covered investment contract offerings. Both of these issues stem from the unique attributes of crypto assets. For example, although crypto assets may be subject to investment contracts (and, therefore, the Federal securities laws) when first offered or sold, the crypto assets may subsequently cease to be subject to investment contracts (at which point the Federal securities laws no longer would

apply).¹⁰ The Commission’s existing rules generally do not contemplate or facilitate this type of evolution.¹¹ Further, many of the Commission’s existing rules require issuers to provide disclosures that may not be relevant to investors in covered investment contract offerings. At the same time, those rules often do not elicit other types of disclosures that are likely to be material to such investors. In addition, the value of a crypto asset (and the success of the related network or application) often depends on the extent to which the crypto asset is widely held and used—that is, the crypto asset’s “network effects.”¹² The Commission’s existing exemptions have features that may impede such network effects. For example, securities issued pursuant to the Commission’s existing exemptions may be restricted securities¹³ or otherwise subject to resale restrictions.¹⁴ Those exemptions also may limit the extent to which an issuer may sell securities to retail investors,¹⁵ which could result in concentrated (rather than widespread) holdings.

Without fit-for-purpose rules, existing regulatory requirements, many of which were adopted well before the proliferation of crypto assets, could complicate an issuer’s transaction planning and, in turn, impede capital formation and innovation in the crypto asset markets. Furthermore, in response to these regulatory challenges, some issuers may choose to conduct their crypto asset transactions offshore, limiting investment options (and, therefore, the ability to diversify) for U.S. investors or exposing them to additional risks from participating in markets with less robust investor protections.

The Commission recently took steps to address these issues by clarifying its views on the application of the *Howey* test to crypto assets and transactions

involving crypto assets.¹⁶ These proposed rules are intended to complement those efforts. Similar to the Commission’s historical approach of creating bespoke frameworks for certain other unique asset classes (such as asset-backed securities¹⁷ and real estate investment trusts¹⁸), the proposed rules would establish an offering framework specifically tailored to covered investment contracts, thereby reducing compliance costs for issuers and delays caused by regulatory uncertainty, while, at the same time, ensuring that investors are adequately protected and well-informed.¹⁹

A. The Commission’s Regulatory Approach to Crypto Assets

1. Approach Before 2025

Although the Commission and its staff began engaging with crypto assets as early as 2013,²⁰ the Commission first issued an analytical framework for applying the Federal securities laws to crypto assets and crypto asset-related transactions in 2017. At that time, there was an increased interest in capital raising transactions involving crypto assets often referred to as “initial coin offerings” or “ICOs.”²¹ One such ICO

¹⁶ See 2026 Interpretation.

¹⁷ See, e.g., Regulation AB, 17 CFR 229.1100 through 17 CFR 229.1125.

¹⁸ See, e.g., 17 CFR 239.18.

¹⁹ While the Commission’s rules for asset-backed securities and real estate investment trusts provide a framework for conducting registered offerings, the proposed offering framework for covered investment contracts would provide exemptions from registration and a conditional safe harbor. This difference reflects the fact that many crypto asset projects are intended to develop in such a way that the related crypto assets subsequently will cease to be subject to investment contracts. See section II.B.1 (discussing the need for the proposed startup exemption). There may be other securities involving crypto assets, such as digital securities, that are not expected to undergo such evolution and that may be more suitable for registration. We are not, at this time, proposing to amend our rules and forms governing registered offerings to address these other matters related to crypto assets.

²⁰ The first registration statement for the offer and sale of a crypto asset exchange-traded product was filed with the Commission in 2013. See Form S-1 Registration Statement filed with the Commission on July 1, 2013, <https://sec.gov/Archives/edgar/data/1579346/000119312513279830/d562329ds1.htm>.

²¹ Generally, ICOs involve the issuance of crypto assets in exchange for cash or other consideration intended to fund the development of crypto asset networks and applications. ICOs often proceed as follows: A developer (or a team of developers) publishes a “whitepaper” that describes the technical specifications and other relevant details of a crypto asset project. See *infra* note 156 for a discussion of the term “whitepaper.” At the time of the ICO, development of the project is in the early stages or has not yet begun and, therefore, the developer is seeking to raise capital to fund development of the project. Based on the information provided in the whitepaper, investors transfer cash or other consideration to the developer

⁵ See Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* (Oct. 31, 2008), available at <https://bitcoin.org/bitcoin.pdf>.

⁶ See President’s Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology* 16 (July 30, 2025), available at <https://whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf> (“President’s Working Group Report”).

⁷ See Securities Industry and Financial Markets Association, *2025 Capital Markets Fact Book* 8 (July 28, 2025), available at <https://sifma.org/wp-content/uploads/2024/07/2025-SIFMA-Capital-Markets-Factbook.pdf> (noting that in 2024, the global fixed income markets outstanding was \$145.1 trillion and the global equity market capitalization was \$126.7 trillion).

⁸ 328 U.S. 293 (1946).

⁹ The *Howey* test is discussed in more detail in section I.A.1 below. See also *Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets*, Release No. 33–11412 (Mar. 17, 2026) [91 FR 13714 (Mar. 23, 2026)] (“2026 Interpretation”).

¹⁰ See *id.*

¹¹ The fundamental nature of most non-crypto asset financial instruments does not change over time and, therefore, they either are permanently within or outside the scope of the Federal securities laws.

¹² See 2026 Interpretation at n.52 (stating that the term “network effects” refers to the phenomenon where the value, use, and security of a crypto system increase as more users participate and interact with the crypto system”).

¹³ See, e.g., 17 CFR 230.144(a)(3)(ii) (providing that the term “restricted securities” includes “[s]ecurities acquired from the issuer that are subject to the resale limitations of § 230.502(d) under Regulation D”).

¹⁴ See, e.g., 17 CFR 227.501 (imposing a one-year restriction on resales of securities issued pursuant to Regulation Crowdfunding).

¹⁵ See, e.g., 17 CFR 230.506(c)(2)(i) (requiring that all purchasers of securities sold in any offering under the exemption to be “accredited investors,” as defined in 17 CFR 230.501(a)).

involved the issuance of crypto assets called “DAO Tokens” by an unincorporated organization named “The DAO.”²² In July 2017, the Commission issued the “DAO Report,” which was a report of an investigation pursuant to section 21(a) of the Securities Exchange Act of 1934 (“Exchange Act”)²³ with respect to the ICO of DAO Tokens.²⁴ In the DAO Report, the Commission found that the ICO constituted an offer and sale of securities subject to the Federal securities laws because, pursuant to the *Howey* test, the DAO Tokens were being offered and sold as “investment contracts.”²⁵

In the years following the DAO Report, the Commission and its staff continued to address ICOs (and crypto assets in general) on an ad hoc basis.²⁶ Consistent with the DAO Report, the Commission’s general approach was to apply the *Howey* test to determine whether a crypto asset, in the context in which it was being offered and sold, constituted or was subject to an investment contract. If the crypto asset constituted or was subject to an investment contract, then the issuer of the investment contract was expected to comply with the existing Federal securities laws.

Some Commissioners and other commentators expressed concerns about

in exchange for crypto assets (or the promise of a future issuance of such assets, once the project is sufficiently complete). The ICO participants (both the developers and investors) contemplate that the project eventually will be completed, at which time the investors may, among other things, transfer their crypto assets (sometimes referred to as “tokens”) or use them to access certain features in the crypto asset network or application.

²² See Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO, Release No. 34–81207 (July 25, 2017) (“DAO Report”).

²³ 15 U.S.C. 78a et seq.

²⁴ See DAO Report.

²⁵ See *id.* at 11–15. The definition of “security” in both the Securities Act and the Exchange Act enumerates several instrument types, including “investment contract.” See 15 U.S.C. 77b(a)(1); 15 U.S.C. 78c(a)(10). The definitions are “virtually identical” in the Securities Act and Exchange Act and are treated by the courts as identical in “decisions dealing with the scope of the term.” *Landreth Timber Co. v. Landreth*, 471 U.S. 681, 686 n.1 (1985). Under the *Howey* test, the term “investment contract” means any contract, transaction, or scheme whereby a person invests money in a common enterprise and reasonably expects profits to be derived from the essential managerial efforts of others. *Howey*, 328 U.S. at 298–99.

²⁶ See, e.g., *Gladius Network LLC*, Release No. 33–10608 (Feb. 20, 2019); *Paragon Coin, Inc.*, Release No. 33–10574 (Nov. 16, 2018); *In re Munchee, Inc.*, Release No. 33–10445 (Dec. 11, 2017); Division of Corporation Finance no-action letter to *IMVU, Inc.* (Nov. 19, 2020); Division of Corporation Finance no-action letter to *Pocketful of Quarters, Inc.* (July 25, 2019); Division of Corporation Finance no-action letter to *TurnKey Jet, Inc.* (Apr. 3, 2019).

the Commission’s approach to crypto assets during this period.²⁷ Some described that approach as “regulation by enforcement,” stating that the Commission pursued enforcement actions against crypto asset issuers for alleged violations of the Federal securities laws rather than developing a tailored regulatory framework that accommodates crypto asset innovation and entrepreneurship.²⁸ Others stated that the Commission’s existing regulatory framework, which was designed with traditional securities (e.g., stocks and bonds) in mind, is unfit for application to covered investment contracts.²⁹

²⁷ Similarly, during this period, the Commission received several rulemaking petitions regarding its regulatory approach to crypto assets and transactions involving crypto assets. See, e.g., Coinbase Global, Inc., *Rulemaking petition requesting that the Commission propose and adopt rules to govern the regulation of securities that are offered and traded via digitally native methods, including potential rules to identify which digital assets are securities* (July 21, 2022); J.W. Verret, *Petition for Rulemaking to request that the Commission issue an open call for comment from the public regarding the need for flexibility in the application of the federal securities laws to digital assets in order to initiate an open-sourced redesign of regulations enforced pursuant to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, and the Investment Company Act of 1940, and other laws enforced by the SEC* (Jan. 22, 2022); Vincent Molinari, Sustainable Holdings, PBC, *Request the Commission provide regulatory clarity with respect to the regulation of a new form of digital assets—non-fungible tokens* (Apr. 12, 2021); Vincent R. Molinari, Templum Markets, LLC, *Rulemaking petition on digital asset mining (Revised)* (Apr. 4, 2019); Vincent R. Molinari, Templum, Inc., *Request for rulemaking to address how digital assets are regulated once a trade occurs* (Dec. 12, 2018); Vincent R. Molinari, Liquid M Capital, LLC, *Rulemaking petition related to issuance of initial coin offerings that took place prior to the promulgation of related guidance by the Commission* (Jan. 26, 2018); Vincent Molinari, Ouisa Capital, *Rulemaking petition regarding the regulation of digital assets and blockchain technology* (Mar. 15, 2017). The Commission has considered these petitions in connection with the proposed amendments, and the proposed amendments address several aspects of the petitions.

²⁸ See, e.g., Commissioner Hester M. Peirce, *Outdated: Remarks before the Digital Assets at Duke Conference* (Jan. 20, 2023), available at <https://sec.gov/newsroom/speeches-statements/peirce-remarks-duke-conference-012023> (“Why not set forth a coherent legal framework in a rule? After all, if we continued with our regulation-by-enforcement approach at our current pace, we would approach 400 years before we got through the tokens that are allegedly securities. By contrast, an SEC rule would have universal—albeit not retroactive—coverage as soon as it took effect.”); Commissioner Mark T. Uyeda, *Remarks at the “SEC Speaks” Conference 2022* (Sept. 9, 2022), available at <https://sec.gov/newsroom/speeches-statements/uyeda-speech-sec-speaks-090922>; Commissioner Mark T. Uyeda, *Remarks at the “SEC Speaks” Conference 2025* (May 19, 2025), available at <https://sec.gov/newsroom/speeches-statements/uyeda-remarks-sec-speaks-051925>.

²⁹ See, e.g., Brady Dale, *What SEC disclosure for crypto assets could look like*, Axios (Sept. 5, 2024),

2. Developments Beginning in 2025

a. Crypto Task Force and President’s Working Group

In early 2025, the Commission’s approach to crypto assets began to shift. The Commission’s Acting Chairman Mark T. Uyeda established a Crypto Task Force.³⁰ The Crypto Task Force’s focus is to support the Commission’s efforts to draw clear regulatory lines, appropriately distinguish securities from non-securities, craft tailored disclosure frameworks, provide realistic paths to registration for both crypto assets and market intermediaries, ensure that investors have the information necessary to make investment decisions, and make sure that enforcement resources are deployed judiciously.³¹ To this end, the Crypto Task Force has hosted a series of roundtables,³² held meetings with members of the public,³³ and solicited and received written input from members of the public.³⁴ That written input is described in more detail in section I.B below.

In addition, as part of an effort to provide greater clarity on the application of the Federal securities laws to crypto assets, the Commission’s Division of Corporation Finance issued a series of staff statements beginning in February 2025. These statements provided the Division’s views regarding the application of the Federal securities laws to various crypto asset-related matters, including meme coins,³⁵ proof-

available at <https://axios.com/2024/09/05/crypto-blockchain-sec-disclosure-registrations-s1>. Although commentators often referred to crypto assets that are subject to an investment contract, they did not use the term “covered investment contracts,” as that is a new term that we are proposing to define in Regulation Crypto Assets. Nonetheless, we believe many of the views commentators expressed would apply equally to covered investment contracts (as we propose to define that term). For the sake of convenience and consistency, therefore, we use that term throughout this release.

³⁰ See U.S. Securities and Exchange Commission, Crypto Task Force, available at <https://sec.gov/about/crypto-task-force>.

³¹ See *id.*

³² See U.S. Securities and Exchange Commission, Crypto Task Force Roundtables, available at <https://sec.gov/about/crypto-task-force/crypto-task-force-roundtables>.

³³ See U.S. Securities and Exchange Commission, Crypto Task Force Meetings, available at <https://sec.gov/about/crypto-task-force/crypto-task-force-meetings>.

³⁴ See U.S. Securities and Exchange Commission, Crypto Task Force Written Input, available at <https://sec.gov/about/crypto-task-force/crypto-task-force-written-input>.

³⁵ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Staff Statement on Meme Coins* (Feb. 27, 2025), available at <https://sec.gov/newsroom/speeches-statements/staff-statement-meme-coins>. This statement and any other staff statement referenced in this release is not a rule, regulation, guidance, or statement of the

Continued

of-work mining activities,³⁶ stablecoins,³⁷ offerings and registrations of securities in the crypto asset markets,³⁸ protocol staking activities,³⁹ crypto asset exchange-traded products,⁴⁰ liquid staking activities,⁴¹ and tokenized securities.⁴²

Further, President Donald J. Trump issued an executive order titled “Strengthening American Leadership in Digital Financial Technology” on January 23, 2025.⁴³ This executive order, among other things, established the President’s Working Group on Digital Asset Markets (“President’s Working Group”)—composed of the Chairman of the Commission and the heads of several other Federal

Commission, and the Commission has neither approved nor disapproved its content. Staff statements have no legal force or effect: they do not alter or amend applicable law, and they create no new or additional obligations for any person.

³⁶ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Statement on Certain Proof-of-Work Mining Activities* (Mar. 20, 2025), available at <https://sec.gov/newsroom/speeches-statements/statement-certain-proof-work-mining-activities-032025>.

³⁷ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Statement on Stablecoins* (Apr. 4, 2025), available at <https://sec.gov/newsroom/speeches-statements/statement-stablecoins-040425>.

³⁸ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Offerings and Registrations of Securities in the Crypto Asset Markets* (Apr. 10, 2025) (“CF Disclosure Statement”), available at <https://sec.gov/newsroom/speeches-statements/cf-crypto-securities-041025>.

³⁹ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Statement on Certain Protocol Staking Activities* (May 29, 2025), available at <https://sec.gov/newsroom/speeches-statements/statement-certain-protocol-staking-activities-052925>.

⁴⁰ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Crypto Asset Exchange-Traded Products* (July 1, 2025), available at <https://sec.gov/newsroom/speeches-statements/cf-crypto-asset-exchange-traded-products-070125>.

⁴¹ See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Statement on Certain Liquid Staking Activities* (Aug. 5, 2025), available at <https://sec.gov/newsroom/speeches-statements/corpfin-certain-liquid-staking-activities-080525>.

⁴² See U.S. Securities and Exchange Commission, Division of Corporation Finance, Division of Investment Management, and Division of Trading and Markets, *Statement on Tokenized Securities* (Jan. 28, 2026), available at https://sec.gov/newsroom/speeches-statements/corp-fin-statement-tokenized-securities-012826?utm_medium=email&utm_source=govdelivery; see also U.S. Securities and Exchange Commission, Division of Trading and Markets, *Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology* (last reviewed or updated Feb. 19, 2026), available at https://sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology?utm_medium=email&utm_source=govdelivery.

⁴³ Exec. Order No. 14178, *Strengthening American Leadership in Digital Financial Technology* (Jan. 23, 2025) [90 FR 8647 (Jan. 31, 2025)] (“Exec. Order No. 14178”).

departments agencies—and directed the President’s Working Group to “propose a Federal regulatory framework governing the issuance and operation of digital assets.”⁴⁴

On July 30, 2025, the President’s Working Group issued a report consisting of several regulatory recommendations.⁴⁵ Some of those recommendations were directed at the Commission, including that the Commission should use its rulemaking and exemptive authority under the Securities Act to:

- Establish a fit-for-purpose exemption from registration under section 5 of the Securities Act for securities distributions involving digital assets;⁴⁶
- Establish a time-limited safe harbor or exemption from certain securities law requirements for transactions involving digital assets that may be subject to an investment contract because they are not yet fully functional or associated with a sufficiently decentralized⁴⁷ network to allow for progressive functionality or decentralization; and
- Establish a safe harbor for certain airdrops from characterization as “sales” under section 2(a)(3) of the Securities Act⁴⁸ or an exemption from the corresponding registration requirements under section 5 of the Securities Act.

On July 31, 2025, following publication of the President’s Working Group Report, Commission Chairman Paul S. Atkins announced the launch of “Project Crypto”—a Commission-wide initiative to modernize the Federal securities rules and regulations—and directed the Commission’s staff “to swiftly develop proposals to implement the [President’s Working Group’s] recommendations.”⁴⁹ Among other things, Chairman Atkins directed the staff to “work to develop clear guidelines that market participants can use to determine whether a crypto asset is a security or subject to an investment contract” and “for those crypto asset

transactions that are subject to the securities laws, . . . to propose purpose-fit disclosures, exemptions, and safe harbors, including for so-called ‘initial coin offerings,’ ‘airdrops,’ and network rewards.”⁵⁰

b. 2026 Interpretation

On March 17, 2026, the Commission issued a release titled *Application of the Federal Securities Laws to Certain Types of Crypto Assets and Certain Transactions Involving Crypto Assets* (“2026 Interpretation”).⁵¹ That release set forth an interpretation of the definition of “security” as applied to crypto assets and transactions involving crypto assets. Among other things, the 2026 Interpretation classified crypto assets into categories and analyzed each category under the definition of “security.” Specifically, the release classified crypto assets into the following five categories based on their characteristics, uses, and functions: (i) digital commodities; (ii) digital collectibles; (iii) digital tools; (iv) stablecoins; and (v) digital securities. The release provided the Commission’s view that digital securities are securities, stablecoins may or may not be securities depending on their characteristics, and digital commodities, digital collectibles, and digital tools are not themselves securities.⁵²

The 2026 Interpretation further explained that, as with any asset that is not a security, a non-security crypto asset can be offered and sold subject to an investment contract, which is a security.⁵³ The Commission acknowledged, however, the difficulty of applying the *Howey* test to crypto assets and transactions involving crypto assets and market participants’ requests for guidance regarding the circumstances under which the Commission will characterize crypto assets as securities and transactions involving crypto assets as securities transactions. To address those challenges and requests, and to provide greater clarity regarding the treatment of crypto assets under the Federal securities laws, the 2026 Interpretation addressed how non-security crypto assets become subject to, and how they cease to be subject to, an investment contract.

With respect to how non-security crypto assets become subject to an

⁴⁴ *Id.* at section 4(c)(i).

⁴⁵ See President’s Working Group Report at 141–59.

⁴⁶ The term “digital asset” is defined in the executive order as referring to “any digital representation of value that is recorded on a distributed ledger, including cryptocurrencies, digital tokens, and stablecoins.” Exec. Order No. 14178 at section 2(a).

⁴⁷ See President’s Working Group Report at 20 (“The term ‘decentralized’ typically refers to the use of blockchain technologies to provide financial or nonfinancial services on a peer-to-peer basis.”).

⁴⁸ 15 U.S.C. 77b(a)(3).

⁴⁹ Chairman Paul S. Atkins, *American Leadership in the Digital Finance Revolution* (July 31, 2025), available at <https://sec.gov/newsroom/speeches-statements/atkins-digital-finance-revolution-073125>.

⁵⁰ *Id.*

⁵¹ See 2026 Interpretation.

⁵² See *id.* at 13717. The 2026 Interpretation also noted that there may be crypto assets that do not fall within any of these five categories, as well as crypto assets with hybrid characteristics that may fall within more than one category.

⁵³ *Id.*

investment contract, the 2026 Interpretation noted that how an issuer markets and promotes a contract, transaction, or scheme is relevant to assessing whether the issuer is offering or selling an investment contract and thus a security.⁵⁴ That is, a non-security crypto asset becomes subject to an investment contract when an issuer offers it by inducing an investment of money in a common enterprise with representations or promises to undertake essential managerial efforts from which a purchaser would reasonably expect to derive profits.

Under such circumstances, secondary market offers and sales of such a non-security crypto asset would constitute securities transactions that must be registered under the Securities Act or conducted pursuant to an available exemption from registration. The associated investment contract will continue to be transferred to subsequent purchasers of the non-security crypto asset in secondary market transactions until the non-security crypto asset separates from the issuer's representations or promises, as discussed below. Market participants should refer to the 2026 Interpretation for a more complete discussion of the Commission's views as to the circumstances under which a non-security crypto asset may become subject to an investment contract.

With respect to how a non-security crypto asset that was previously offered and sold subject to an investment contract ceases to be subject to such investment contract, the 2026 Interpretation stated that for the non-security crypto asset to remain subject to the investment contract, purchasers must continue to reasonably expect the issuer's representations or promises to engage in essential managerial efforts to remain connected to the non-security crypto asset.⁵⁵ The 2026 Interpretation also stated that, when a purchaser of a non-security crypto asset that had been subject to an investment contract could no longer reasonably expect the issuer's representations or promises to engage in essential managerial efforts to remain connected to the non-security crypto asset, the non-security crypto asset separates from such representations or promises, and thereafter the non-security crypto asset is not subject to the Federal securities laws. The 2026 Interpretation set forth the Commission's view that a non-security crypto asset would no longer be subject to an investment contract when: (1) the issuer has fulfilled its representations or

promises to engage in essential managerial efforts, or (2) the purchaser would not reasonably expect the issuer to be able to fulfill or to continue to engage in the essential managerial efforts it represented or promised it would undertake. Market participants should refer to the 2026 Interpretation for a more complete discussion of the Commission's views as to the circumstances under which a non-security crypto asset may separate from and cease to be subject to an investment contract.

The 2026 Interpretation also set forth the Commission's views regarding the investment contract status of certain crypto asset disseminations known as "airdrops." The Commission noted that "[a]n 'airdrop' is a means for crypto asset issuers to disseminate their crypto assets in exchange for no or nominal consideration" and discussed some of the reasons why an issuer may conduct an airdrop.⁵⁶ The Commission then provided its interpretation with respect to airdrops of non-security crypto assets to recipients who do not provide the issuer with money, goods, services, or other consideration in exchange for the airdropped non-security crypto asset. Specifically, the Commission stated that, in those circumstances, "the non-security crypto asset does not become subject to an investment contract because the first element of the *Howey* test—requiring an investment of money—is not met."⁵⁷ Market participants should refer to the 2026 Interpretation for a more complete discussion of the Commission's views regarding the investment contract status of airdrops.⁵⁸

B. Written Input Provided to the Crypto Task Force

The Crypto Task Force was established on January 21, 2025 to "develop[] a comprehensive and clear regulatory framework for crypto assets."⁵⁹ One month later, Commissioner Hester M. Peirce published a statement inviting input from the public on "some of the

⁵⁶ *Id.* at 13730 ("Issuers use airdrops for a variety of reasons, such as to generate interest in and expand ownership and use of their crypto assets, reward early users or loyalty of users of a crypto system, promote a software application, build a community, decentralize governance authority with respect to an open-source crypto system, or award high-scoring players of an associated video game.").

⁵⁷ *Id.* at 13731.

⁵⁸ See also *infra* note 200 and accompanying text for a discussion of airdrops in the context of the startup exemption.

⁵⁹ U.S. Securities and Exchange Commission, *Crypto Task Force Designation Letter from Acting Chairman Mark T. Uyeda* (Feb. 4, 2025), available at <https://sec.gov/files/crypto-task-force-designation-letter.pdf>.

questions with which the Task Force is wrestling."⁶⁰ Those questions were categorized according to the following 10 topics: (1) Security Status; (2) Scoping Out; (3) Public Offerings; (4) Safe Harbor from Registration; (5) Trading; (6) Custody; (7) Crypto Lending; (8) Crypto Exchange-Traded Products; (9) Tokenized Securities; and (10) Sandbox and Related International Issues.⁶¹

To date, the Crypto Task Force has received over 300 comment letters.⁶² Commenters include issuers, investors, law firms and legal professionals, audit and accounting professionals and firms, academics, professional and investor associations and organizations, investment companies and advisors, market intermediaries, service providers, network foundations, foreign entities, other crypto asset market participants, and other members of the public. Although we have considered all the comments received, the most relevant comments for purposes of this proposal were those that addressed the following four topics: Security Status, Scoping Out, Public Offerings, and Safe Harbor from Registration. We have summarized below some of the most significant themes from the comments received on each of these topics. As discussed in section I.A.2.b above, the Commission addressed many of the points raised by the "Security Status" and "Scoping Out" comments in the 2026 Interpretation. Nonetheless, some of those comments (e.g., those that express a concern about a current lack of regulatory clarity) are relevant for the proposed rules.

1. Security Status

With respect to the "Security Status" topic, Commissioner Peirce noted that "[m]arket participants have expressed a reasonable desire to determine with ease whether . . . [a given crypto] asset is a security or is being offered or sold as part of an investment contract."⁶³ She further observed that "[m]arket participants have expressed concern that the *Howey* test, as the Commission has applied it, is a complex analysis that can be difficult to apply

⁶⁰ Commissioner Hester M. Peirce, *There Must Be Some Way Out of Here* (Feb. 21, 2025), available at <https://sec.gov/newsroom/speeches-statements/peirce-statement-rfi-022125> ("Cmr. Peirce Request for Input").

⁶¹ *Id.*

⁶² The comment letters are available at <https://sec.gov/about/crypto-task-force/crypto-task-force-written-input>. Unless otherwise specified, all references in this release to comment letters are to the written input submitted to the Crypto Task Force.

⁶³ Cmr. Peirce Request for Input.

⁵⁴ *Id.* at 13721.

⁵⁵ See *id.* at 13722.

consistently.”⁶⁴ To address those concerns, Commissioner Peirce stated that the Crypto Task Force was seeking to “make it easier for investors, market participants, and the Commission to categorize crypto assets and crypto asset transactions.”⁶⁵ The four questions in this category sought to solicit input on this point.

Several commenters that addressed these questions stated that many crypto assets are not themselves necessarily securities.⁶⁶ For example, one commenter stated that “crypto assets should be viewed as commodities that may be *offered and sold* as securities based on an assessment of the facts and circumstances of a particular offering, but do not intrinsically have the characteristics of securities.”⁶⁷ At the same time, some commenters also acknowledged that some crypto assets, including those referred to as “digital securities,” “tokenized securities,” or something similar, are themselves securities.⁶⁸

Several commenters described difficulty associated with the *Howey* test and requested additional clarity from the Commission regarding the application of that test to crypto assets and transactions involving such assets.⁶⁹ One commenter expressed the view that “the [*Howey*] test is subjective and has led to inconsistent and controvertible results.”⁷⁰ According to the commenter, the *Howey* test’s “shortcomings are evidenced by the bevy of SEC enforcement actions taken over the past few years, which arose from fierce disputes as to whether digital assets of varying types constituted securities.”⁷¹ Another commenter stated that the *Howey* test is

unpredictable, difficult to enforce, impractical to apply, and of uncertain bounds.⁷²

Further, some commenters suggested that the level of a crypto network’s decentralization is essential for determining whether a crypto asset is the subject of an investment contract.⁷³ According to one commenter, “[t]he degree of centralized control and the extent of ‘ongoing efforts’ could be used as factors to distinguish between a commodity and a security.”⁷⁴ Another commenter stated that “[a] digital asset does not satisfy [the *Howey*] test when no one has unilateral control over the protocol underlying the asset because, under those circumstances, there is no ‘common enterprise’ run by a ‘manage[r]’ or ‘promoter.’”⁷⁵ By contrast, one commenter stated that “‘decentralization’, while highly relevant for user confidence and the overall success of the crypto asset sector, is not necessarily the best bright-line standard for determining when securities law applies to crypto asset transactions.”⁷⁶ Similarly, another commenter stated that “[b]ecause ‘decentralization’ is not a binary state, but a subjective and often fluid continuum involving code contribution, node distribution, economic factors, and governance participation and control, relying on it for legal classification introduces intolerable uncertainty.”⁷⁷

Finally, several commenters recommended that the Commission clarify the application of the Federal securities laws to certain technology functions that are inherent to a crypto network.⁷⁸ Examples of such functions include mining, staking, and validating. One commenter requested “guidelines that distinguish between tokens used for network operations and those structured as investment instruments. Tokens used for staking, governance, or paying

[transaction] fees enable blockchain functionality rather than serving as investment vehicles.”⁷⁹

2. Scoping Out

With respect to the “Scoping Out” topic, Commissioner Peirce stated that “[t]he Commission may be able to provide greater clarity to investors and other market participants by identifying categories of crypto assets (and transactions) that do not fall within its authority.”⁸⁰ As such, the two questions on this topic solicited input on whether “the security status of certain categories of crypto assets [should] be addressed” and how to “establish a workable taxonomy while remaining merit- and technology-neutral.”⁸¹

Commenters generally agreed that it would be helpful for the Commission to clarify the security status of different types of crypto assets and transactions involving crypto assets.⁸² Many of those commenters suggested that, in determining security status, the Commission look to the economic substance of a particular crypto asset or associated network or application rather than the technological form of such asset, network, or application.⁸³ One commenter emphasized “the importance of adopting a principles-based approach that is merits-based, technology-neutral, focuses on the economic substance and risks of specific digital assets (rather than their technological form), and primarily considers an asset’s function as the basis of determining its status as a security.”⁸⁴ Another commenter suggested not “fixat[ing] on classification” but “regulating residual risk across three axes: agency risk, derivative risk, and market-integrity risk.”⁸⁵

3. Public Offerings

With respect to the “Public Offerings” topic, Commissioner Peirce stated that “[p]eople who have conducted or attempted to conduct registered or qualified token offerings have expressed frustration about the cost and feasibility of registration.”⁸⁶ Commissioner Peirce

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ See, e.g., letters from a16z, *Comments on the SEC Crypto Task Force’s Questions Concerning the Security Status of Crypto Assets* (Mar. 13, 2025) (“a16z 1”); Lewis Rinaudo Cohen (Mar. 20, 2025) (“L. Cohen”); Nasdaq, Inc. (Apr. 25, 2025) (“Nasdaq”); Perkins Coie LLP (Apr. 23, 2025) (“Perkins Coie 1”); Ripple Labs Inc. (Mar. 21, 2025) (“Ripple 1”); Ripple Labs Inc. (Jan. 9, 2026) (“Ripple 2”); The Digital Chamber (Apr. 28, 2025) (“TDC 1”).

⁶⁷ Letter from Perkins Coie 1 (emphasis in original).

⁶⁸ See, e.g., letters from Coinbase Global, Inc. (Mar. 19, 2025) (“Coinbase”); Nasdaq; Perkins Coie 1.

⁶⁹ See, e.g., letters from Alternative Investment Management Association (Mar. 25, 2025) (“AIMA”); a16z 1; Blockchain Research Lab (Feb. 18, 2025); Figure Markets (Mar. 25, 2025) (“Figure Markets”); Foley & Lardner LLP (Mar. 20, 2025) (“Foley & Lardner”); Nasdaq. But see, e.g., letter from Lee Reiners, Lecturing Fellow, Duke University (Mar. 21, 2025) (suggesting that the *Howey* test provides a viable regulatory taxonomy for crypto assets and transactions involving such assets).

⁷⁰ Letter from Nasdaq.

⁷¹ *Id.*

⁷² See letter from a16z 1.

⁷³ See, e.g., letters from AIMA; a16z, *Recommendations Regarding a Safe Harbor for Certain Airdrops and Incentive-Based Rewards of Network Tokens* (Mar. 13, 2025) (“a16z 2”); Crypto Council for Innovation (May 29, 2025) (“Crypto Council”); Jump Crypto (May 1, 2025) (“Jump Crypto”); J.W. Verret (Feb. 23, 2025); Perkins Coie 1.

⁷⁴ Letter from AIMA.

⁷⁵ Letter from Jump Crypto.

⁷⁶ Letter from L. Cohen.

⁷⁷ Letter from Ripple 2; see also letter from Teresa Goody Guillén (Jan. 26, 2026) (“Goody Guillén”) (“Decentralization is multifaceted and, in some cases, borders on illusory; it is often conflated with distributed; and it does not guarantee reduced risk or accountability. . . . The key question should not be ‘is it decentralized’ but whether residual risk is reduced by design, and if not, how to address it.”).

⁷⁸ See, e.g., letters from AIMA; a16z 1; Cardano Foundation (Apr. 22, 2025) (“Cardano”); Coinbase; Dragonchain (Mar. 10, 2025) (“Dragonchain”); SIFMA (May 9, 2025) (“SIFMA 1”); TDC 1.

⁷⁹ Letter from AIMA.

⁸⁰ Cmr. Peirce Request for Input.

⁸¹ *Id.*

⁸² See, e.g., letters from AIMA; Cardano; Edward Lee (Apr. 1, 2025); Ethena Labs, S.A. (June 11, 2025); Figure Markets; Foley & Lardner; Josh Lawler (Mar. 17, 2025) (“J. Lawler”); National Society of Compliance Professionals (Sept. 8, 2025); SIFMA 1; Polsinelli PC (on behalf of The Digital Chamber) (June 27, 2025).

⁸³ See, e.g., letters from AIMA; Cardano; SIFMA 1.

⁸⁴ Letter from SIFMA 1.

⁸⁵ Letter from Goody Guillén.

⁸⁶ Cmr. Peirce Request for Input.

further noted that “[t]okens and their issuers can differ significantly in some aspects from traditional securities and their issuers.”⁸⁷ Accordingly, Commissioner Peirce’s statement solicited input on several aspects of this topic, including whether the Commission should develop tailored disclosure requirements for covered investment contracts and whether Regulation A “provide[s] a useful vehicle to conduct offerings” of covered investment contracts.⁸⁸

Several commenters suggested that the Commission’s existing offering regimes, including the related disclosure requirements, are unfit for application to covered investment contracts and their issuers.⁸⁹ For example, some commenters expressed the view that the Commission’s current disclosure framework is not tailored to elicit the types of information that are likely to be material to investment decisions with respect to covered investment contracts.⁹⁰ As such, several commenters shared recommendations

regarding the types of information that the Commission should mandate if it were to adopt a tailored disclosure regime with respect to crypto assets.⁹¹ The information they recommended for disclosure includes the ecosystem and governance mechanism with respect to a crypto asset, plans of development for a crypto network or allocation, and source code security.⁹²

In addition, several commenters generally supported Regulation A as a potential starting point or model for a covered investment contract offering framework.⁹³ Some commenters, however, identified certain features of Regulation A that either make it ill-suited or unavailable for covered investment contract offerings. Commenters noted, for example, that Regulation A is available only with respect to offerings of equity securities, debt securities, and equity-related convertible securities.⁹⁴ Commenters also pointed to the difficulty of complying with State securities laws with respect to securities purchased in Regulation A offerings, including because the Federal securities laws do not preempt State law with respect to secondary market transactions in such securities.⁹⁵

4. Safe Harbor From Registration

Finally, the “Safe Harbor from Registration” topic solicited input on several aspects of a potential “time-limited exemption from the registration requirements under the Securities Act for offers and sales of crypto assets during the development of a blockchain project” that Commissioner Peirce first suggested in 2020.⁹⁶ Among other

things, this potential exemption would “provide network developers with a grace period within which, under certain conditions, they can facilitate broad participation in and the development of a functional or decentralized network.”⁹⁷ At the end of this grace period, “token transactions may not be securities transactions if the network had matured into a decentralized or functioning network that is not dependent on a single person or group to carry out the essential managerial or entrepreneurial efforts.”⁹⁸ Commissioner Peirce’s statement solicited input on several aspects of her suggested exemption.

Many commenters generally supported a potential exemption along these lines.⁹⁹ One commenter stated that “[a] thoughtfully calibrated Safe Harbor—appropriately tailored to the realities, risks, and opportunities of digital assets and blockchain technologies—will provide important information to investors, eliminate information asymmetries, and protect investors, token holders, builders, and projects operating in this space while the long-term legislative and regulatory policymaking processes play out.”¹⁰⁰ Some commenters also suggested modifications to the potential exemption.¹⁰¹ For example, one commenter proposed a revised exemption with multiple modifications, including a clarification regarding the distinction between the “utility” path to non-security status and the

⁸⁷ *Id.*

⁸⁸ *Id.* Although commenters often referred to crypto assets that are subject to an investment contract when providing feedback to the Crypto Task Force, they did not use the term “covered investment contracts,” as that is a new term that we are proposing to define in Regulation Crypto Assets. Nonetheless, we believe many of the views commenters expressed would apply equally to covered investment contracts (as we propose to define that term). For the sake of convenience and consistency, therefore, we use that term throughout this release, including when describing commenter input.

⁸⁹ See, e.g., letters from a16z 2; a16z (May 1, 2025) (“a16z 3”); AIMA; Anderson P.C. (May 12, 2025) (“Anderson”); L. Cohen; Coinbase; CoinList (July 9, 2025) (“CoinList”); Crowdfunding Professional Association (June 13, 2025) (“CfPA”); Figure Markets; Global Digital Assets and Cryptocurrency Association (May 16, 2025) (“GDCA”); J. Lawler; Nasdaq; SIFMA (June 11, 2025) (“SIFMA 2”); The Digital Chamber (June 26, 2025) (“TDC 2”). One commenter conducted a survey of 2,000 self-identified crypto asset investors. See letter from Broadridge Financial Solutions (Apr. 29, 2025) (“Broadridge”). The results of that survey “show that individuals regard traditional types of disclosure information as important in making and monitoring crypto investments,” including “information on risks, financial overview, management, and governance.” *Id.* The commenter further noted that “[b]y contrast, survey respondents rated information on tokenomics, network/platform activity, and perspective of the core team lower in importance.” *Id.* (emphasis in original). The commenter concluded, however, that these survey results “suggest[] that [the surveyed investors] are unaware of the importance of other relevant information that is helpful in evaluating and monitoring investments in these asset classes.” *Id.* As a result, the commenter stated that “[t]ailored disclosures, together with greater financial literacy education, can support robust growth in the crypto asset markets, and protect investors by affording them high levels of innovation and greater choice.” *Id.*

⁹⁰ See, e.g., letters from a16z 3; AIMA; Anderson; Broadridge; CfPA; L. Cohen; Coinbase; GDCA; Nasdaq; TDC 2.

⁹¹ See, e.g., letters from a16z 3; Ava Labs Inc. (Sept. 3, 2025); CfPA; Coinbase; GDCA; Joon Kim (Mar. 6, 2025) (“J. Kim”); Nasdaq; SIFMA 2.

⁹² See, e.g., letter from Coinbase.

⁹³ See, e.g., letters from a16z 3; CfPA; DealMaker (May 30, 2025) (“DealMaker”); Figure Markets; CrowdCheck Law (Mar. 19, 2025) (“CrowdCheck Law”); Nasdaq; TDC 2.

⁹⁴ See, e.g., letters from CrowdCheck Law; TDC 2. Eligible securities under Regulation A are defined as “[e]quity securities, debt securities, and securities convertible or exchangeable to equity interests, including any guarantees of such securities, but not including asset-backed securities as such term is defined in Item 1101(c) of Regulation AB.” 17 CFR 230.261(c).

⁹⁵ See, e.g., letters from CrowdCheck Law; DealMaker.

⁹⁶ See Cmr. Peirce Request for Input (citing Commissioner Hester M. Peirce, *Token Safe Harbor Proposal 2.0* (Apr. 13, 2021) (“Cmr. Peirce Proposal 2.0”), available at <https://sec.gov/newsroom/speeches-statements/peirce-statement-token-safe-harbor-proposal-20>). Cmr. Peirce Proposal 2.0 is an updated version of the token safe harbor proposal Commissioner Peirce originally suggested in February 2020. See Commissioner Hester M. Peirce, *Running on Empty: A Proposal to Fill the Gap Between Regulation and Decentralization* (Feb. 6, 2020) (“Commissioner Peirce, Running on Empty”),

available at <https://sec.gov/newsroom/speeches-statements/peirce-remarks-blockress-2020-02-06>.

⁹⁷ Cmr. Peirce Request for Input.

⁹⁸ *Id.*

⁹⁹ See, e.g., letters from Anderson; Coinbase; DeFi Education Fund (Apr. 18, 2025) (“DeFi Education Fund”); Figure Markets; Gabriel Shapiro (Mar. 14, 2025) (“G. Shapiro”); Hedera Hashgraph LLC (June 3, 2025); J. Kim; Jump Crypto; L. Cohen; Plume Network LLC (May 5, 2025); The Digital Chamber (May 21, 2025) (“TDC 3”). But see, e.g., letter from CrowdCheck Law (“We believe that if an exemption under Regulation A is available, there would be no need for a safe harbor of the kind described.”). One commenter supported the “intent behind” the potential exemption but stated “we do not support an exemption” because the commenter “believe[d] that legislation is ultimately necessary to foster the growth of the crypto asset industry, continued blockchain innovation and to ensure investor protection.” Letter from DealMaker; see also letter from a16z 3 (supporting “strongly” the goal of the potential exemption but stating that “the Crypto Task Force can best achieve its mandate by deferring this matter to Congress in the near term”). The commenter also expressed concern that the potential exemption could “potentially encourage existing entrepreneurs who utilize Regulation A and Regulation [Crowdfunding] to pivot to ‘token’ offerings that are entirely exempt from SEC registration and many of the disclosure obligations that protect investors.” Letter from DealMaker.

¹⁰⁰ Letter from DeFi Education Fund.

¹⁰¹ See, e.g., letters from a16z 3; DeFi Education Fund; G. Shapiro.

“decentralization” path.¹⁰² Another commenter suggested modifications intended to better protect investors from projects that remain subject to centralized control.¹⁰³

C. Summary of the Proposed Rules

In light of the concerns raised about the Commission’s approach to covered investment contracts before 2025 (as described in section I.A.1), the regulatory developments beginning in 2025 (as described in section I.A.2), and the public input that commenters provided to the Crypto Task Force (as described in section I.B), we are proposing new rules with respect to covered investment contracts.¹⁰⁴

The proposed rules would be set forth in a new regulation titled “Regulation Crypto Assets”¹⁰⁵ that would comprise the following subparts:

- Subpart A would contain general rules, many of which would be applicable to all the other rules in the regulation.¹⁰⁶ These general rules are discussed in section II.A below.
- Subpart B would set forth an exemption from the registration requirements of section 5 of the Securities Act¹⁰⁷ for certain offers, sales, and other distributions of covered investment contracts during a period of up to four years (“startup exemption”).¹⁰⁸ As discussed in more detail in section II.B below, the startup exemption would permit offerings of up to \$5 million during the four-year period.
- Subpart C would set forth an exemption from the registration requirements of section 5 of the Securities Act that would permit offerings of up to \$75 million during each 12-month period (“fundraising exemption”).¹⁰⁹ The mechanics of the fundraising exemption, discussed in more detail in section II.C below, would be modeled, in large part, on Regulation A¹¹⁰ and would consist of two tiers with distinct offering limits.
- Subpart D would set forth a safe harbor from the term “investment contract” in the definitions of “security” in the Securities Act¹¹¹ and the Exchange Act¹¹² (“investment

contract safe harbor”).¹¹³ As discussed in more detail in section II.D below, if the conditions of the investment contract safe harbor are satisfied, then a crypto asset would be deemed by the Commission not to be subject to an investment contract for purposes of those definitions of “security.”

• Subpart E would define “qualified purchaser” for purposes of section 18(b)(3) of the Securities Act such that State securities law registration and qualification requirements would be preempted with respect to offers and sales of covered investment contracts issued pursuant to an exemption in Regulation Crypto Assets, as well as certain secondary market transactions with respect to such covered investment contracts. This proposed definition of “qualified purchaser” is discussed in section II.E below.

We also are proposing new forms that issuers would file with the Commission when relying on the exemptions and safe harbor in Regulation Crypto Assets. In addition, we are proposing conforming amendments to certain existing rules that would help implement the new rules in Regulation Crypto Assets.

We invite and encourage interested parties to submit comments on any aspect of the proposed rules. When commenting, please include the reasoning in support of your position or recommendation and provide any supporting documentation or data.

II. Discussion of Proposed Rules

A. Regulation Crypto Assets and General Rules (Subpart A, Rules 100 Through 104)

Under our proposal, the rules in Regulation Crypto Assets would be set forth in part 228 of Title 17, Chapter II of the Code of Federal Regulations (“CFR”). Consolidating all the rules into a single part titled “Regulation Crypto Assets” may facilitate compliance with the proposed rules, especially for those issuers that are less familiar with our rules or may otherwise be unsure where the relevant rules are located in the CFR.

Subpart A of Regulation Crypto Assets would include the following proposed rules, each of which would be applicable to all or some of the other rules in Regulation Crypto Assets:

- Proposed 17 CFR 228.100 (“Rule 100”), titled “Definitions of terms used in Regulation Crypto Assets,” would set forth certain definitions that would apply to each of the proposed rules in Regulation Crypto Assets as well as the related forms.

- Proposed 17 CFR 228.101 (“Rule 101”), titled “General provisions,” would contain a series of provisions generally applicable to Regulation Crypto Assets.

- Proposed 17 CFR 228.102 (“Rule 102”), titled “Inflation adjustment for offering limits,” would establish a process whereby the proposed offering limits would be adjusted for inflation on an ongoing, predetermined basis without requiring the Commission to engage in notice and comment rulemaking each time it makes those routine adjustments.

- Proposed 17 CFR 228.103 (“Rule 103”), titled “Disclosure requirements,” would set forth principles-based disclosure requirements that issuers would be required to satisfy under the startup exemption and the fundraising exemption.

- Proposed 17 CFR 228.104 (“Rule 104”), titled “Disqualification,” would condition the availability of the startup exemption and the fundraising exemption on the issuer and certain other related persons and insiders not being disqualified as a “bad actor,” as set forth in 17 CFR 230.262(a) of Regulation A (“Rule 262(a)”).

These proposed rules are discussed below.

1. Definitions (Rule 100)

a. Background

Although defined terms are important in every new regulation, they are particularly important for Regulation Crypto Assets for several reasons. As a relatively novel and highly technological asset class, it is important that terms related to crypto assets be defined clearly so that they can be understood by all market participants, regardless of their technological sophistication. Given the rapid pace of innovation in the crypto asset markets, it also is important that the terms be both accurate with respect to the current state of the technology and sufficiently flexible to cover potential developments in the market to avoid a need to continually revisit and update the definitions. In addition, because the rules in Regulation Crypto Assets are intended to be tailored to offerings with respect to a specific type of security (*i.e.*, covered investment contracts), it is important that they be appropriately scoped to ensure that offerings of those securities, and only those securities, are eligible to utilize these rules. Much of that “scoping” would be accomplished through the proposed definitions in Rule 100.

¹⁰² Letter from G. Shapiro.

¹⁰³ See letter from a16z 3.

¹⁰⁴ See *supra* note 4 for the definition of “covered investment contract” under the proposed rules.

¹⁰⁵ See proposed 17 CFR part 228.

¹⁰⁶ See proposed 17 CFR 228.100 through 104.

¹⁰⁷ 15 U.S.C. 77e.

¹⁰⁸ See proposed 17 CFR 228.200.

¹⁰⁹ See proposed 17 CFR 228.300 through 307.

¹¹⁰ See 17 CFR 230.251 through 263.

¹¹¹ 15 U.S.C. 77b(a)(1).

¹¹² 15 U.S.C. 78c(a)(10).

¹¹³ See proposed 17 CFR 228.400.

b. Proposed Rule

Proposed Rule 100 would set forth certain definitions that would apply to each of the rules in Regulation Crypto Assets as well as the related forms. The following terms would be defined in Rule 100:

- “Aggregate offering price” and “aggregate sales”;
- “Associated crypto application”;
- “Associated crypto network”;
- “Business day”;
- “Covered investment contract”;
- “Covered transaction”;
- “Crypto asset”;
- “Final offering circular”;
- “Related person”;
- “Subject crypto asset.”

In addition, Rule 100 would provide that other than these specifically defined terms (and unless otherwise provided), the terms used in Regulation Crypto Assets (and in new forms, Form 1-CRYPTO, Form 1-KC, Form 1-SC, Form 1-UC, Form TR, and Form NOR, which would be codified at 17 CFR 239.600 through 605) will have the same meanings as in 17 CFR 230.405 (“Rule 405”), except that all references to “registrant” in those definitions will refer to the issuer of the securities to be offered and sold under Regulation Crypto Assets.

The term “aggregate offering price” would be defined as the sum of all cash and other consideration to be received for the covered investment contracts being offered.¹¹⁴ The term “aggregate sales” would be defined as the gross proceeds for all securities sold pursuant to other offering statements under Regulation Crypto Assets within the 12 months before the start of, and during, the current offering of securities. When a mixture of cash and non-cash consideration is to be received, the aggregate offering price or aggregate sales would be based on the price at which the covered investment contracts are offered for cash. Any portion of the aggregate offering price or aggregate sales attributable to cash received in a foreign currency must be translated into U.S. currency at a currency exchange rate in effect on, or at a reasonable time

before, the date of the sale of the covered investment contracts.

If covered investment contracts are not offered for cash, the aggregate offering price or aggregate sales would be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Valuations of non-cash consideration would be required to be reasonable at the time made. The proposed definitions generally are consistent with the terms as defined in 17 CFR 230.501 (“Rule 501”) of Regulation D and as used in 17 CFR 230.251 of Regulation A. The terms are primarily used in Regulation Crypto Assets to set the offering limits in the startup exemption and the fundraising exemption.

The term “associated crypto application” would be defined to mean, with respect to a crypto asset, the smart contract or similar executable software program that is deployed to an associated crypto network and within which such crypto asset may be used for the transmission or storage of value or for which the crypto asset facilitates access or participation. This term is used throughout Regulation Crypto Assets and is intended to capture the particular application in which a given crypto asset can be used for various functions.

The term “associated crypto network” would be defined to mean, with respect to a crypto asset, the blockchain or similar distributed ledger technology network on which such crypto asset is generated, minted, or mined. This term is used throughout Regulation Crypto Assets and is intended to capture the particular network to which a given crypto asset is “native” and on which records regarding ownership of and transactions in that crypto asset are recorded.

The term “business day” would be defined as any day except Saturdays, Sundays, or Federal holidays. This proposed definition is consistent with the definition of “business day” set forth in 17 CFR 230.261 of Regulation A. This term is used in several rules in Regulation Crypto Assets, generally with respect to deadlines for making certain filings with the Commission.

As noted above,¹¹⁵ the term “covered investment contract” would be defined as a contract, transaction, or scheme that constitutes an investment contract; provided that the investment contract must meet the following requirements: (1) a crypto asset is subject to the

investment contract; (2) such crypto asset is not a security; and (3) no asset other than such crypto asset (including any security or non-security asset) is subject to the investment contract. This term is used throughout Regulation Crypto Assets, as the startup exemption and the fundraising exemption are available only for offers and sales of covered investment contracts (*i.e.*, issuers may not rely on those exemptions with respect to offers and sales of other types of securities¹¹⁶). Thus, to ensure that it has an appropriate scope, the definition: (1) includes investment contracts that involve a crypto asset,¹¹⁷ (2) excludes investment contracts that involve crypto assets that are themselves securities (*e.g.*, digital securities¹¹⁸), and (3) excludes investment contracts that involve any asset other than a non-security crypto asset.

The term “covered transaction” would be defined as an offer, sale, or other distribution of a covered investment contract in reliance on the startup exemption, including, but not limited to: (1) any public or private offering, including a distribution, of a covered investment contract in one or a series of capital raising transactions; or (2) any public or private offering, including a distribution and transactions referred to as “airdrops,”¹¹⁹ of a covered investment contract in one or a series of transactions in exchange for, in recognition of, or as incentive for past or future use of an associated crypto network or associated crypto application, or as a reward or incentive for conducting activities primarily related to operating, governing, or securing an associated crypto network or associated crypto application.

¹¹⁶ As discussed in note 19 above, the proposed exemptions are tailored to covered investment contract offerings. To the extent an issuer is seeking to conduct an offering of other types of securities (including investment contracts that involve other types of securities or non-security assets other than crypto assets), we believe it would be more appropriate to use another offering framework, such as a registered offering or an exempt offering under Regulation A or Regulation D, that is likely better tailored to the security being offered. For example, to the extent the security being offered is an equity security, the existing disclosure frameworks (which contain more issuer-focused disclosures) are more likely to elicit material disclosures.

¹¹⁷ The term “investment contract” is not defined in Rule 100. Issuers and other market participants should refer to the 2026 Interpretation for guidance as to whether an investment contract exists with respect to a crypto asset. *See* 2026 Interpretation at 13721. The term “crypto asset” is defined in Rule 100. *See supra* note 3.

¹¹⁸ *See supra* note 52 and accompanying text.

¹¹⁹ *See infra* note 200 and accompanying text for a discussion of airdrops in the context of the startup exemption.

¹¹⁴ Proposed 17 CFR 228.100. The aggregate offering price or aggregate sales would include, for example, permitted payment stablecoins received for the covered investment contracts being offered. Additionally, any fees paid by the investor in connection with the offering that reduce the amount of consideration received by the issuer would not count toward the offering limit. Alternatively, fees incurred by the issuer that it pays with the proceeds of the offering would not be deducted from the offering amount for purposes of determining the aggregate offering price or aggregate sales. These fees instead would constitute a use of proceeds and should be described, as appropriate, in the issuer's disclosures.

¹¹⁵ *See supra* note 4.

As the proposed definition suggests, the term “covered transaction” is used only in the context of the startup exemption. While that definition would include any offer, sale, or other distribution of a covered investment contract in reliance on the startup exemption, it also sets forth examples of certain types of distributions.¹²⁰ These examples are meant to be illustrative and are not intended to suggest that these are the only or preferred types of offers, sales, or distributions of covered investment contracts that can be conducted under the startup exemption.

As noted in section I above,¹²¹ the term “crypto asset” would be defined as any digital representation of value that is recorded on a cryptographically-secured distributed ledger.¹²² This term is used throughout Regulation Crypto Assets and dictates the scope of the proposed rules. For example, the investment contract safe harbor is available only with respect to investment contracts involving crypto assets (*i.e.*, other types of assets may not rely on that safe harbor, even if they are subject to an investment contract¹²³).

The term “crypto asset” is embedded in the definition of “covered investment contract,” and, as previously noted in this section, the startup exemption and the fundraising exemption are available only for offers and sales of covered investment contracts. Thus, to ensure that Regulation Crypto Assets has an appropriately limited scope, the definition would include only those assets for which the relevant technology (*i.e.*, cryptographically-secured distributed ledger) is a necessary feature.

As noted below,¹²⁴ “final offering circular” means, if the issuer is not relying on proposed 17 CFR 228.302(b) (“Rule 302(b)”), the more recent of: (1) the current offering circular contained in a qualified offering statement; and (2) any offering circular filed pursuant to proposed 17 CFR 228.302(f) (“Rule

302(f)”).¹²⁵ If, however, the issuer is relying on Rule 302(b), the final offering circular is the more recent of: (1) the offering circular filed pursuant to Rule 302(f)(1) or (3); and (2) any subsequent offering circular filed pursuant to Rule 302(f). This term is consistent with its definition in 17 CFR 230.261(e) of Regulation A and is used throughout the fundraising exemption.¹²⁶

The term “related person” would mean, with respect to an issuer: founders, promoters, employees, affiliates, and any person that is a director, officer, trustee, consultant, contractor, or advisor to the issuer, in each case together with any immediate family member. This term is used in proposed Rule 103 (“Disclosure requirements”). The definition is intended to include any person that may be viewed as an “insider” of the issuer to ensure that investors are adequately protected and informed (via the disclosure requirements in the proposed rule) about those who are in the best position to influence the outcome of the project.

Finally, the term “subject crypto asset” would be defined as a crypto asset that is subject to a covered investment contract. This definition is intended to reflect a key principle: for purposes of Regulation Crypto Assets, the “security” at issue is the covered investment contract (to which the subject crypto asset is subject) rather than the crypto asset itself.¹²⁷ Information regarding the subject crypto asset, however, is likely to be material to an investment decision in an offering of covered investment contracts. Thus, the term “subject crypto asset” is referred to throughout Rule 103 (“Disclosure requirements”).

Request for Comment

1. Should we adopt Rule 100 as proposed?

2. Are there any defined terms that we either should not adopt or should change in the final rules? If so, please identify those defined terms along with any recommended changes to the definitions.

¹²⁵ See proposed 17 CFR 228.302(f) (requiring, among other things, an issuer to file an offering circular supplement disclosing information previously omitted from the offering circular).

¹²⁶ The terms “offering statement” and “preliminary offering circular” also are defined in 17 CFR 230.261 for purposes of Regulation A. Although those terms also are used in the fundraising exemption, we believe they are sufficiently self-explanatory such that it is unnecessary to define them for purposes of the fundraising exemption.

¹²⁷ See 2026 Interpretation at 13717.

3. Are there additional terms used in Regulation Crypto Assets that we should define?

4. Does the proposed definition of “associated crypto network” appropriately capture the particular network to which a given crypto asset is “native” and on which records regarding ownership and transactions in that crypto asset are recorded?

5. Does the definition of “covered investment contract” scope in the appropriate population of securities? If not, what scope would be more appropriate?

6. The definition of “covered investment contract” would exclude investment contracts that involve crypto assets that are securities or any other type of asset other than a non-security crypto asset. Should we instead adopt a definition of “covered investment contract” that would permit investment contracts involving assets other than a non-security crypto asset to constitute a “covered investment contract” so long as they also involve non-security crypto assets?¹²⁸ If so, should the portion of the covered investment contract that relates to the other type of asset be able to rely on the proposed exemptions, or should the issuer have to seek another exemption for that portion of the covered investment contract?

7. Would permitting other types of assets to be considered part of a “covered investment contract” have implications for the proposed approach for determining the number or purchase price of covered investment contracts and the required disclosures about the underlying assets in Rule 103(b)? If the rules permitted other types of assets to be considered part of a “covered investment contract,” should there be a percentage limit on the portion of the covered investment contract that relates to other types of assets and, if so, what would be an appropriate percentage limit?

8. Are the definitions of “crypto asset,” “associated crypto application,” and “associated crypto network” both technologically accurate today and flexible enough to accommodate technological developments in the future? Are there other definitions of these terms that we should use? Given how fundamental the term “crypto asset” is to this proposal, is there a more specific definition we should consider? Is the definition too narrow or too broad?

9. Do the proposed definitions of “aggregate offering price” and

¹²⁸ This could include, for example, a single investment contract that contemplates the sale of both a crypto asset and a share of the issuer’s stock.

¹²⁰ See *infra* section II.B.2 for additional discussion of the startup exemption and the ways in which it may be used.

¹²¹ See *supra* note 3.

¹²² The foregoing definition of “crypto asset” is identical to the definition of “Digital Asset” in section (2)(6) of the Guiding and Establishing National Innovation for U.S. Stablecoins Act, Public Law 119–27, 139 Stat. 419 (July 18, 2025).

¹²³ Courts have determined that other types of non-securities, such as real estate, have been offered and sold subject to investment contracts. See, e.g., *Howey*, 328 U.S. at 293 (real estate); *Cont’l Mktg. Corp. v. SEC*, 387 F.2d 466 (10th Cir. 1967), *cert. denied*, 391 U.S. 905 (1968) (beavers); *Miller v. Cent. Chinchilla Grp., Inc.*, 494 F.2d 414 (8th Cir. 1974) (chinchillas); *Glen-Arden Commodities v. Costantino*, 493 F.2d 1027 (2nd Cir. 1974) (Scotch whisky warehouse receipts).

¹²⁴ See *infra* section II.C.2.a.iii.

“aggregate sales” reflect appropriate methodologies for determining the offering limits under the startup exemption and the fundraising exemption? If not, what would be a more appropriate methodology? Should these definitions provide greater specificity about how to convert cash received in a foreign currency? For example, should we prescribe a specific date and/or method of conversion? Should the issuer be required to disclose the manner in which it converted the cash received in a foreign currency?

10. As noted previously in this section, if covered investment contracts are not offered for cash, the aggregate offering price or aggregate sales would be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Should we establish a required standard for determining fair value under Regulation Crypto Assets? If not, why not? If so, what should that standard be? Should the standard be U.S. Generally Accepted Accounting Principles (“U.S. GAAP”)? Should the rule provide a list of permitted standards?

11. Does the proposed definition of “related person” cover the appropriate scope of persons that may be viewed as insiders of the issuer and therefore should be subject to the relevant disclosure requirements in proposed Rule 103?

2. General Provisions (Rule 101)

a. Background

Many of the Commission’s existing offering exemptions—including Regulation A, Regulation D, and Regulation Crowdfunding—contain general provisions that apply to the regulations as a whole and have various functions, including clarifying the scope of the regulations, the applicable liability standards, and general requirements or conditions to relying on the exemptions, among other things. Regulation Crypto Assets would include several of these general provisions, consistent with other offering exemptions. To facilitate compliance, we are proposing to consolidate these general provisions in Rule 101.

b. Proposed Rule

Rule 101 would set forth the following provisions: Rule 101(a) (“Non-exclusive”), Rule 101(b) (“Integration”), Rule 101(c) (“Electronic filing”), Rule 101(d) (“Insignificant

deviations”), and Rule 101(e) (“Number of units and price per unit”).

Rule 101(a) would provide that attempted compliance with any exemption or safe harbor in Regulation Crypto Assets would not act as an exclusive election.¹²⁹ That is, an issuer that elects to avail itself of Regulation Crypto Assets would not be precluded from claiming the availability of any other exemption from section 5 of the Securities Act or a safe harbor for which it meets the requirements. This provision is consistent with other non-exclusivity provisions in our existing safe harbors and exemptions, including 17 CFR 230.144A and 17 CFR 230.500(c) of Regulation D. It is intended to clarify that the startup exemption, the fundraising exemption, and the investment contract safe harbor all are non-exclusive provisions and that an issuer may rely on one or more of these provisions while also relying on other exemptions or safe harbors in our rules (including existing exemptions and safe harbors or others within Regulation Crypto Assets).¹³⁰

Rule 101(b) would provide that issuers should refer to 17 CFR 230.152 (“Rule 152”) to determine whether offers and sales should be integrated.¹³¹ This rule mirrors other rules in our existing exemptions, including 17 CFR 227.100(e) of Regulation Crowdfunding, 17 CFR 230.251(c) of Regulation A, and 17 CFR 230.502(a) of Regulation D. As with those provisions, this proposed rule is intended to remind issuers of the applicability of the integration doctrine and Rule 152 if they are contemplating an offering under one or more of the exemptions in Regulation Crypto Assets as well as other offerings under the Securities Act.¹³² We also are proposing conforming amendments to Rules 152(c) and (d) to clarify when an offering

under an exemption in Regulation Crypto Assets has been deemed to have commenced and when it has been deemed to have been terminated or completed, consistent with Rule 152’s treatment of existing exemptions (including offerings under Regulation Crowdfunding, Regulation A, and Regulation D).

Rule 101(c) would require documents filed or otherwise provided to the Commission pursuant to Regulation Crypto Assets to be submitted in electronic format by means of the Commission’s Electronic Data Gathering, Analysis, and Retrieval system (“EDGAR”) in accordance with the electronic filing rules set forth in 17 CFR part 232 (“Regulation S-T”).¹³³ This rule is consistent with 17 CFR 230.251(f) of Regulation A and is intended to ensure that issuers and investors alike benefit from the efficiencies associated with electronic filing on EDGAR.¹³⁴ We also are proposing conforming amendments to 17 CFR 232.101(a)(1) to reflect this mandatory electronic filing requirement with respect to filings made under Regulation Crypto Assets.¹³⁵

Rule 101(d) would provide that failure to comply with a term, condition, or requirement of Regulation Crypto Assets would not result in the loss of any exemption under Regulation Crypto Assets for any offer or sale to a particular individual or entity, if the person relying on the exemption establishes that: (i) the failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity; (ii) the failure to comply was insignificant with respect to the offering as a whole;¹³⁶ and (iii) a good-faith and

¹³³ See proposed 17 CFR 228.101(c).

¹³⁴ See, e.g., *Amendments for Small and Additional Issues Exemptions Under the Securities Act (Regulation A)*, Release No. 33–9741 (Mar. 25, 2015) [80 FR 21806, 21822 (Apr. 20, 2015)] (“2015 Regulation A Release”) (“We believe the approach to electronic filing adopted today will be both practical and useful for issuers of Regulation A securities, investors in such securities, and other market participants. Issuers will be able to maintain better control over their filing process, reduce the printing costs associated with filings, obtain immediate confirmation of acceptance of an offering statement, and ultimately save time in the qualification process. Investors will gain real-time access to the information contained in Regulation A filings.”).

¹³⁵ See proposed 17 CFR 232.101(a)(1)(xxxix).

¹³⁶ Whether a deviation from the Regulation Crypto Assets requirements would be insignificant to the offering would depend on the facts and circumstances of the offering and the deviation. See, e.g., *Crowdfunding*, Release No. 33–9974 (Oct. 30, 2015) [80 FR 71387, 71475 (Nov. 16, 2015)] (“Crowdfunding Adopting Release”). As noted below, proposed Rule 101(d) is modeled after similar provisions in existing exemptions, and

¹²⁹ Proposed 17 CFR 228.101(a).

¹³⁰ An issuer’s ability to rely on several exemptions or safe harbors assumes that the requirements of each separate exemption or safe harbor are satisfied. To the extent the issuer is relying on several exemptions either at the same time or in close proximity, the issuer also would have to ensure that it does not run afoul of the integration doctrine. See *Facilitating Capital Formation and Expanding Investment Opportunities by Improving Access to Capital in Private Markets*, Release No. 33–10884 (Nov. 2, 2020) [86 FR 3496, 3499 (Jan. 14, 2021)] (“Facilitating Capital Formation Release”) (“The integration doctrine seeks to prevent an issuer from improperly avoiding registration by artificially dividing a single offering into multiple offerings such that Securities Act exemptions would apply to the multiple offerings that would not be available for the combined offering.”). We discuss the integration doctrine with respect to Regulation Crypto Assets below, in the context of Rule 101(b).

¹³¹ See proposed 17 CFR 228.101(b).

¹³² See *Facilitating Capital Formation Release* at 3517.

reasonable attempt was made to comply with all applicable terms, conditions, and requirements of Regulation Crypto Assets.¹³⁷ This rule is generally consistent with other rules in our existing exemptions, including 17 CFR 227.502 of Regulation Crowdfunding, 17 CFR 230.260 of Regulation A, and 17 CFR 230.508 of Regulation D. As with those provisions, this proposed rule is intended to allow for certain insignificant deviations that can occur in the offering process without causing the issuer to lose the exemption and incur the related consequences.¹³⁸

Finally, Rule 101(e) would specify how to determine the number of units of covered investment contracts and the price per unit of a covered investment contract. That rule would provide that, for purposes of determining the number of units of covered investment contracts as required by any rule or form in Regulation Crypto Assets, one unit of a covered investment contract would be equivalent to one unit of the subject crypto asset. Similarly, the price per unit of a covered investment contract as required by any rule or form in Regulation Crypto Assets should be determined by reference to the price per unit of the subject crypto asset. The rule also would set forth, as an instruction, an illustrative example stating that if an issuer sells a covered investment contract to an investor for \$100, and the covered investment contract contemplates that the issuer will distribute 10 units of the subject crypto asset to the investor, then at the time of the sale of the covered investment contract, the investor is deemed to have purchased 10 units of the covered investment contract at a price of \$10 per

those provisions specify certain deviations that would be significant. *See, e.g.*, 17 CFR 230.260 (providing that, for purposes of Regulation A, “any failure to comply with Rule 251(a), (b), and (d)(1) and (3) . . . shall be deemed to be significant to the offering as a whole”). We are not specifying such significant deviations in Rule 101(d) because we believe it is appropriate to assess each particular deviation based on its particular facts and circumstances.

¹³⁷ *See* proposed 17 CFR 228.101(d)(1). The rule also would provide that a transaction made in reliance upon an exemption under Regulation Crypto Assets must comply with all applicable terms, conditions, and requirements of the exemption. *See* proposed 17 CFR 228.101(d)(2). Where an exemption is established only through reliance upon Rule 101(d)(1), the failure to comply is nonetheless actionable by the Commission under section 20 of the Securities Act. *See id.* Finally, the rule would provide that Rule 101(d)(1) does not preclude the Commission from bringing an enforcement action seeking any appropriate relief or a proceeding under proposed 17 CFR 228.306 for an issuer’s failure to comply with all applicable terms, conditions, and requirements of Regulation Crypto Assets. *See* proposed 17 CFR 228.101(d)(3).

¹³⁸ *See, e.g.*, Crowdfunding Adopting Release at 71474.

unit of covered investment contract. We believe that specifying how to measure the number of units of covered investment contracts and determine the price per unit of a covered investment contract would facilitate compliance and provide clarity for market participants.

Request for Comment

12. Should we adopt Rule 101 as proposed?

13. The provisions in proposed Rule 101 would be similar to the general provisions in several of our existing offering exemptions. Are there any provisions in Rule 101 that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the provisions or an explanation as to why those provisions should not be adopted.

14. Are there any other general provisions that should apply to Regulation Crypto Assets? Should any of the proposed general provisions not apply to one or more of the proposed exemptions or the safe harbor in Regulation Crypto Assets?

15. Should we adopt Rule 101(a) as proposed? Alternatively, should any of the proposed exemptions or the safe harbor in Regulation Crypto Assets act as an exclusive election?

16. Would Rule 101(b) be helpful to remind issuers of the applicability of the integration doctrine and Rule 152? For example, would Rule 101(b)’s reference to Rule 152 provide clarity regarding when offers and sales conducted pursuant to the exemptions in Regulation Crypto Assets will be integrated?

17. Does Rule 101(c)’s reference to the requirements of Regulation S–T help to clarify issuers’ electronic filing obligations?

18. Should Rule 101(d) deem the failure to comply with any particular rule in Regulation Crypto Assets to be significant to the offering as a whole? If so, which rules should be identified in Rule 101(d)?

19. Should we specify how to measure the number of units of covered investment contracts and determine the price per unit of a covered investment contract as proposed in Rule 101(e)? Is the proposed method of determining the number of units of covered investment contracts appropriate? If not, what would be a better method? Should the price per unit of a covered investment contract be determined by reference to the price per subject crypto asset, as proposed? If not, how should the price per unit be determined?

3. Inflation Adjustment for Offering Limits (Rule 102)

a. Background

As discussed in more detail in sections II.B and II.C, the startup exemption and the fundraising exemption each contain offering limits. Those limits are expressed in dollar amounts and reflect our preliminary determination about amounts that would be appropriate to meet issuers’ capital raising needs while maintaining adequate investor protections. Those amounts are based on the specific purposes of each exemption as well as current economic and market conditions. We recognize, however, that over time, the efficacy of those dollar limits could be diluted as a result of the effects of inflation. We are proposing Rule 102 to address this possibility by setting up a streamlined process for future inflation adjustments.

b. Proposed Rule

Under Rule 102, the Commission would periodically, but not less than once every five years,¹³⁹ adjust the offering amount limitations in the startup exemption and the fundraising exemption to reflect any changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.¹⁴⁰ This proposed rule is intended to establish a process whereby the proposed offering limits would be adjusted on an ongoing, predetermined basis to maintain their current effectiveness without requiring the Commission to engage in notice-and-comment rulemaking each time it makes those routine adjustments. We would expect to implement the adjustment via a direct-to-final rulemaking. If the Commission desired to make other adjustments to the offering limits, such as lowering the limits or raising them

¹³⁹ For consistency with Titles I and III of the Jumpstart Our Business Startups Act (“JOBS Act”), Public Law 112–106, 126 Stat. 306 (2012), we are proposing that the Commission adjust the offering amount limitations every five years in manner consistent with the adjustment for emerging growth companies, *see* 15 U.S.C. 77b(a) (Securities Act section 2(a)(19)) and 15 U.S.C. 78c(a) (Exchange Act section 3(a)(80)), and Regulation Crowdfunding companies, *see* 15 U.S.C. 77d(a)(6) (Securities Act section 4(a)(6)) and 15 U.S.C. 77d–1(h)(1) (Securities Act section 4A(h)(1)). *See also Inflation Adjustment under Titles I and III of the JOBS Act*, Release No. 33–11098 (Sept. 9, 2022) [87 FR 57394 (Sept. 20, 2022)].

¹⁴⁰ *See* proposed 17 CFR 228.102. The Consumer Price Index for All Urban Consumers is the statistical metric developed by the Bureau of Labor Statistics of the Department of Labor to monitor the change in the price of a set list of products. This index represents changes in prices of all goods and services purchased for consumption by urban households. *See* “Consumer Price Index,” available at <https://bls.gov/cpi>.

beyond the effects of inflation, it could do so at any time through notice-and-comment rulemaking.

Request for Comment

20. Should we adopt Rule 102 as proposed?

21. Are there any portions of Rule 102 that we either should not adopt or that we should change in the final rules? If so, please identify those portions of the rule along with any recommended changes.

22. Would it be more appropriate for the Commission to consider ad hoc adjustments to the offering limits through notice-and-comment rulemaking rather than establishing an ongoing, predetermined basis for making such adjustments?

23. Is the proposed frequency of the Commission's adjustments under this rule (periodically, but no less than once every five years) appropriate? Should these adjustments occur more or less frequently?

24. Should the Commission adjust the offering limits to reflect factors other than, or in addition to, changes in the Consumer Price Index for All Urban Consumers? If so, what other factors would be appropriate to consider?

25. Is the proposed rule's reference to "changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor" an appropriate measure for inflation? If not, what other measure(s) should we use?

4. Disclosure Requirements (Rule 103)

a. Background

A prominent theme in submissions to the Crypto Task Force as well as other public commentary is that the Commission's existing disclosure requirements do not elicit the types of information that are likely to be material to investors in covered investment contracts.¹⁴¹ This includes the disclosure requirements in 17 CFR part

229 ("Regulation S-K")¹⁴² and Form 1-A.¹⁴³ In the past, the Commission has adopted Regulation S-K subparts tailored to specific types of issuers and transactions, such as Regulation M-A (mergers and acquisitions),¹⁴⁴ Regulation AB (asset-backed securities),¹⁴⁵ subpart 1200 (oil and gas producing activities),¹⁴⁶ subpart 1300 (mining operations),¹⁴⁷ subpart 1400 (banks and savings and loans),¹⁴⁸ and subpart 1600 (Special Purpose Acquisition Companies).¹⁴⁹ To date, however, the Commission has not considered amendments to disclosure requirements specifically applicable to offerings of covered investment contracts.

Several commenters expressed concern that the Commission's existing disclosure requirements are "inflexible," requiring disclosure on topics that are not applicable or relevant to offerings of covered investment contracts.¹⁵⁰ Commenters also stated that existing disclosure frameworks do not elicit disclosure on a number of topics that are relevant to investors in covered investment contract offerings, including the technical, governance, and economic characteristics of crypto assets; description of the project; crypto asset allocations, liquidity, and tradability; crypto asset and network security; and unique technological,

market, and redemption risks.¹⁵¹ In sum, the existing disclosure frameworks, when applied to covered investment contract offerings, may compel issuers to incur the costs of providing ultimately immaterial disclosures while, at the same time, failing to provide investors consistently with the types of information most important to their investment decisions. To address these concerns, we are proposing disclosure principles that are intended to be tailored to covered investment contract offerings and provide investors in these offerings with the information they need to make informed investment decisions.

In developing the proposed disclosure requirements in Rule 103, we have considered a broad range of sources. The proposed requirements were informed, in part, by the Division of Corporation Finance's April 2025 statement titled, "Offerings and Registrations of Securities in the Crypto Asset Markets," which "reflect[ed] [the staff's] observations regarding disclosures provided in response to existing disclosure requirements."¹⁵² We also considered recommendations in academic research, public commentary, and crypto asset safe harbor proposals from market participants.¹⁵³ Finally, a number of commenters, in their written input to the Crypto Task Force, included detailed discussion of evolving disclosure best practices and recommendations for disclosure tailored to issuers and offerings of covered investment contracts.¹⁵⁴

Some common themes emerged from those external perspectives. Notably, there appeared to be some consensus regarding the key categories of information that should be required under a tailored disclosure regime, including information about the following: (1) the covered investment contract offering; (2) management, related persons, and other "material

¹⁴¹ See, e.g., letters from a16z 2; a16z 3; AIMA; Anderson; Broadridge; L. Cohen; Coinbase; CoinList; Zack Dane (Feb. 23, 2025) ("Z. Dane"); Figure Markets; CrowdCheck Law; J. Kim; OpenZeppelin (Apr. 16, 2025) ("OpenZeppelin"); G. Shapiro; SIFMA 2; TDC 2; tZero Group, Inc. (Mar. 5, 2025) ("tZero"); see also LeXpunkK, *Regulation X Proposal: An Exempt Offering Framework for Token Issuances* (Apr. 25, 2022) ("LeXpunkK Regulation X Proposal"), available at [https://github.com/LeXpunkK-Army/Reg-X-Proposal-An-Exempt-Offering-Framework-for-Token-Issuances/blob/main/Lexpunk%20Reg%20X%20Proposal%20FINAL%20\(4.25\).pdf](https://github.com/LeXpunkK-Army/Reg-X-Proposal-An-Exempt-Offering-Framework-for-Token-Issuances/blob/main/Lexpunk%20Reg%20X%20Proposal%20FINAL%20(4.25).pdf); Justin Slaughter, Katie Biber, and Rodrigo Seira, *The Current SEC Disclosure Framework Is Unfit for Crypto* (Apr. 20, 2023), available at <https://paradigm.xyz/2023/04/secs-path-to-registration-part-iii>.

¹⁴² Regulation S-K was created as part of the integrated disclosure initiative to be the repository for the non-financial statement disclosure to be included in Securities Act registration statements and Exchange Act periodic reports. See *Adoption of Integrated Disclosure System*, Release No. 33-6383 (Mar. 3, 1982) [47 FR 11380 (Mar. 16, 1982)]; see also U.S. Securities and Exchange Commission, *Report on Review of Disclosure Requirements in Regulation S-K* (Dec. 2013), available at <https://sec.gov/news/studies/2013/reg-sk-disclosure-requirements-review.pdf>.

¹⁴³ Form 1-A sets forth the form and content requirements included in Regulation A offering statements. See Form 1-A, Regulation A Offering Statement Under the Securities Act of 1933, available at <https://sec.gov/files/form1a.pdf>.

¹⁴⁴ See 17 CFR 229.1000 through 17 CFR 229.1016.

¹⁴⁵ See 17 CFR 229.1100 through 17 CFR 229.1125.

¹⁴⁶ See 17 CFR 229.1200 through 17 CFR 229.1208.

¹⁴⁷ See 17 CFR 229.1300 through 17 CFR 229.1305.

¹⁴⁸ See 17 CFR 229.1400 through 17 CFR 229.1406.

¹⁴⁹ See 17 CFR 229.1600 through 17 CFR 229.1610.

¹⁵⁰ See *supra* section I.B.3; see also letter from a16z 3 (stating that "line item disclosures called for by the relevant forms and by Regulation S-K and Regulation S-X may not always be material to purchasers of crypto assets" and "Regulation A's disclosure framework is modeled on traditional corporate equity offerings and is not well suited to address the unique features of certain crypto assets").

¹⁵¹ See, e.g., letters from a16z 3 (stating that flexible, principles-based disclosure "would result in more concise, actionable disclosures that better promote informed decision-making and investor protection"); CfPA; GDCA; OpenZeppelin (recommending disclosure of third-party security audits and the methodology used in those audits); SIFMA 2; TDC 2.

¹⁵² See CF Disclosure Statement, *supra* note 38.

¹⁵³ See Chris Brummer, Trevor I. Kiviat, and Jai Massari, *What Should Be Disclosed in an Initial Coin Offering?*, in Brummer, ed., *Cryptoassets: Legal, Regul., and Monetary Persps.* (2019); Chris Brummer, *Disclosure, Dapps, and DeFi*, 5 Stan. J. Blockchain L. & Pol'y 137 (2022); Chris Brummer, *A Developer Theory of Disclosure* (Spring 2025) available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5137972; LeXpunkK Regulation X Proposal, *supra* note 141.

¹⁵⁴ See, e.g., letters from a16z 3; AIMA; CfPA; Coinbase; GDCA; SIFMA 2; TDC 2.

participants”; (3) the associated crypto network or associated crypto application, including the plan of development and the intended architecture, network protocols and functionality, and security and source code; (4) the subject crypto asset, including total supply, distribution, and lockup information; (5) the governance of the associated crypto network or associated crypto application; (6) the subject crypto asset’s economics and its “ecosystem”; and (7) the material risks relating to the covered investment contract, the subject crypto asset, and associated crypto network or application. Proposed Rule 103 is intended to reflect these key categories as well as additional issuer-, security-, and offering-level information that we believe is necessary to help ensure investors in a covered investment contract offering are appropriately informed.

b. Proposed Rule

Based on the above considerations, Rule 103 would set forth principles-based disclosure requirements with respect to offerings of covered investment contracts. We believe these disclosure requirements would: (1) elicit material information for investors in these offerings, (2) result in disclosures that are appropriately tailored to reflect covered investment contract issuers’ particular facts and circumstances, (3) help investors compare covered investment contracts and covered investment contract offerings, and (4) generally reduce disclosure costs and compliance burdens (as compared to covered investment contract issuers’ costs and burdens when trying to comply with existing disclosure requirements).

Rule 103(a) would set forth general disclosure principles that issuers should follow when responding to the disclosure requirements in Rule 103(b). Rule 103(a) would state that information provided under Regulation Crypto Assets should be tailored to the issuer, the subject crypto asset, and the associated crypto network or associated crypto application and should be presented in clear, concise, and understandable language, without overly relying on technical terminology or jargon.¹⁵⁵ When preparing this information, each issuer would be required to tailor its disclosure based on its own facts and circumstances. Information provided would also be required to address the current stage of development of the issuer, the subject crypto asset, and the associated crypto

network or associated crypto application and should clearly delineate any forward-looking or future plans of development. Information provided would be required to be consistent with the issuer’s public statements in its established public communication channels (such as its website or official social media accounts) and promotional materials (such as whitepapers¹⁵⁶) relating to material aspects of the issuer, the subject crypto asset, and the associated crypto network or associated crypto application. Finally, disclosure would not be required to be provided where a particular disclosure requirement is not applicable, or responsive information is unknown or not reasonably available.

Rule 103(b) would set forth the disclosure requirements that issuers would be required to comply with when relying on the startup exemption or the fundraising exemption.¹⁵⁷ These disclosure requirements would cover non-financial, narrative information relating to the key aspects of a covered investment contract offering. The disclosure requirements would be organized into the following topics: (1) covered investment contract; (2) offering; (3) subject crypto asset; (4) management, related persons, and conflicts of interest; (5) associated crypto network/application; plan of development; (6) security; source code; (7) subject crypto asset economics and allocation; (8) governance; (9) subject crypto asset ecosystem; and (10) risk factors.¹⁵⁸ Each of those topics is discussed in more detail below.

In addition, as noted previously in this section, the disclosure requirements in Rule 103(b) would be principles-based requirements. That is, the rule would require the issuer to describe the material aspects of the applicable topic without specifying detailed information

that must be provided.¹⁵⁹ This principles-based approach is intended to give issuers the flexibility to tailor the disclosure to their particular facts and circumstances (and avoid compelling disclosure of irrelevant information) while still eliciting material information for investors. It also is intended to provide sufficient flexibility so that the proposed rules can accommodate potential future developments in the crypto asset markets and thereby avoid the need for the Commission to continually revisit and update the disclosure requirements.

We recognize that some market participants may prefer a different approach with respect to the proposed disclosure requirements. For example, some investors may prefer more prescriptive disclosure requirements that give issuers less flexibility but elicit more consistent and comparable disclosures. In addition, notwithstanding the flexibility provided by the principles-based approach, some issuers may prefer that we set forth detailed disclosure requirements to help them more easily determine what information they must provide. Although we believe our proposed requirements strike the appropriate balance, we seek comment on potential alternative approaches, including replacing the principles-based approach with more prescriptive disclosure requirements or, alternatively, supplementing the principles-based requirements with non-exclusive examples of disclosure that may be responsive.

i. Paragraph (b)(1)—Covered Investment Contract

Rule 103(b)(1) would require the issuer to provide a description of the material terms of the covered investment contract, including the issuer’s representations or promises to engage in essential managerial efforts under the covered investment contract and its progress with respect to such representations or promises, a purchaser’s obligations under the covered investment contract, any conditions to the covered investment contract, and any other material terms. Because the covered investment contract would be the security being offered under these exemptions, it is important for issuers to provide

¹⁵⁶ The term “whitepaper” generally refers to a document that describes the technical aspects of a crypto asset project (*i.e.*, a crypto asset and the associated crypto network or associated crypto application) along with other relevant details. See President’s Working Group Report at 31 (“Projects often disclose how their token issuance process occurs in their whitepaper, which describes technical aspects of the project, contractual rights of the token holders, and other pertinent details.”).

¹⁵⁷ See proposed 17 CFR 228.103(b).

¹⁵⁸ Information regarding the issuer will be included in Form NOR for issuers relying on the startup exemption and in Part II of Form 1-CRYPTO for issuers relying on the fundraising exemption. Descriptions of proposed Form NOR and proposed Form 1-CRYPTO would be codified at 17 CFR 239.605 and 17 CFR 239.600, respectively. See *infra* section II.B for a more detailed discussion of the startup exemption and Form NOR. See *infra* section II.C for a more detailed discussion of the fundraising exemption and Form 1-CRYPTO.

¹⁵⁹ In contrast to some of the other subparagraphs, Rules 103(b)(1) and (2) would enumerate certain information that an issuer must describe with respect to the covered investment contract and the offering. These enumerated items represent key details that we believe are necessary for investors to make informed investment decisions about the covered investment contract and the offering.

¹⁵⁵ See proposed 17 CFR 228.103(a).

investors with information about the material terms of that security.

In addition, because the existence of the covered investment contract depends on the issuer's representations or promises to engage in essential managerial efforts,¹⁶⁰ we believe that requiring disclosure of these representations or promises may help investors and other market participants determine the circumstances under which the covered investment contract may cease to exist. Furthermore, requiring the issuer to provide disclosure regarding its progress with respect to such representations or promises will help investors and other market participants assess, on an ongoing basis, the likelihood that the issuer will satisfy those representations or promises. We also expect issuers may refer to this disclosure in determining whether they have satisfied the conditions of the investment contract safe harbor, including pursuant to their transition report obligations under the startup exemption and the fundraising exemption.

In the 2026 Interpretation, the Commission provided guidance regarding the types of efforts that may be regarded as essential managerial efforts. For example, the Commission noted that representations or promises by an issuer conveyed to purchasers to develop and achieve functionality for a non-security crypto asset and/or develop an associated crypto network or associated crypto application together with a business plan containing detailed milestones, a timeline, information about personnel, sources of funding and other resources needed to meet those milestones, and an explanation of how holders of the non-security crypto asset will profit from those efforts, likely would create a reasonable expectation of profits because they speak directly to those essential managerial efforts that affect the failure or success of the project.¹⁶¹ In contrast, the Commission stated that representations or promises that are vague or contain no semblance of an actionable business plan, such as those lacking milestones, funding, or other plans for needed resources, likely would not create a reasonable expectation of profits.¹⁶²

We further note that an issuer may make other representations or promises to take certain actions that would not constitute essential managerial efforts. For example, once an issuer has satisfied its representations or promises to engage in essential managerial efforts

under the covered investment contract, the associated crypto network or associated crypto application may be functional. Once such network or application is functional, it is our view that services to secure, maintain, improve, or enhance such a network or application or its functionality, or to facilitate network effects, whether through sponsoring or funding development projects or other similar activities, would not constitute essential managerial efforts. As a result, any representations or promises (whether by the issuer or another party) to provide or continue to provide or arrange for the provision of such services after the network or application is functional would not satisfy the *Howey* test. In this regard, rather than deriving its value from the essential managerial efforts of the issuer, the relevant crypto asset should derive its value from the programmatic operation of the associated crypto network or associated crypto application, as well as the market's supply and demand dynamics with respect to such crypto asset. Moreover, after the associated crypto network or associated crypto application is functional, and the crypto asset can be used in accordance with the programmatic utility of such network or application, such services (whether provided or coordinated by the issuer or another party) would no longer be among the undeniably significant ones because they would not affect the failure or success of the associated crypto network or associated crypto application. Rather, the activities of and contributions made by many parties (including, for example, the issuer, other developers, validators and/or miners, liquidity providers, users, and holders of the crypto asset) would affect the failure or success of the associated crypto network or associated crypto application after such network or application is functional. Prior to functionality, however, such services are provided or coordinated by the issuer and likely constitute essential managerial efforts.

ii. Paragraph (b)(2)—Offering

Rule 103(b)(2) would require the issuer to provide a description of the material terms of the offering, including:

- The number of units of covered investment contracts to be offered, the purchase price per unit (or how the purchase price per unit will be determined),¹⁶³ the duration of the

offering period, and any qualifications for or restrictions on purchasers in the offering;

- Any material agreements in furtherance of the distribution of covered investment contracts in the offering;
- The estimated net offering sale proceeds and expenses to be paid with the offering proceeds;
- The intended use of proceeds from any sales in the offering; and
- The website address at which any whitepapers or other offering materials that the issuer prepared or distributed, either publicly or to prospective purchasers in connection with the offering, are publicly accessible, free of charge.¹⁶⁴

As noted in section II.A.4.a above, we believe this is fundamental information regarding the offering that should be provided to investors to support their ability to make a well-informed investment decision.

iii. Paragraph (b)(3)—Subject Crypto Asset

Rule 103(b)(3) would require the issuer to provide a description of the name and the material aspects of the subject crypto asset.¹⁶⁵ We expect that the value of the covered investment contract that is being offered and sold often will depend, in large part, on investors' perception of the subject crypto asset. Thus, the proposed rule seeks to elicit material information regarding the subject crypto asset so that an investor can make an informed investment decision with respect to the covered investment contract.

iv. Paragraph (b)(4)—Management, Related Persons, and Conflicts of Interest

Rule 103(b)(4) would require the issuer to provide a description of: (i) the material aspects of the issuer's management and related persons; (ii) the material aspects of any conflicts of interest or related person transactions involving the issuer; and (iii) whether related persons are subject to any transfer or resale restriction(s) with respect to the covered investment contract or subject crypto asset and, if so, the material terms of such restriction(s).¹⁶⁶ As noted in section II.A.4.a above, information about management, related persons, and other "material participants" is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to

¹⁶⁰ See 2026 Interpretation at 13721–22.

¹⁶¹ See *id.* at 13721–22.

¹⁶² See *id.*

¹⁶³ See proposed 17 CFR 228.101(e) (specifying how to determine the number of units of covered investment contracts and the price per unit of a covered investment contract).

¹⁶⁴ See proposed 17 CFR 228.103(b)(2).

¹⁶⁵ See proposed 17 CFR 228.103(b)(3).

¹⁶⁶ See proposed 17 CFR 228.103(b)(4).

covered investment contracts. We agree that a covered investment contract issuer should provide information to investors regarding these persons because they are in the best position to influence the outcome of the project. As such, information about these persons' expertise and professional background, as well as arrangements that may affect their incentives with respect to the project, is likely to be material to investors. The proposed rule is intended to elicit information about those persons in a principles-based manner.

In addition, covered investment contracts sold pursuant to one of the exemptions in Regulation Crypto Assets would not be restricted securities for purposes of the Federal securities laws. Absent a contractual or other applicable holding period or restriction, therefore, purchasers of covered investment contracts issued under the proposed exemptions would be able to sell those securities immediately upon acquisition. Several commenters expressed concerns about information asymmetries and misaligned incentives between issuer "insiders" and other investors, especially during the period after which the issuer has offered and sold covered investment contracts but before the issuer has fulfilled its representations or promises to engage in essential managerial efforts under the covered investment contract.¹⁶⁷ These commenters recommended that any exemption include limitations on insider sales of covered investment contracts in order to ensure investors are appropriately protected and insiders' incentives remain aligned with other investors.¹⁶⁸

We recognize that investor protection risks related to information asymmetries and misaligned incentives between insiders and investors may be heightened with respect to covered investment contract offerings due to the unique nature of the representations or promises in these offerings.¹⁶⁹ The

¹⁶⁷ See, e.g., letters from a16z 2; a16z 3 ("While an initial development team retains control of a network token and its underlying network, tokenholders are at the greatest risk of harm stemming from information asymmetries about a project, and the trust dependencies of such network token may be similar to that of an ordinary security."); Coinbase.

¹⁶⁸ See, e.g., letters from a16z 3; Coinbase (recommending "[o]ther potential considerations that would apply conditions to [an] exemption or safe harbor," including "[a] limitation on token sales by the development team and related parties for their own account until the network or protocol has become sufficiently decentralized. Such a limitation would help ensure the issuer, development team and related persons have continued economic incentive to complete the project.").

¹⁶⁹ For example, covered investment contract issuers often represent or promise to decentralize

proposed disclosure requirement regarding related person resale or transfer restrictions is intended to address these concerns by giving investors the information they need to determine whether there are risks associated with the issuer's related persons and, if so, whether the issuer has taken steps to mitigate those risks.

v. Paragraph (b)(5)—Associated Crypto Network/Application; Plan of Development

Rule 103(b)(5) would require the issuer to provide a description of the material aspects of the associated crypto network or associated crypto application and the issuer's plan of development with respect to the associated crypto network or associated crypto application, including the issuer's progress with respect to its plan of development. As noted in section II.A.4.a above, information about the associated crypto network or associated crypto application, including architecture, network protocols and functionality, and security and source code (the latter two of which are discussed in the next section) is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment contracts. We agree that a covered investment contract issuer should provide this information to investors because this information will inform investors' expectations as to the intended future state of the project (which, in turn, will help the investor evaluate the potential future value of the subject crypto asset). In addition, in many cases, the associated crypto network or associated crypto application will not yet have been developed at the time of the covered investment contract offering (in which case the funds from the offering may be funding development of that network or application). In those cases, information regarding the plan of development may be material for investors as they assess the likelihood of success for the project, as well as the expected timing and progress in connection with the plan of development, both at the time of the offering and on an ongoing basis. This proposed rule is intended to elicit that

the associated crypto network or associated crypto application, at which point the issuer and its insiders may not have control over, or the ability to profit from, such network or application or the subject crypto asset. This situation could incentivize insiders to delay such decentralization (to the detriment of investors) to the extent they seek to retain their leverage to profit from such network, application, or subject crypto asset.

information in a principles-based manner.

vi. Paragraph (b)(6)—Security; Source Code

Rule 103(b)(6) would require a description of the material aspects of the security of the subject crypto asset and the associated crypto network or associated crypto application and, to the extent the issuer has made it publicly available, the website address at which the code underlying the associated crypto network or associated crypto application (also referred to as "source code") is accessible.¹⁷⁰ As noted in section II.A.4.a above, information about the associated crypto network or associated crypto application, including architecture, network protocols and functionality, and security and source code, is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment contracts.

We agree that a covered investment contract issuer should provide this information to investors because this information would help investors to independently assess whether the associated crypto network or associated crypto application may operate consistently with the issuer's description. In addition, this information would help investors assess potential cybersecurity risks associated with the associated crypto network or associated crypto application. This proposed rule is intended to elicit information regarding the security and source code in a principles-based manner.

vii. Paragraph (b)(7)—Subject Crypto Asset Economics and Allocations

Rule 103(b)(7) would require the issuer to provide a description of the material aspects of the subject crypto asset's economics and allocations, including: (1) the subject crypto asset's supply, pricing, lockups, distribution methods, holdings by related persons, and release schedules; (2) the associated crypto network or associated crypto application's mechanisms for generating and destroying subject crypto assets; and (3) methods to verify the subject crypto asset's transaction history.¹⁷¹ As noted in section II.A.4.a above, information about the subject crypto asset economics and allocations is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment

¹⁷⁰ See proposed 17 CFR 228.103(b)(6).

¹⁷¹ See proposed 17 CFR 228.103(b)(7).

contracts. We agree that a covered investment contract issuer should provide this information to investors because this information would help investors assess the total number of subject crypto assets that may be outstanding at a given point in time, which bears directly on the value of the subject crypto asset (and, therefore, the value of the covered investment contract). This proposed rule is intended to elicit that information in a principles-based manner.

viii. Paragraph (b)(8)—Governance

Rule 103(b)(8) would require the issuer to provide a description of the material aspects of the subject crypto asset's and associated crypto network's or associated crypto application's governance mechanisms, smart contract governance mechanisms, and permissions.¹⁷² As noted in section II.A.4.a above, information regarding the governance of the associated crypto network or associated crypto application is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment contracts. We agree that a covered investment contract issuer should provide this information to investors because this information would help investors understand the conditions under which changes may be made to the subject crypto asset or the associated crypto network or associated crypto application and who may be empowered to make such changes. Such changes could relate to the aspects of the subject crypto asset that are relevant to investors' valuation of the subject crypto asset and, ultimately, the covered investment contract. This proposed rule is intended to elicit that information in a principles-based manner.

ix. Paragraph (b)(9)—Subject Crypto Asset Ecosystem

Rule 103(b)(9) would require the issuer to provide a description of the material aspects of the subject crypto asset's current and anticipated ecosystem (*i.e.*, the system or network of contributors or participants that support and interact with the subject crypto asset and associated crypto network or associated crypto application), "onchain" and "offchain," including information regarding the technology infrastructure, types of participants, and other parties and systems using the subject crypto asset and the associated crypto network or associated crypto application.¹⁷³ As noted in section

II.A.4.a above, information about the subject crypto asset's ecosystem is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment contracts. We agree that a covered investment contract issuer should provide this information to investors because this information would help investors understand potential activity with respect to, and uses of, the subject crypto asset, which may help inform investors' expectations with respect to potential demand for the subject crypto asset. Investors' expectations regarding demand for the subject crypto asset may be relevant to their valuations of the subject crypto asset and, ultimately, the covered investment contract. This proposed rule is intended to elicit that information in a principles-based manner.

x. Paragraph (b)(10)—Risk Factors

Finally, Rule 103(b)(10) would require the issuer to provide a description, in short, concise statements, of the material factors that make an investment in the offering speculative or risky, including risks related to the covered investment contract, the issuer, the subject crypto asset, and the associated crypto network or associated crypto application.¹⁷⁴ As noted in section II.A.4.a above, information about the material risks relating to the covered investment contract, the subject crypto asset, and associated crypto network or application is one of the key categories of information that several commenters stated would be important for a disclosure framework tailored to covered investment contracts. We agree that a covered investment contract issuer should provide this information to investors because this information would help investors assess the risks associated with investing in the covered investment contracts. This proposed rule is intended to elicit that information in a principles-based manner.

The rule also would provide that this description must avoid generalized statements and include only factors specific to the covered investment contract, the issuer, the subject crypto asset, and the associated crypto network or associated crypto application. This is intended to avoid boilerplate disclosure and help ensure that information disclosed under this rule is important to an investor's investment decision.

Request for Comment

26. Should we adopt Rule 103 as proposed?

27. Are there any specific disclosure requirements in Rule 103 that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the provisions.

28. Are there any other disclosure requirements that we should specify in Rule 103?

29. In lieu of the principles-based requirements, should we adopt more prescriptive disclosure requirements? Alternatively, should the final rules supplement the principles-based requirements with non-exclusive examples of disclosure that may be responsive?

30. Rather than adopting more prescriptive requirements or including examples of disclosure that may be responsive to the principles-based requirements, should we include more detailed guidance in the adopting release regarding what types of information may be responsive to the principles-based requirements?

31. Are there any material terms in the description of the offering we should add, eliminate, or revise? If so, please identify the term and the reasons for doing so.

32. Should we prescribe the methods by which issuers publicly provide or otherwise deliver to investors the disclosures in Rule 103? If so, what methods should the rules prescribe?

33. Will the proposed requirements result in disclosures that investors (including retail investors) will be able to understand and use to make informed investment decisions? If not, how should we revise the requirements to better ensure investors (including retail investors) will be able to understand the resulting disclosures and use them to make informed investment decisions?

34. Do related persons of covered investment contract issuers pose heightened risks with respect to information asymmetries and misaligned incentives such that the disclosure of any resale or transfer restrictions is warranted? Are there other risks that such insiders pose that this disclosure would help address?

35. Instead of only requiring disclosure relating to any related person resale or transfer restrictions, should we require that issuers establish a specific minimum holding period for related persons, such as a one-year holding period, as a condition to relying on the proposed exemptions? Rather than a time-based holding period, should we

¹⁷² See proposed 17 CFR 228.103(b)(8).

¹⁷³ See proposed 17 CFR 228.103(b)(9).

¹⁷⁴ See proposed 17 CFR 228.103(b)(10).

base any holding period on the achievement of certain development milestones with respect to the associated crypto network or associated crypto application? Are there other resale or transfer restrictions that we should apply with respect to related persons as conditions to the proposed exemptions in Regulation Crypto Assets?

36. How should we modify proposed Rule 103(b)(10), if at all, to help ensure that the resulting risk factor disclosure will address only material risks to the issuer and avoid boilerplate disclosures?

5. Disqualification (Rule 104)

a. Background

Many of the Commission's existing offering exemptions—including Regulation A, Regulation D, and Regulation Crowdfunding—contain disqualification provisions.¹⁷⁵ These provisions generally “disqualify securities offerings from reliance on exemptions if the issuer or other relevant persons . . . have been convicted of, or are subject to court or administrative sanctions for, securities fraud or other violations of specified laws.”¹⁷⁶ Disqualification provisions are intended to protect investors by reducing the risk of fraud in connection with exempt offerings that include such provisions.¹⁷⁷ As such, we believe it is important to include a disqualification provision (proposed Rule 104) in Regulation Crypto Assets to help ensure that investors in covered investment contracts offerings are protected from fraud.

b. Proposed Rule

Rule 104 would provide that the exemptions in Regulation Crypto Assets are not available if the issuer or any person listed in Rule 262(a)¹⁷⁸ would be

subject to disqualification under Rule 262. Rule 262, in turn, sets forth various disqualifying actions or events,¹⁷⁹ as well as exceptions from those disqualifying actions or events.¹⁸⁰ Both the disqualifying actions and events, as well as the exceptions from the disqualifying actions or events, would apply under Rule 104. Additionally, requests for waivers of disqualification, where appropriate, would remain available to the same extent they are available under Rule 262.¹⁸¹

We believe it is appropriate to cross-reference the existing standard in Regulation A, rather than enumerate disqualification requirements specific to the proposed exemptions in Regulation Crypto Assets, in the interest of regulatory consistency and simplicity. We also believe that aligning the proposed disqualification standard with the existing standard under Regulation A (which is aligned with similar provisions in Regulation D and Regulation Crowdfunding) is appropriate because it is likely to simplify due diligence, particularly for issuers that may engage in different types of exempt offerings.¹⁸² Our experience with existing offering exemptions leads us to believe that a bad actor disqualification provision would provide appropriate investor protections in the context of covered investment contract offerings.

Further, under Rule 104, the disqualification provisions in Rule 262

would not apply with respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before the date on which Rule 104 becomes effective, if the rule ultimately is adopted. This approach would prevent prior conduct from triggering disqualification without prior notice. To address concerns regarding prior disqualifying events, however, Rule 104 would require the issuer to include in an offering circular or otherwise furnish to each purchaser, a reasonable time prior to sale, a description in writing of any matters that would have triggered disqualification under Rule 104 but occurred before the date on which Rule 104 becomes effective.¹⁸³ This disclosure would help put investors on notice of events that would, but for the timing of such events, have disqualified the issuer from relying on an exemption in Regulation Crypto Assets. This approach is consistent with the approach the Commission took when imposing bad actor disqualifications on newly created exemptions in the past.¹⁸⁴ Moreover, the failure to provide such information would not prevent an issuer from relying on an exemption under Regulation Crypto Assets if the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known of the existence of the undisclosed matter or matters.¹⁸⁵

Request for Comment

37. Should we adopt Rule 104 as proposed?

38. Are there any portions of Rule 104 that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the rule.

39. Would it be beneficial to maintain general uniformity between Rule 104 and the disqualification provisions in Regulation A, as proposed? Are there aspects of this disqualification provision

¹⁷⁵ See, e.g., 17 CFR 227.503 (setting forth the disqualification provision under Regulation Crowdfunding); 17 CFR 230.262 (setting forth the disqualification provision under Regulation A); 17 CFR 230.506(d) (setting forth the “bad actor” disqualification provision under Regulation D).

¹⁷⁶ *Disqualification of Felons and Other “Bad Actors” from Rule 506 Offerings*, Release No. 33–9414 (July 10, 2013) [78 FR 44730, 44731 (July 24, 2013)].

¹⁷⁷ See, e.g., Crowdfunding Adopting Release at 71520–21 (“This will help reduce the potential for fraud in the market for such offerings, which in turn may reduce the cost of raising capital to issuers that rely on section 4(a)(6), to the extent that disqualification standards lower the risk premium associated with the presence of bad actors in securities offerings.”).

¹⁷⁸ In addition to the issuer, Rule 262(a) lists the following persons: any predecessor of the issuer; any affiliated issuer; any director, executive officer, other officer participating in the offering, general partner or managing member of the issuer; any beneficial owner of 20 percent or more of the issuer's outstanding voting equity securities,

calculated on the basis of voting power; any promoter connected with the issuer in any capacity at the time of filing, any offer after qualification, or such sale; any person that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with such sale of securities; any general partner or managing member of any such solicitor; or any director, executive officer or other officer participating in the offering of any such solicitor or general partner or managing member of such solicitor.

¹⁷⁹ See 17 CFR 230.262(a).

¹⁸⁰ See 17 CFR 230.262(b).

¹⁸¹ See U.S. Securities and Exchange Commission, *Waivers of Disqualification Under Regulation A and Regulation D* (last reviewed or updated Apr. 2, 2025), available at <https://sec.gov/about/divisions-offices/division-corporation-finance/waivers-disqualification-under-regulation-regulation-d>.

¹⁸² We recognize that, in some places, Rule 262 refers to “Regulation A” or other Regulation A rules. Those references may be somewhat confusing when trying to apply Rule 262 to the Regulation Crypto Assets exemptions pursuant to proposed Rule 104. For example, Rule 262(a) provides that “[n]o exemption under §§ 230.251 through 230.263 (Regulation A) shall be available for the sale of securities if the issuer” or certain other persons have engaged in certain disqualifying events. 17 CFR 230.262(a). Therefore, we propose including an instruction to Rule 104(a) stating that references to “Regulation A” or other Regulation A rules in Rule 262(a) should, for purposes of Rule 104(a), be read as references to Regulation Crypto Assets or its rules.

¹⁸³ See proposed 17 CFR 228.104(b). This provision is based on a similar disclosure provision in Rule 262. That provision, however, applies only to disqualifying events that occurred before Rule 262 became effective. Accordingly, we are including a similar provision in Rule 104 to clarify the date to which such disclosure provision applies.

¹⁸⁴ See, e.g., 17 CFR 230.262(d); 17 CFR 230.506(e).

¹⁸⁵ Rule 104 further would provide that an issuer would not be able to establish that it has exercised reasonable care unless it has made, in light of the circumstances, factual inquiry into whether any disqualifications exist. The nature and scope of the required factual inquiry will vary based on the facts and circumstances concerning, among other things, the issuer and the other offering participants. See proposed 17 CFR 228.104, instruction to paragraph (b).

that are not well suited to Regulation Crypto Assets?

40. Are there types of persons that are subject to disqualification as proposed under Rule 104 that should be excluded? Alternatively, are there types of persons that are not subject to disqualification under Rule 104 that should be included?

41. Are there types of disqualifying events that would trigger disqualification under Rule 104 that should be excluded? Alternatively, are there types of disqualifying events that would trigger disqualification under Rule 104 that should be included?

42. Rather than cross-referencing Rule 262, should we instead cross-reference the disqualification provision in Regulation D or Regulation Crowdfunding? Are there aspects of these disqualification provisions that are better suited to Regulation Crypto Assets than the disqualification provision in Rule 262? Alternatively, should we adopt a standalone disqualification provision rather than cross-referencing a disqualification provision set forth in an existing exemption?

B. Startup Exemption (Subpart B, Rule 200)

Subpart B of Regulation Crypto Assets would set forth an exemption from the registration requirements of section 5 of the Securities Act for certain offers, sales, and other distributions of covered investment contracts during a period of up to four years. This proposed startup exemption would permit offerings of up to \$5 million during the four-year period. The exemption is intended to provide issuers with temporary relief from Securities Act registration requirements—during which time they may work towards fulfilling the essential managerial efforts they represented or promised investors they would engage in under the covered investment contract—while, at the same time, ensuring that investors remain sufficiently protected and informed. Issuers that rely on the exemption would remain subject to the antifraud and antimanipulation provisions of the Federal securities laws, including, but not limited to, section 17 of the Securities Act and section 10 of the Exchange Act.

1. Background

As noted above,¹⁸⁶ issuers often conduct ICOs when the relevant project (*i.e.*, the crypto asset and associated crypto network or associated crypto application) is in its early stages or has

not yet begun. In those cases, the issuer typically uses the capital raised in the ICO to fund development of the project. Because issuers in ICOs typically pair the offer or sale of a crypto asset (or the promise to deliver a crypto asset at a later date) with representations or promises regarding their efforts to, for example, develop and market the project, those issuers often are offering and selling covered investment contracts.¹⁸⁷ If that is the case, then those offers and sales are subject to the Securities Act and, therefore, must be either registered under section 5 or made pursuant to an exemption.

As with offers and sales of other types of securities, an issuer of a covered investment contract must either register its offering or rely on a valid exemption from registration. The Commission's existing rules, however, pose two main difficulties when applied to offerings of covered investment contracts. First, as discussed above,¹⁸⁸ the Commission's existing disclosure requirements may not elicit the types of information that are most likely to be material to investors in covered investment contracts. Thus, these disclosure requirements, when applied to covered investment contract offerings, can impose undue compliance costs on issuers while failing to provide investors with information important to their investment decisions. The Commission has confronted similar issues with respect to other asset classes and sought to address them with bespoke disclosure requirements.¹⁸⁹

Second, subject crypto assets may eventually separate from the issuer's representations or promises to engage in essential managerial efforts, and, as a result, the covered investment contract may cease to exist. This process of the covered investment contract ceasing to exist generally occurs under the circumstances described in the 2026 Interpretation (*e.g.*, as a result of the issuer fulfilling, or failing to satisfy, its representations or promises to engage in essential managerial efforts under the covered investment contract).¹⁹⁰ This process also may be consistent with issuers' and investors' expectations in a covered investment contract offering. For example, the completion of an

issuer's stated goal at the outset of the offering (*i.e.*, the fulfillment of its representations or promises to engage in essential managerial efforts under the covered investment contract) should give rise to the cessation of the covered investment contract. Similarly, investors' interest in the offering often is driven by their perception of the likelihood of the issuer fulfilling its representations or promises and achieving its stated goal. Thus, in these circumstances, the relevant stakeholders in the offering may share a common interest in achieving an outcome that will result in the subject crypto assets (that initially were sold subject to an investment contract) eventually not being subject to the Federal securities laws.

Some have asserted that, as currently applied, the Federal securities laws can inhibit the realization of this mutually beneficial outcome.¹⁹¹ In short, for developers to complete crypto asset projects as they envision and represent or promise to crypto asset offerees and purchasers, they often must distribute crypto assets to other persons. This is especially the case when the project contemplates a functional and decentralized crypto network or application. To the extent those distributions constitute offerings of covered investment contracts, however, the Securities Act and the Commission's rules thereunder can impose prohibitive costs or burdens.¹⁹²

The startup exemption, set forth in proposed 17 CFR 228.200 ("Rule 200"), would help address these concerns, thereby avoiding unduly burdening issuers as they attempt to fulfill their

¹⁹¹ See, *e.g.*, Commissioner Peirce, Running on Empty; see also letters from Nasdaq; CrowdCheck Law; AIMA; a16z 1; Crypto Council; Figure Markets.

¹⁹² Some concerns also have been raised about other aspects of the Federal securities laws that may apply to transactions involving covered investment contracts. See Commissioner Peirce, Running on Empty (recommending exemptions from the definitions of "exchange," "broker," and "dealer" under the Exchange Act). This proposal does not address those recommendations. We will continue to consider whether further action with respect to covered investment contracts beyond the proposed rules in this release is warranted. To the extent concerns have been raised about whether an issuer may need to register a class of covered investment contracts under section 12(g) of the Exchange Act, we do not view covered investment contracts as equity securities, and, therefore, we believe they are not subject to section 12(g). Specifically, a covered investment contract is not an "equity security" under section 3(a)(11) of the Exchange Act, 17 CFR 240.3a11-1, or 17 CFR 230.405. The term "investment contract" is not included in the aforementioned statutory section or rules, and a covered investment contract does not constitute any of the financial instruments enumerated in the definition of "equity security" in such section or rules. See also *infra* note 249 and accompanying text.

¹⁸⁷ See 2026 Interpretation at 13722.

¹⁸⁸ See *supra* section II.A.4.

¹⁸⁹ See *id.* (noting that the Commission has adopted Regulation S-K subparts tailored to specific issuers and transactions, such as Regulation M-A (mergers and acquisitions), Regulation AB (asset-backed securities), subpart 1200 (oil and gas producing activities), subpart 1300 (mining operations), subpart 1400 (banks and savings and loans), and subpart 1600 (Special Purpose Acquisition Companies)).

¹⁹⁰ See 2026 Interpretation at 13722-23.

¹⁸⁶ See *supra* note 21.

representations or promises to engage in essential managerial efforts under covered investment contracts.¹⁹³ Specifically, issuers that qualify for the startup exemption would be able to distribute subject crypto assets to potential associated crypto network or associated crypto application participants via an offering framework that, on the one hand, is tailored to covered investment contracts such that it avoids undue costs and contemplates the potential eventual cessation of the covered investment contract and, on the other hand, ensures investors are appropriately protected and well-informed.

2. Proposed Rule

As noted in the preceding section, the startup exemption is intended to provide issuers with a regulatory runway during which they could attempt to fulfill their representations or promises to engage in essential managerial efforts under covered investment contracts. Those representations often focus on developing the functionality of, and pursuing decentralization with respect to, the associated crypto network or associated crypto application, which may necessitate the distribution of subject crypto assets.¹⁹⁴ Issuers relying

on the exemption would be able to perform the tasks needed to develop, test, and launch their projects with increased certainty about the application of the registration requirements of section 5 of the Securities Act to their projects¹⁹⁵ and with requirements that are tailored to covered investment contracts and their issuers. Issuers also would be able to rely on this exemption to conduct smaller capital-raising transactions involving covered investment contracts (subject to a \$5 million offering limit). As explained in more detail below, we believe this proposed exemption is appropriate in the public interest and consistent with the protection of investors because it appropriately balances capital formation and the protection of investors in this space.

Rule 200 would be separated into five paragraphs, denominated (a) through (e). Under Rule 200(a), a covered transaction would be exempt from the registration requirements of section 5 of the Securities Act if the issuer satisfied the rule's conditions. Rule 200(b) would set forth those conditions, which are as follows: (1) four-year duration; (2) issuer eligibility; (3) one-time use; (4) offering limit; (5) disclosure and filing requirements; and (6) general conditions. Rule 200(c) would set forth the filing requirements for issuers relying on the startup exemption. This provision would require the issuer to file a notice of reliance with the Commission on a new form titled "Form NOR," a description of which would be codified at 17 CFR 239.605.¹⁹⁶ Rule 200(d) would require the issuer to make the information set forth in Rule 103 publicly accessible, free of charge, at a website address specified in the notice of reliance at or prior to the time it files the notice of reliance. Rule 200(d) also would require the issuer to periodically update that information, as set forth in the rule. Finally, Rule 200(e) would require the issuer to file a transition report with the Commission on a new form titled "Form TR," a description of

limiting the amount that may be sold to such investors). General solicitation also would be permitted under the startup exemption. These features would help to avoid impediments to the development of network effects. *See supra* notes 12–15 and accompanying text.

¹⁹⁵ Many of these tasks (including those functions that are inherent to the operation of an associated crypto network or associated crypto application) involve the transfer or distribution of crypto assets that may constitute an offer or sale of covered investment contracts subject to the Securities Act (e.g., distributions in connection with airdrops or transfers as gas fees, fees for testing, or other compensation). *See, e.g.,* letter from Kiln (Apr. 3, 2025) ("Kiln").

¹⁹⁶ As noted below, proposed Form NOR is set forth in Appendix F to this release.

which would be codified at 17 CFR 239.604,¹⁹⁷ no later than four years after the date on which the issuer filed the notice of reliance. Each of these provisions is discussed in more detail below.

a. Scope of Exemption (Rule 200(a))

Under Rule 200(a), a covered transaction would be exempt from the registration requirements of section 5 of the Securities Act if the conditions set forth in Rule 200(b) were satisfied. As discussed in section II.A.1.b above, a "covered transaction" would be defined in Rule 100 as any offer, sale, or other distribution of a covered investment contract in reliance on the startup exemption.¹⁹⁸ A covered transaction would include, but not be limited to, capital raising transactions as well as other offerings of covered investment contracts in exchange for, in recognition of, or as incentive for past or future use of an associated crypto network or associated crypto application, or as a reward or incentive for conducting activities primarily related to operating, governing, or securing an associated crypto network or associated crypto application.¹⁹⁹

The broad scope of the definition of "covered transaction" is intended to allow issuers to conduct distributions of covered investment contracts in connection with the development, testing, and launch of a subject crypto asset and associated crypto network or associated crypto application, subject to the offering limit and the other conditions in Rule 200(b). Importantly, this would enable the issuer to more easily conduct the various distributions of covered investment contracts that may be necessary in connection with the development of a crypto network or application, including airdrops;²⁰⁰

¹⁹⁷ As noted below, proposed Form TR is set forth in Appendix E to this release.

¹⁹⁸ Because the startup exemption would apply only to covered transactions once the conditions of Rule 200(b) (including filing a notice of reliance on Form NOR and providing the disclosures set forth in proposed Rule 103) are satisfied, issuers should be aware that any communication made before that time may constitute an "offer" under the Securities Act that would not fall within the scope of the exemption. As such, issuers should exercise caution with respect to any such communications, including, for example, by ensuring those communications are accurate and consistent with any subsequent communications or disclosures made during the offering period.

¹⁹⁹ *See* proposed 17 CFR 228.100.

²⁰⁰ As noted in the definition of "covered transaction," an issuer would be able to conduct an airdrop in reliance on the startup exemption. *See supra* note 119 and accompanying text. As discussed in section I.A.2.a above, in the 2026 Interpretation, the Commission provided its view that airdrops of "non-security crypto assets by issuers to recipients who do not provide the issuer

¹⁹³ In that regard, we note that several commenters suggested that the level of decentralization associated with a crypto asset should determine whether such crypto asset is subject to an investment contract and, therefore, that the Commission should adopt an exemption to facilitate such decentralization. *See supra* sections I.B.1 and 4. As discussed in the 2026 Interpretation, we believe the determination as to whether a crypto asset is subject to an investment contract is based on whether a crypto asset purchaser's profit expectations depend on the issuer's representations or promises to engage in essential managerial efforts. *See* 2026 Interpretation at 13721. That investment contract would, in turn, cease to exist if the issuer fulfills those representations or promises. Whether an issuer fulfills its representations or promises to engage in essential managerial efforts depends on how the issuer defines or otherwise describes such efforts in marketing and promoting the investment contract. If the issuer represents or promises to achieve decentralization of an associated crypto network or associated crypto application, whether the issuer has achieved decentralization would be based on how the issuer defined or otherwise described decentralization, not a general market conception of what constitutes decentralization. Thus, we believe the proper focus of the startup exemption (and the investment contract safe harbor, as discussed in section II.D below) should be on the issuer's fulfillment of the representations or promises it made to engage in essential managerial efforts under the covered investment contract rather than a general market conception of decentralization.

¹⁹⁴ Covered investment contracts issued pursuant to the startup exemption would not be restricted securities or otherwise subject to rule-based resale restrictions, and the startup exemption would not limit an issuer's ability to sell covered investment contracts to retail investors (by, for example, prohibiting sales to non-accredited investors or

distributions related to staking, governance, and gas fees that are intended to enable crypto network or application functionality; and paying fees for testing or other compensation.²⁰¹

Request for Comment

43. Should we exempt covered transactions from the registration requirements of section 5 of the Securities Act if the conditions in Rule 200(b) are satisfied, as proposed in Rule 200(a)?

44. Does the proposed definition of “covered transactions” establish an appropriate scope for the exemption?

45. In footnote 192 above, we express our view that covered investment contracts are not “equity securities” and, therefore, are not subject to section 12(g) of the Exchange Act. Should we codify this view by, for example, amending 17 CFR 240.12g5–1 to provide that for purposes of determining whether an issuer is required to register a class of equity securities with the Commission pursuant to section 12(g) of the Exchange Act, an issuer may exclude covered investment contracts?

46. Are there specific revisions we should make to the proposed startup exemption to address airdrops? For example, should we provide additional guidance on how to calculate any consideration provided in exchange for the airdrop? Alternatively, should we adopt a separate exemption specifically tailored for airdrops? If so, what should a standalone exemption contain?

with money, goods, services, or other consideration in exchange for the airdropped non-security crypto assets” do not become subject to an investment contract and that issuers conducting such airdrops do not need to register those transactions with the Commission under the Securities Act or fall within one of the Securities Act’s exemptions from registration. 2026 Interpretation at 13730–31. As such, issuers conducting airdrops that fall within the circumstances described in the 2026 Interpretation would not need to rely on the startup exemption, or any other exemption, for such airdrops. This would include airdrops in which “consideration was provided to the issuer prior to the announcement of the airdrop and the recipients are not required to provide any further consideration to the issuer after such announcement in order to obtain the airdropped non-security crypto asset.” *Id.* at 13731. If, however, an issuer conducts an airdrop that falls outside the scope of the circumstances described in the 2026 Interpretation, then such issuer may conduct such airdrop in reliance on the startup exemption, subject to the offering limit in proposed Rule 200(b)(4). This would include, for example, an airdrop in which the recipients would have to fulfill conditions subsequent to the announcement of the airdrop, such as buying a specific crypto asset, buying a good or service (whether or not related to a crypto asset), or performing a specific task (whether or not related to a crypto asset). See 2026 Interpretation at 13731, n.141.

²⁰¹ See, e.g., letters from AIMA; Kiln.

b. Conditions (Rule 200(b))

Rule 200(b) would include six subparagraphs, each describing a condition with which an issuer must comply in order to rely on the startup exemption. Rule 200(b)(1) (*Four-year duration*) would require the covered transaction to occur during the period beginning after the issuer has filed a notice of reliance in accordance with Rule 200(c)(1) and ending on the date that is the earlier of (i) four years after the date of such filing or (ii) the date on which the issuer files a transition report pursuant to Rule 200(e). The four-year maximum duration of the startup exemption is intended to provide the issuers with a reasonable amount of time to fulfill their representations or promises to engage in essential managerial efforts under covered investment contracts. At the same time, we are conscious that a duration that is too prolonged could undermine the incentives that the limited duration otherwise would provide issuers to fulfill their representations or promises.

In this regard, we note that the startup exemption does not impose certain requirements on the issuer that are contained in the other proposed exemption (e.g., disclosing financial information or providing narrative disclosures regarding the issuer’s financial condition in a Commission filing) so that the burdens of using the exemption are commensurate with the \$5 million offering limit, and also because it is limited in its duration. The justification for less burdensome disclosure requirements under the startup exemption may be undermined if the duration were significantly extended. We believe the four-year period and offering limit strike the appropriate balance with respect to these considerations,²⁰² but we are

²⁰² In determining the appropriate maximum duration for the exemption, we note that commenters suggested between three and four years as the appropriate time period. See, e.g., letters from a16z 3 (“[P]rojects should remain eligible for the safe harbor so long as they have achieved ‘Network Maturity’ during the three-year period.”); Injective Labs (July 9, 2025) (recommending a four-year exemption). We also note that Commissioner Peirce’s recommended exemption would have a three-year duration, whereas draft legislation introduced in the House of Representatives would exempt from section 5 of the Securities Act offers and sales of covered investment contracts if the “issuer intends for the blockchain system to which the digital commodity relates to be a mature blockchain system,” generally within four years. See Cmr. Peirce Proposal 2.0; Digital Asset Market Clarity Act of 2025, H.R. 3633, 119th Cong. (2025), available at <https://congress.gov/bill/119th-congress/house-bill/3633>. Having considered these recommendations, we are proposing the longer of the two alternatives (i.e., four years) in order to ensure that issuers would have sufficient time under the exemption to fulfill their representations

seeking commenters’ feedback on these aspects of the proposed rule.

Rule 200(b)(2) (*Issuer eligibility*) would state that the issuer may be an entity, an individual, or a group of individuals or entities. To help ensure that investors remain sufficiently protected and that each such member of the group of individuals or entities acknowledges responsibility under the proposed rule, each member of the group (or an authorized person for each member) would be required to sign the notice of reliance and transition report and provide the certifications thereunder.²⁰³ The members of the group would be responsible, individually and collectively, for satisfying the conditions of the exemption.

This provision is intended to recognize the fact that, in the early stages of a crypto asset project, a developer or development team may not have consulted legal counsel or expended the time and money (especially if it has not yet raised funds) to form a legal entity through which to conduct their business.²⁰⁴ These early-stage projects, however, may still benefit from the ability to use the startup exemption in order to progress their projects toward fulfilling their representations or promises to engage in essential managerial efforts under covered investment contracts. As such, we believe it is appropriate not to limit use of the startup exemption to a single entity acting as the issuer.²⁰⁵

or promises to engage in essential managerial efforts under covered investment contracts.

²⁰³ The term “group” as used in Regulation Crypto Assets is intended to be consistent with the group concept under the beneficial ownership reporting rules. See *Modernization of Beneficial Ownership Reporting*, Release No. 33–11253 (Oct. 10, 2023) [88 FR 76896, 76932] (noting that determining whether a group has been formed “does not depend solely on the presence of an express agreement” and that “concerted actions by two or more persons for the purpose of acquiring, holding or disposing of securities of an issuer are sufficient to constitute the formation of a group”). Under 17 CFR 240.13d–1(k)(2), a group may satisfy its beneficial ownership reporting obligation either by a single joint filing or by each of the group’s members making an individual filing. By contrast, under Rule 200, a joint notice of reliance and transition report filing would be required, and the group would not satisfy its filing obligations if each individual separately filed notices of reliance or transition reports.

²⁰⁴ See, e.g., letter from Vanguard Global Holdings LLC (May 28, 2025) (“[T]he reality is that many blockchain initiatives are not born from large institutions or well-funded investors. They often originate in garages, home offices, and kitchen tables These are startups led by a single individual or a small team with a bold vision but limited financial resources.”).

²⁰⁵ There is no requirement, however, that an issuer be a “startup” or early-stage in order to use the startup exemption, so long as the issuer satisfies the exemption’s conditions.

Rule 200(b)(3) (*One-time use*) would state that the issuer and its affiliates must not have previously relied on the startup exemption with respect to the same subject crypto asset, or a substantially similar crypto asset, other than with respect to covered transactions that occurred during the period set forth in Rule 200(b)(1). This provision is intended to avoid potential loopholes whereby an issuer could effectively circumvent the four-year limitation (by using the startup exemption for another four years after having used it for a prior four-year period) or the offering size limitation (by permitting multiple affiliated issuers to each separately raise funds pursuant to the startup exemption).

We recognize that some may view this proposed restriction as overly broad given that it would apply both to the issuer and its affiliates. We also recognize that the limitation on “substantially similar crypto assets”²⁰⁶ may inhibit serial entrepreneurs from utilizing the startup exemption with respect to separate crypto asset projects. Despite those potential concerns, we believe the proposed one-time use requirement is needed to avoid circumvention of the four-year limitation and offering size limitation. Moreover, the potential availability of other exemptions on which issuers may rely for covered investment contract offerings (including the fundraising exemption) may help mitigate concerns about unduly restricting issuers’ ability to develop crypto asset projects. Nonetheless, we invite comment as to whether there is a more appropriate way to ensure the four-year limitation and offering size limitation are not circumvented while, at the same time, addressing these potential concerns.

Rule 200(b)(4) (*Offering limit*) would provide that the sum of the aggregate offering price in the covered transaction plus the gross proceeds from all covered transactions before the start of and during the current covered transaction must not exceed \$5 million. As discussed above,²⁰⁷ the “aggregate offering price” definition in proposed Rule 100 would explain how to calculate the value of non-cash consideration and foreign currency for purposes of evaluating compliance with

the \$5 million limit. Because issuers relying on the startup exemption would not be required to provide disclosures with respect to financial information, or at the same frequency as they would under a registered offering, we believe it is appropriate, in the interest of investor protection, to impose a limit on the amount of capital that can be raised under this exemption.²⁰⁸ We believe that \$5 million is an appropriate offering limit—especially in light of the higher offering limit we are proposing under the fundraising exemption, which covered investment contract issuers also may avail themselves of given the non-exclusive nature of these exemptions—and is proportionate to the disclosure requirements and other investor protections in the startup exemption. That said, we invite comments as to this aspect of the proposed rule.

Rule 200(b)(5) (*Disclosure and filing requirements*) would require the issuer to satisfy the disclosure and filing requirements in Rule 200(c), (d), and (e). Those requirements, which are discussed in more detail below, are intended to help ensure that investors are provided with timely, material information in connection with their investment decisions.

Finally, Rule 200(b)(6) (*General conditions*) would remind the issuer that it must satisfy the applicable requirements set forth in subpart A of Regulation Crypto Assets, including the disqualification provision in Rule 104.²⁰⁹ Although those general provisions would apply even in the absence of this condition, we believe it is appropriate to include this provision to help promote compliance (especially for those issuers that do not have legal counsel and are less familiar with our rules).

Request for Comment

47. Should Rule 200 be time-limited as proposed in Rule 200(b)(1)? If so, is four years an appropriate duration for Rule 200?

48. Should we allow individuals or a group of entities or individuals to rely on Rule 200, as proposed under Rule 200(b)(2)? By requiring each member of a group to make the certifications in the notice of reliance and transition report, would the rule discourage two or more

persons (whether individuals or entities) from collaborating on projects?

49. Should we include an issuer eligibility requirement that would limit use of Rule 200 only to entities (*i.e.*, excluding natural persons)? If so, should we require that such entity be formed or incorporated in the United States? Should we have any other issuer eligibility requirements? For example, should we exclude certain types of issuers consistent with the proposed issuer eligibility requirements in the fundraising exemption?

50. To ensure that U.S. investors are adequately protected, should we add a condition to the exemption to limit its application? For example, similar to the fundraising exemption, should we limit use of Rule 200 to issuers that have a majority of their executive officers or directors that are U.S. citizens or residents, more than 50 percent of their assets located in the United States, and their business administered principally in the United States? Alternatively, should we limit use of Rule 200 to issuers that have their principal place of business in the United States? If so, should “principal place of business” be defined and, if so, how should we define “principal place of business”? Are there other ways to ensure that U.S. investors are adequately protected and provide them with more easily accessible investment opportunities?

51. Should we include a one-time use condition as proposed in Rule 200(b)(3)? If so, is it appropriate to apply this limitation to both an issuer and its affiliates? If not, how should that one-time use limitation be applied? Is the “substantially similar” standard in the proposed one-time use condition appropriate? If not, should it be eliminated or amended?

52. Would the one-time use condition in Rule 200(b)(3) unduly impede the ability of certain “repeat players” (*e.g.*, serial entrepreneurs or angel investors) from participating in crypto projects? Should we make any changes to Rule 200(b)(3) to avoid such impediments? For example, should we include a *de minimis* investment or participation carveout from the condition in Rule 200(b)(3) that would permit an issuer to rely on the startup exemption with respect to the same subject crypto asset, or a substantially similar crypto asset, more than once without running afoul of the one-time use condition? If so, what are the appropriate *de minimis* thresholds (for investment, participation, or otherwise) that we should include in a carveout from proposed Rule 200(b)(3)?

53. Should Rule 200 have a \$5 million offering limit as proposed in Rule

²⁰⁶ This “substantially similar” standard is intended to prevent an issuer or its affiliate from circumventing the one-time use restriction by making superficial changes to a crypto asset or the associated crypto network or associated crypto application. For example, two crypto assets would be substantially similar if they have different names but the crypto asset and the associated crypto network or associated crypto application are functionally identical.

²⁰⁷ See *supra* note 114 and accompanying text.

²⁰⁸ See, *e.g.*, letter from a16z 3 (“Ultimately, caps are necessary not only to mitigate investor risk, but also to preserve the broader incentive structure of the Proposal. Without a cap on primary sales, projects may use the Proposal to facilitate large-scale distributions that function more like exit liquidity events than capital-raising transactions intended to fund network development.”).

²⁰⁹ See *supra* section II.A.5 for a discussion of this provision.

200(b)(4)? Should we adopt a higher or lower offering limit? What would be the corresponding effects on investor protection and capital formation of a different offering limit?

54. Services rendered to the issuer, including those in furtherance of the development, testing, or promotion of the associated crypto network or associated crypto application, in exchange for covered investment contracts may constitute “covered transactions” that count towards the offering limit in proposed Rule 200(b)(4). Is the proposed definition of “covered transactions” too narrow or too broad for purposes of proposed Rule 200(b)(4)? For example, would the definition of “covered transactions” make it difficult to use the proposed exemption for airdrops? Should we scope any covered transactions out of the offering limit in Rule 200(b)(4)? Alternatively, are there transactions that should count towards the offering limit in Rule 200(b)(4) that are not captured by the proposal?

55. Should we include investment limits for individuals, as we have proposed for the fundraising exemption? If so, what limits should we adopt?

56. Should we require an issuer to satisfy the disclosure and filing requirements in Rule 200(c), (d), and (e) as proposed in Rule 200(b)(5)?

57. Should we include the reminder in Rule 200(b)(6) that the issuer must satisfy the applicable requirements set forth in subpart A of Regulation Crypto Assets? Would this provision help to promote compliance?

c. Notice of Reliance (Rule 200(c))

Rule 200(c) would include three subparagraphs related to the notice of reliance that the issuer would be required to file under the startup exemption.

Rule 200(c)(1) would require the issuer to file with the Commission a notice of reliance containing the information required by Form NOR, which is attached hereto as Appendix F, prior to any covered transaction. Form NOR, in turn, would require the issuer to provide the following information:

- Information regarding the issuer, including the issuer’s name (or names, if the issuer is a group of individuals and/or entities), jurisdiction of incorporation or formation (if the issuer is or includes an entity), address of principal executive offices (if any), telephone number, and email address;²¹⁰

²¹⁰ To the extent that the issuer is composed of a group of individuals and/or entities, the issuer

- The name of the subject crypto asset;

- The website address at which the issuer will make the information described in Rule 103 publicly accessible, free of charge, pursuant to Rule 200(d)(1); and

- A certification that the information in the Form NOR is true, complete, and correct and that the issuer intends to fulfill, within four years after the date of the filing of the Form NOR, the essential managerial efforts the issuer represented or promised investors it would engage in under the covered investment contract.

This notice of reliance on Form NOR, which the issuer would be required to file publicly on EDGAR,²¹¹ would serve to make investors, the Commission, and other members of the public aware that the issuer had begun relying on the startup exemption. The filing of the notice of reliance also would “start the clock” on the four-year period under Rule 200(b)(1). Furthermore, requiring the issuer to certify in the notice that it intends to fulfill those representations or promises within four years would help to ensure that the exemption is being used for its intended purposes.

Rule 200(c)(2) would provide that an issuer may file an amendment to a previously filed notice of reliance on Form NOR at any time. This permissive amendment provision is substantially similar to 17 CFR 230.503(a)(2) under Regulation D and is intended to permit issuers to update their notice of reliance as they see fit.

Finally, Rule 200(c)(3) would require an issuer to file an amendment to a previously filed notice of reliance on Form NOR: (i) to correct a material mistake of fact or error in the previously filed notice of reliance, as soon as practicable after discovery of the mistake or error; or (ii) to reflect a material change in the information provided in the previously filed notice of reliance, as soon as practicable after the change. The issuer would remain under this obligation to amend Form NOR until the earlier of: (1) the end of the four-year period after the issuer files the initial notice of reliance; and (2) the date on which the issuer files a transition report on Form TR pursuant to Rule 200(e). We recognize that the

would be required to designate a single telephone number and email address for purposes of the Form NOR.

²¹¹ See proposed 17 CFR 228.101(c) (requiring documents filed pursuant to Regulation Crypto Assets to be submitted electronically on EDGAR). Form NOR would be required to be formatted in HyperText Markup Language (“HTML”), as would be further provided in the EDGAR Filer Manual, to be compatible with EDGAR.

vast majority of the information required to be disclosed under the startup exemption would be made available on the issuer’s website pursuant to Rule 103. Nonetheless, we believe it is appropriate to require the issuer to amend its notice of reliance in a timely manner if the notice of reliance contains a material mistake or error or if there is a change in the information previously provided in the form in light of the fundamental nature and importance of the information that is required to be disclosed in the Form NOR.

Request for Comment

58. Should we require an issuer to file a notice of reliance on Form NOR prior to any covered transaction as proposed in Rule 200(c)?

59. Would Form NOR, as proposed, provide market participants the appropriate amount and type of information to make an informed investment decision?

60. Are there certain types of organizational structures that cannot satisfy the disclosure requirement to provide a jurisdiction of incorporation or formation (if the issuer is or includes an entity)? For example, could decentralized unincorporated nonprofit associations satisfy this requirement? If not, should we revise this requirement to accommodate any such organizational structures?

61. Should we require disclosure of the address of the issuer’s principal executive office only if the issuer has a principal executive office, as proposed in Rule 200(c)? If an issuer does not have a principal executive office, should we require the issuer to provide a different address (e.g., the address for the issuer’s agent for service of process)?

62. Would the requirement in Form NOR that the issuer certify that it intends to fulfill its representations or promises within four years help to ensure that the exemption is being used for its intended purposes? If not, should this certification be eliminated or revised? For example, should we change the proposed standard from “intent” to a different standard? If so, what standard should we use? Instead of the proposed approach, should we require an issuer to certify that it is aware of the time limitations of the exemption without having to certify that it intends to fulfill its representations or promises within four years?

63. Should we require an issuer to file an amendment to Form NOR to correct a material mistake or reflect a material change in the information provided previously? If not, why not? If so, is “as soon as practicable” after the discovery

or change the proper time period to file the amendment? Should we adopt a specific timeframe, such as 24 hours or four business days? Is there another specific timeframe we should consider?

d. Disclosure Requirements (Rule 200(d))

Rule 200(d) would include three subparagraphs related to the disclosure requirements that the issuer would be required to comply with under the startup exemption.

Rule 200(d)(1) would require the issuer to make the information described in Rule 103 publicly accessible, free of charge, at the website address specified in the notice of reliance at or prior to the time that the notice of reliance is filed with the Commission in accordance with Rule 200(c)(1).²¹² Taken together with the information required in Form NOR itself, this requirement would help to ensure that investors have access to the information needed to make informed investment decisions before issuers can begin making offers and sales of covered investment contracts under the startup exemption. It also would be consistent with our understanding of current practice in many ICOs, in which the primary disclosure document (*i.e.*, the project's whitepaper) is posted on the developer's public website. The proposed rule is intended to be compatible with this existing practice in order to limit issuers' compliance costs (especially in view of the fact that many of these issuers are smaller and may not be familiar with EDGAR), but with additional conditions that would help to ensure investors are appropriately informed and protected. Those other conditions (including the relatively low offering amount limit, one-time use limitation, and the four-year limitation), as well as the requirement to specify the website address containing the information in the notice of reliance, should mitigate any investor protection concerns associated with this accommodation.²¹³

Rule 200(d)(2) would require the issuer to ensure that the information disclosed under Rule 200(d)(1) of this

section remains publicly accessible and free of charge at the website address specified in the notice of reliance. This obligation would continue until the earlier of: (1) the end of the four-year period after the issuer files the initial notice of reliance; or (2) the date on which the issuer files a transition report on Form TR pursuant to Rule 200(e). Because the information disclosed under Rule 200(d)(1) is not required to be filed on EDGAR, this provision is intended to prevent a situation in which an issuer technically complies with Rule 200(d)(1) by providing the information at or prior to filing the notice of reliance but removes that information shortly (or immediately) after filing the notice of reliance.

Finally, Rule 200(d)(3) would require the issuer periodically to amend the information disclosed under Rule 200(d)(1) for any material changes. This obligation would continue until the earlier of: (1) the end of the four-year period after the issuer files the initial notice of reliance; or (2) the date on which the issuer files a transition report on Form TR pursuant to Rule 200(e). Specifically, the issuer would be required to amend the information disclosed under Rule 200(d)(1) within 30 calendar days after the end of each calendar year if, as of the end of the calendar year, there are any material changes in the information previously disclosed.

Because the issuer may be conducting offers and sales of covered investment contracts throughout the duration of the startup exemption, we believe it is important that the information required under Rule 103 periodically be updated to the extent material changes are made to that information so that investors are sufficiently informed. This is consistent with the feedback the Crypto Task Force received from several commenters.²¹⁴ This ongoing disclosure obligation also would help keep existing investors apprised of the issuer's progress toward fulfilling its representations or promises to engage in essential managerial efforts under the covered investment contract. Further, to the extent a secondary market develops for the covered investment contracts issued under the

startup exemption, this ongoing disclosure obligation would promote liquidity in that market.²¹⁵

We believe the annual amendment obligation under Rule 200(d)(3), as well as the filing deadline in that rule, would keep investors timely informed of changes in the information disclosed under Rule 200(d)(1) while also avoiding undue compliance costs for issuers. That said, we are seeking commenters' input on whether the proposed rule appropriately balances these considerations.

Request for Comment

64. Do the proposed disclosure requirements in Rule 200(d) strike the appropriate balance between avoiding undue burdens on issuers while ensuring that investors are sufficiently protected and well-informed?

65. Should Rule 200(d)(1) require the information required by Rule 103 be filed on EDGAR rather than permitting the issuer to provide such information on a separate website? Would permitting this information to be provided on a separate website adversely impact the ability of investors and the Commission to pursue claims against the issuer for material misstatements or omissions? For example, absent the requirement to file such information on EDGAR, how would investors and the Commission be able to determine what information the issuer provided to investors at the time they were offered and sold covered investment contracts? Are there changes we should make to address these concerns?

66. Should the information required in Rule 200(d)(1) be required to remain accessible on the issuer's website for the duration of the period described in Rule 200(b)(1)?

67. Should we adopt the proposed amendment obligation and amendment deadline in Rule 200(d)(3)? If so, is 30 calendar days after the end of each calendar year the appropriate amendment deadline? Should the deadline be extended or shortened?

68. Should issuers be required to assess their amendment obligations under Rule 200(d)(3) more or less frequently than the proposed annual frequency? If so, what is an appropriate frequency? For example, should we require issuers to assess their amendment obligations semiannually? Alternatively, should issuers'

²¹² Rule 200(d)(1) does not require that the issuer include the information required by Rule 103 in its Form NOR, which is filed on EDGAR. Instead, the rule allows the issuer the flexibility to determine the location and manner of presentation of such information, so long as it meets the requirements of Rule 103 and is publicly accessible and free of charge at the website address specified in the notice of reliance. That said, to the extent an issuer elects to include that information in its notice of reliance, such an approach would be permitted by Rule 200(d)(1).

²¹³ The Commission may assess whether a similar approach could be extended to other exemptions.

²¹⁴ See, e.g., letters from DeFi Education Fund ("[I]t would be logical to condition the Safe Harbor on ongoing periodic disclosures until the end of the Safe Harbor period."); Figure Markets ("Ongoing disclosures should focus on material changes, such as protocol updates, security audits, and network performance metrics, ensuring transparency and enabling informed decision-making. These disclosures, facilitated through blockchain's transparent ledger and self-custody wallets, would enhance investor access to information and improve regulatory oversight, aligning with goals of market efficiency and regulatory effectiveness.").

²¹⁵ As noted in section II.A.4 and footnote 194 above, covered investment contracts sold under the startup exemption would not be restricted securities. As such, investors generally would be able to transfer their covered investment contracts after acquiring them from the issuer.

amendment obligations be triggered upon a material change to the information previously disclosed? If so, what would be an appropriate amendment deadline after a material change?

69. Should we include a requirement that issuers identify any changes to the filed Rule 200(d)(3) information to better ensure that investors are made aware of changes in the information previously disclosed? If so, how should those changes be identified? For example, should issuers be required to mark the changes made in the amendment to allow an easier comparison to the previous version? Alternatively, should issuers only be required to explain the changes as a note to the information? Should issuers be required to keep prior versions of the information available on their websites?

e. Transition Report (Rule 200(e))

Finally, Rule 200(e) would require the issuer to file with the Commission a transition report containing the information required by Form TR no later than four years after the date on which the issuer filed a notice of reliance under Rule 200(c)(1). This transition report, which the issuer would be required to file publicly on EDGAR,²¹⁶ would serve to make investors, the Commission, and other members of the public aware that the issuer has ceased relying on the startup exemption. Thus, after filing the transition report, the issuer would no longer be able to offer and sell covered investment contracts in reliance on the startup exemption. The issuer, however, also would no longer be required to comply with the amendment requirements with respect to the notice of reliance or the disclosure obligations under Rule 200(d).

In order to satisfy the transition report requirement in Rule 200(e), the issuer would have to provide the information required in Form TR, which is attached hereto as Appendix E. Form TR would be used to satisfy the transition report requirements under the startup exemption, the fundraising exemption, and the investment contract safe harbor.²¹⁷ As such, the form would set

forth different disclosure requirements depending on the rule pursuant to which it was being filed. With respect to a transition report filing under Rule 200(e), Form TR would require the issuer to provide the following information:

- Information regarding the issuer, including the issuer's name (or names, if the issuer is a group of individuals and/or entities), jurisdiction of incorporation or formation (if the issuer is or includes an entity), address of principal executive offices (if any), telephone number, and email address;²¹⁸
- Other information based on whether the issuer has or has not satisfied certain conditions:
 - If the issuer has satisfied the condition in proposed 17 CFR 228.400(a) ("Rule 400(a)")²¹⁹: (1) a brief description of the covered investment contract and crypto asset sufficient for a reasonable investor to identify the security and crypto asset to which the filing relates (Item 1 of Form TR); (2) a certification that the issuer has satisfied the condition in Rule 400(a) with respect to such covered investment contract and crypto asset (Item 2 of Form TR); and (3) an analysis supporting that certification (Item 3 of Form TR); and
 - If the issuer has not satisfied the condition in Rule 400(a): (1) a brief description of the covered investment contract for a reasonable investor to identify the security to which the filing

such filing, satisfy the applicable transition report requirement under the startup exemption, the fundraising exemption, or the investment contract safe harbor.

²¹⁸ To the extent that the issuer is composed of a group of individuals and/or entities, the issuer would be required to designate a single telephone number and email address for purposes of the Form TR.

²¹⁹ See proposed 17 CFR 228.400(a). As discussed in more detail in section II.D below, the condition in Rule 400(a) would be satisfied if the issuer of the covered investment contract has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under the covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset. This condition is intended to reflect the point in time at which the crypto asset has separated from the issuer's representations or promises and the covered investment contract has ceased to exist. In analyzing whether it has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under the covered investment contract, we expect that an issuer would refer to its disclosure pursuant to proposed Rule 103(b)(1). See proposed 17 CFR 228.103(b)(1) (requiring disclosure, among other things, of the issuer's representations or promises to engage in essential managerial efforts under the covered investment contract and its progress with respect to such representations or promises); see also *infra* note 370 and accompanying text.

relates (Item 4 of Form TR); (2) a description of the current status of the covered investment contract, the subject crypto asset, and the associated crypto network or associated crypto application and the issuer's plans with respect to these items (Item 5 of Form TR); and (3) if the issuer indicates that the covered investment contract has ceased to exist, an analysis supporting that determination (Item 6 of Form TR).

If the issuer had, at the time of the Form TR filing, satisfied the condition in Rule 400(a), then the Form TR filing under Rule 200(e) also would satisfy the transition report condition under the investment contract safe harbor.²²⁰ In that case, the issuer would note on the Form TR that it was being filed pursuant to both Rule 200(e) and the investment contract safe harbor.

If the issuer had not, at the time of the Form TR filing, satisfied the condition in Rule 400(a), the disclosure required under Form TR would be intended to apprise investors, the Commission, and other members of the public of the current status of, and the issuer's plans with respect to, the covered investment contract, subject crypto asset, and associated crypto network or associated crypto application. With respect to the covered investment contract, this would require the issuer to, for example, describe its progress with respect to its representations or promises to engage in essential managerial efforts under the covered investment contract and its plans for how it intends to satisfy those representations or promises (if the issuer does, in fact, plan to satisfy those representations or promises). With respect to the subject crypto asset and associated crypto network or associated crypto application, this would require the issuer to, for example, discuss the current status of, and its plans with respect to, the development of the subject crypto asset and the associated crypto network or associated crypto application. It also is possible that, although the issuer has not satisfied the condition in Rule 400(a), the issuer may have determined that the covered investment contract ceased to exist.²²¹ In those cases, the issuer would be required to provide an analysis supporting that determination.

Request for Comment

70. Should we adopt the transition report requirement in Rule 200(e) as proposed? If we should not require a transition report, please explain why not.

²²⁰ See *infra* section II.D.

²²¹ See 2026 Interpretation at 13723; see also *supra* section I.A.2.b.

²¹⁶ See proposed 17 CFR 228.101(c) (requiring documents filed pursuant to Regulation Crypto Assets to be submitted electronically on EDGAR). Form TR would be required to be formatted in HTML, as would be further provided in the EDGAR Filer Manual, to be compatible with EDGAR.

²¹⁷ See *infra* sections I.L.C and D for discussions of the fundraising exemption and the investment contract safe harbor. Under the proposed rules, neither the Commission nor its staff would be required to review or take action with respect to a Form TR. As such, an issuer that filed a Form TR pursuant to Rule 200(e) would, immediately upon

71. Is there any information in Form TR that should not be required? If so, what information should be excluded? Is there any information that we should add to the form? If so, what should be added and why?

72. Are there certain types of organizational structures that cannot satisfy the disclosure requirement to provide a jurisdiction of incorporation or formation (if the issuer is or includes an entity)? For example, could decentralized unincorporated nonprofit associations satisfy this requirement? If not, should we revise this requirement to accommodate any such organizational structures?

73. Should we require disclosure of the address of the issuer's principal executive office only if the issuer has a principal executive office, as proposed in Rule 200(e)? If an issuer does not have a principal executive office, should we require the issuer to provide a different address (for example, the address for the issuer's agent for service of process)?

74. Should we provide additional guidance as to what type of information should be included in the analyses required by Items 3 and 6 of Form TR? Are there alternative disclosures that we should require in lieu of such analyses?

C. Fundraising Exemption (Subpart C, Rules 300 Through 307)

Subpart C of Regulation Crypto Assets would set forth an exemption from the registration requirements of section 5 of the Securities Act for offerings of up to \$75 million of covered investment contracts in a 12-month period. This proposed fundraising exemption, composed of two tiers with separate offering limits, is modeled in part on Regulation A. The fundraising exemption, which we are proposing pursuant to the Commission's exemptive authority under section 28 of the Securities Act,²²² is intended to facilitate larger capital raising transactions for covered investment contract issuers than would be permitted under the startup exemption.²²³ Issuers that rely on the exemption would remain subject to the antifraud and antimanipulation provisions of the Federal securities

laws, including, but not limited to, section 17 of the Securities Act and section 10 of the Exchange Act.

1. Background

As discussed in section I.B.3 above, a number of public commentators, including some Commissioners, have expressed concerns that the existing exempt offering and disclosure framework is not "fit-for-purpose" for covered investment contract offerings.²²⁴ In particular, several commentators stated that the Commission's existing forms and disclosure rules, which were designed with traditional securities (e.g., stocks and bonds) in mind, are not well-suited to covered investment contract offerings and their issuers based on characteristics that are unique to those offerings and issuers, nor do they elicit the types of information that are likely to be material to investors in those offerings.²²⁵ For example, one commenter with "extensive experience in trying to fit [covered investment contract] issuances into available exemptions under the Securities Act" suggested that issuers often encounter "too much confusion" when working within the existing regulatory framework and noted that their "experience in many cases has proved frustrating."²²⁶ Some commentators have expressed the view that these conditions have resulted in certain adverse consequences for the U.S. crypto asset markets, including: barriers to capital raising; capital flight overseas; stifled innovation in the crypto assets market; information asymmetries and insufficient disclosure for investors in covered investment contract offerings (as a result of investors receiving mandated disclosure that is not relevant, while simultaneously not receiving disclosure that would be relevant, to their investment decisions); potential uncertainty regarding the application of accounting and financial

reporting standards and levels of assurance to covered investment contract offerings; and what those commentators view as unreasonable restrictions on retail and other public investors' ability to participate in covered investment contract offerings.²²⁷

Several commentators suggested using existing exempt pathways, including Regulation A, to facilitate capital raising by issuers of covered investment contracts,²²⁸ with some commentators stating that Regulation A provides a "strong foundation" and a "practical starting point" for a bespoke offering exemption.²²⁹ One commenter suggested that Commission staff guidance could clarify that covered investment contracts are eligible securities under 17 CFR 230.261 of Regulation A ("Rule 261").²³⁰ This commenter also stated that disclosure relevant to covered investment contract offerings could be tailored to satisfy Form 1-A requirements with a "common-sense, principles-based approach" to disclosure.²³¹ Nonetheless, these commentators also generally recommended that the disclosure requirements be tailored to include relevant information relating to covered investment contracts (rather than requiring disclosure of information that may not be relevant but is required in "traditional" offerings).²³²

Other commentators, however, highlighted some potential concerns associated with using Regulation A, in its current form, with respect to covered investment contract offerings. As noted in section I.B.3 above, some commentators suggested that Regulation A may be legally unavailable for covered investment contract offerings.²³³ Commenters also expressed a variety of concerns regarding the practical limitations of using Regulation A in the context of covered investment contract offerings, as described in section I.B.3

²²² See, e.g., letters from The Center for Audit Quality (May 2, 2025) ("CAQ"); Coinbase; CoinList.

²²³ See, e.g., letters from CrowdCheck Law; Nasdaq; SIFMA 2.

²²⁴ See, e.g., letters from Coinbase; DealMaker (Regulation A provides a "strong foundation"); GDCA ("[A] version of Regulation A that accounts for the types of disclosures relevant to a token purchaser may be useful at this time and can serve as a practical starting point."); PricewaterhouseCoopers LLP (May 1, 2025) ("PwC") (stating that "regulatory requirements that guide traditional public offerings provide a robust foundation for public offerings of crypto assets"); SIFMA 2.

²²⁵ See letter from CrowdCheck Law.

²²⁶ *Id.*

²²⁷ See, e.g., letters from CrowdCheck Law; PwC; SIFMA 2.

²²⁸ See *supra* note 94 and accompanying text.

²²² 15 U.S.C. 77z-3 ("The Commission, by rule or regulation, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of this subchapter or of any rule or regulation issued under this subchapter, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.").

²²³ See *supra* section II.B (proposing a \$5 million offering limit under the startup exemption).

²²⁴ See, e.g., letters from a16z 2; a16z 3; AIMA; Anderson; Broadridge; L. Cohen; Coinbase; CoinList; Z. Dane; Figure Markets; CrowdCheck Law; J. Kim; OpenZeppelin; G. Shapiro; SIFMA 2; TDC 2; tZero. See also Chairman Paul S. Atkins, *Keynote Address at the Crypto Task Force Roundtable on Tokenization* (May 12, 2025) ("Chairman Atkins Keynote Address"), available at <https://sec.gov/newsroom/speeches-statements/atkins-remarks-crypto-roundtable-tokenization-051225>; Parikshit Mishra, *SEC Commissioner Mark Uyeda Calls for S-1 Form Tailored for Digital Assets*, CoinDesk (Sept. 3, 2024), available at <https://coindesk.com/policy/2024/09/03/sec-commissioner-mark-uyeda-calls-for-s-1-form-tailored-for-digital-assets>; LeXpunk Regulation X Proposal, *supra* note 141.

²²⁵ See, e.g., letters from a16z 2; AIMA; Coinbase; CoinList; GDCA; TDC 2.

²²⁶ Letter from CrowdCheck Law.

above and as discussed in more detail below.

Some commenters stated that Regulation A, in its current form, may be ill-suited for covered investment contract offerings. For example, one commenter described Regulation A as “not currently a useful vehicle” for covered investment contract offerings and noted several challenges with it, including, in its view, Regulation A’s (1) inflexible disclosure requirements modeled on traditional equity offerings, (2) ongoing reporting obligations that presume a perpetual issuer (which differs from crypto asset projects designed to eliminate centralized control over time), (3) offering limits misaligned with crypto asset projects’ needs, and (4) uncertainty regarding whether “tokenized assets that trade via decentralized exchanges or alternative trading systems” can trade freely on the secondary market.²³⁴ Another commenter suggested that Regulation A’s disclosure and ongoing reporting requirements are inflexible and ill-suited for covered investment contract offerings and asserted that Regulation A’s forms do not reflect the technological and operational aspects of such offerings that may occur via smart contracts, network launch conditions, and wallet-based eligibility criteria.²³⁵ Other commenters described Regulation A as designed for “traditional securities”²³⁶ and observed that “[w]here there is a securities offering involving novel technological or operational features or the sale of new digital assets, there will likely be new types of information that are relevant to investors in assessing risk.”²³⁷ Commenters also expressed a need for greater regulatory clarity and accounting and auditing guidance for crypto assets and related transactions²³⁸ and

described additional burdens associated with Regulation A offerings, including the costs they incur to prepare disclosure in connection with ongoing reporting obligations and to obtain audits (especially with respect to smaller, early-stage ventures).²³⁹

Several commenters expressed the view that Regulation A’s disclosure requirements would need revision to elicit the types of information that would be material to investors in covered investment contracts.²⁴⁰ One commenter stated that Regulation A would require a “significant update” before it could serve as a framework for covered investment contract offerings.²⁴¹ Another commenter that supported revising Regulation A identified certain Regulation A disclosure requirements about equity securities—such as issuer information about stockholder’s equity, previously issued outstanding securities, and earnings per share—that the commenter viewed as inapplicable to covered investment contracts.²⁴²

Finally, several commenters stated that Regulation A’s offering mechanics and conditions may limit the utility of the exemption with respect to covered investment contract offerings. For example, several commenters supported an offering limit for covered investment

with varying interpretations resulting in inconsistencies in how companies apply them and how regulators enforce them A new framework that combines regulations and interpretive guidance is needed to provide regulatory certainty, support investor protection, and maintain the attractiveness of the US capital markets for crypto asset-related transactions.”).

²³⁹ See generally letters from a16z 2; AIMA; Coinbase; DealMaker; Figure Markets; GDCA; see also Attachment to Crypto Task Force Memorandum regarding Meeting with Representatives of Hiro Systems PBC and Wilson Sonsini Goodrich & Rosati (May 13, 2025) (“Hiro Meeting Agenda”), available at <https://sec.gov/files/ctf-memo-hiro-systems-pbc-wilson-sonsini-goodrich-rosati-051325.pdf>.

²⁴⁰ See, e.g., letter from DealMaker (“While Regulation A’s disclosure framework is based on traditional corporate equity offerings, it can be adapted to suit the unique characteristics of crypto assets”); Hiro Meeting Agenda (“The absence of bespoke crypto disclosures means the substance of existing disclosures may not include key network commentary expected by users and investors. To align expectations and increase the utility of the filings, we recommend a revision of [Regulation A] disclosures to incorporate network activities and metrics.”); GDCA (“For bona fide securities offerings that involve crypto assets, a version of Regulation A that accounts for the types of disclosures relevant to a token purchaser may be useful at this time and can serve as a practical starting point for digital asset token offerings.”); SIFMA 2 (“SEC Regulation A and Regulation D would need to be supplemented by issuing guidance which addresses investor protection, suitability, and disclosures that are specific to fundraising sales of digital assets.”).

²⁴¹ See letter from Coinbase.

²⁴² See letter from TDC 2.

contract offerings that is higher than the current offering limit permitted under Regulation A (which is \$75 million for a Tier 2 offering).²⁴³ One commenter recommended increasing the Regulation A offering limit to at least \$150 million to better support capital-intensive infrastructure and protocol development projects and enable broader retail investor participation in early-stage ventures.²⁴⁴ Some commenters stated that the “exit” provisions of Regulation A are not suited for covered investment contracts where, for example, the related crypto project develops over time in a manner that transforms the covered investment contract’s status under the securities laws.²⁴⁵ One such commenter sought “clarification that the issuer has no remaining obligations pursuant to the investment contract under Regulation A once its responsibilities via token delivery and network maturity have been achieved.”²⁴⁶ This commenter suggested revising the Form 1–Z exit report to allow the issuer to include narrative discussion about the development status of the crypto asset project, as well as the status of the overlying investment contract.²⁴⁷

We agree with commenters that Regulation A provides a “strong foundation” and a “practical starting point,”²⁴⁸ but we believe that, in light of the limitations associated with using Regulation A in the context of covered investment contract offerings, including those raised by commenters, there is a need for a new, tailored exemption for covered investment contract offerings. One fundamental legal limitation is that covered investment contracts are not “eligible securities” under Regulation A.²⁴⁹ As such, issuers may not offer or

²⁴³ See, e.g., letters from CIPA (recommending increasing the Tier 2 offering limit to \$150 million); DealMaker (recommending removal of the “arbitrary ceiling” on Regulation A); GDCA (addressing the possibility of covered investment contract offerings larger than current Regulation A offering amount limits); Nasdaq.

²⁴⁴ See letter from CfPA.

²⁴⁵ See, e.g., Hiro Meeting Agenda; letter from CrowdCheck Law.

²⁴⁶ Hiro Meeting Agenda.

²⁴⁷ *Id.*

²⁴⁸ See *supra* note 229 and accompanying text.

²⁴⁹ Section 3(b)(3) of the Securities Act limits the availability of any exemption adopted under section 3(b)(2) to “equity securities, debt securities, and debt securities convertible or exchangeable into equity interests, including any guarantees of such securities.” Based on this statutory limitation, Regulation A defines eligible securities in Rule 261(c) as “[e]quity securities, debt securities, and securities convertible or exchangeable to equity interests, including any guarantees of such securities, but not including asset-backed securities as such term is defined in Item 1101(c) of Regulation AB.” 17 CFR 230.261(c). As the

Continued

²³⁴ Letter from a16z 3.

²³⁵ See letter from Perkins Coie LLP (Aug. 15, 2025).

²³⁶ See letter from Coinbase.

²³⁷ Letter from SIFMA 2.

²³⁸ See, e.g., letters from CAQ (stating that “establishment of clear regulatory frameworks . . . will enable a more consistent application of accounting, financial reporting, and auditing requirements related to crypto assets.”); Deloitte & Touche LLP (May 7, 2025) (“Deloitte”) (“We believe a coordinated effort to develop US GAAP, as needed, through the FASB, with established processes to seek interpretive guidance with input from the FASB, the SEC, and the profession, will result in higher quality guidance and more clarity to all market participants than will fragmented guidance emanating from different sources.”); Ernst & Young LLP (May 22, 2025) (“EY”) (“We encourage the SEC to monitor crypto asset activities to help identify transactions that could warrant additional standard setting and to refer such cases to the FASB for a possible standard-setting project.”); PwC (“The application of the current regulatory framework to crypto assets is unclear,

sell covered investment contracts pursuant to Regulation A. Even if covered investment contracts were “eligible securities” under Rule 261, we agree with commenters that Regulation A’s disclosure requirements, as well as some of its existing offering mechanics and conditions, limit the exemption’s suitability for offerings of covered investment contracts.

Thus, we are proposing a fundraising exemption which is modeled, in part, on Regulation A but is tailored in several ways to covered investment contract offerings and their issuers, including with respect to the disclosures required under the exemption. By both modeling the proposed fundraising exemption on Regulation A and tailoring it for covered investment contract offerings, we believe issuers’ compliance costs may be mitigated (to the extent those issuers or their advisors are familiar with Regulation A) while, at the same time, avoiding the practical concerns commenters expressed about relying on existing Regulation A with respect to covered investment contract offerings.

2. Proposed Rules

The proposed fundraising exemption is intended to address many of the concerns discussed in section II.C.1 above. In particular, we are proposing the creation of rules (including forms and disclosure requirements) tailored to the unique circumstances associated with offerings of covered investment contracts.²⁵⁰ We believe this will provide issuers of covered investment

contracts with a framework to more efficiently raise capital as needed for their business, including to finance development of the subject crypto asset and associated crypto network or associated crypto application.²⁵¹ At the same time, we are proposing conditions on the use of the fundraising exemption that are designed to ensure that investors in these offerings will remain adequately informed and protected. Thus, we believe the proposed fundraising exemption is appropriate in the public interest and consistent with the protection of investors.

At a high level, the fundraising exemption would operate as follows: issuers relying on this exemption would be required to file offering statements on EDGAR. These offering statements would include an offering circular consisting of: (1) the same principles-based narrative disclosure topics as required for issuers relying on the proposed startup exemption (which are set forth in Rule 103); (2) a discussion of the issuer’s financial condition; and (3) financial statements of the issuer, requiring varying levels of assurance depending on offering size (falling in one of two tiers), as described in section II.C.2.b.iii below. Issuers who have qualified offering statements under this fundraising exemption would be subject to periodic, current, and transition reporting requirements modeled on analogous provisions in Regulation A, tailored to offerings of covered investment contracts. The proposed fundraising exemption would include additional provisions described below, consistent with Regulation A offerings, including the ability to solicit non-binding indications of interest (“test the waters”) and investment limitations. The proposed fundraising exemption also would include provisions for the suspension of the exemption in certain circumstances and would be subject to

the disqualification provision in Rule 104. Finally, consistent with the startup exemption, the fundraising exemption would be non-exclusive (as set forth in Rule 101(a)). As such, issuers would retain the ability to raise capital in registered offerings, rely on other existing exemptions, such as Regulation D or Regulation Crowdfunding, or rely on the startup exemption.

The fundraising exemption would be set forth in subpart C of Regulation Crypto Assets and would comprise the following rules: proposed 17 CFR 228.300 (“Rule 300”), titled “Scope of exemption”; proposed 17 CFR 228.301 (“Rule 301”), titled “Offering statement”; proposed 17 CFR 228.302 (“Rule 302”), titled “Offering circular”; proposed 17 CFR 228.303 (“Rule 303”), titled “Preliminary offering circular”; proposed 17 CFR 228.304 (“Rule 304”), titled “Solicitations of interest and other communications”; proposed 17 CFR 228.305 (“Rule 305”), titled “Periodic and current reporting; transition report”; proposed 17 CFR 228.306 (“Rule 306”), titled “Suspension of the exemption”; and proposed 17 CFR 228.307 (“Rule 307”), titled “Withdrawal or abandonment of offering statements.” Each of these rules is discussed in more detail below. In addition to the specific requests for comment in each subsection below, we also seek feedback on the exemption as a whole and whether it is “fit-for-purpose” for covered investment contract offerings and their issuers.

Request for Comment

75. Should we adopt a fundraising exemption modeled on Regulation A but tailored to the unique circumstances associated with offerings of covered investment contracts, as proposed?

76. Are there any portions of the fundraising exemption that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the rule.

77. Are there any terms used in the fundraising exemption that we either should define or otherwise modify in the final rules? If so, please identify those terms along with any recommended changes to the definitions.

78. Given the technological innovations and practices associated with crypto assets, are there any modifications or additions to the proposed rules we should consider to better facilitate transactions under the fundraising exemption? Are there particular amendments to the proposed rules governing offering communications and practices (e.g.,

Commission previously observed, “[o]n the basis of the statutory language [in section 3(b)(3)], it is unclear which types of securities were meant to be excluded, although there is some evidence that suggests the exemption is meant for ordinary—and not exotic—securities.” See *Proposed Rule Amendments for Small and Additional Issues Exemptions Under Section 3(b) of the Securities Act*, Release No. 33–9497 (Dec. 18, 2013) [79 FR 3926, 3935 (Jan. 23, 2014)] (“2013 Regulation A Proposing Release”). Given the novelty of covered investment contracts, we believe they fall outside the limitation of section 3(b)(3) of the Securities Act and the definition of “eligible securities” in Rule 261.

²⁵⁰ Covered investment contracts issued pursuant to the fundraising exemption would not be restricted securities or otherwise subject to rule-based resale restrictions, and the fundraising exemption would not unduly limit an issuer’s ability to sell covered investment contracts to retail investors (by, for example, prohibiting sales to non-accredited investors). But see proposed 17 CFR 228.300(c)(2)(i)(C) (limiting that amount of covered investment contracts that an issuer can sell to non-accredited investors under the fundraising exemption to 10 percent of the greater of the purchaser’s annual income or net worth (or in the case of non-natural persons, the greater of revenue or net assets for the most recently completed fiscal year)). These features would help to avoid impediments to the development of network effects. See *supra* notes 12–15 and accompanying text.

²⁵¹ Although we expect that issuers that utilize the fundraising exemption would be seeking to fulfill the essential managerial efforts they represented or promised investors they would engage in under the covered investment contracts, unlike the startup exemption, there is no requirement that the issuer certify its intention to do so in order to rely on the fundraising exemption. We believe this difference between the two exemptions is warranted. The primary purpose of the startup exemption is to provide issuers with a regulatory runway during which they could work to fulfill their representations or promises to engage in essential managerial efforts under the covered investment contracts. By contrast, the fundraising exemption is intended to facilitate larger capital raising transactions for covered investment contract issuers. This difference is reflected in the fact that the fundraising exemption includes additional disclosure requirements (notably, financial statement requirements) and ongoing reporting obligations that are not included in the startup exemption.

solicitations, indications of interest, permitted communications, and “testing the waters” materials) that would be appropriate in light of the unique characteristics of crypto assets and their associated crypto networks and associated crypto applications? For example, should the rule contemplate specific practices, such as preregistration of crypto wallet addresses or other network specific actions, that could serve as an indication of interest by a prospective investor seeking to purchase a covered investment contract.

79. Should we amend the definition of “eligible securities” in 17 CFR 230.261(c) of Regulation A to provide that an “investment contract” is not an “eligible security” thereunder.

a. Scope of Exemption (Rule 300)

i. Tier 1 and Tier 2 Offering Limits

Rule 300(a) would set forth a two-tier exemption from registration pursuant to section 5 of the Securities Act for public offers and sales of covered investment contracts. This two-tier approach is modeled on Regulation A with the same offering limits as that exemption. Under Tier 1 (“Tier 1 offerings”), issuers would be permitted to offer and sell up to \$20 million of covered investment contracts (which, for purposes of the fundraising exemption, would be defined as “eligible securities”²⁵²) in a 12-month period, including no more than \$6 million offered by selling securityholders who are affiliates of the issuer.²⁵³ Under Tier 2 (“Tier 2 offerings”), issuers would be permitted to offer and sell up to \$75 million of eligible securities in a 12-month period, including no more than \$22.5 million offered by selling securityholders who are affiliates of the issuer.²⁵⁴ As discussed in section II.C.2.b.iii below, a key difference between the two tiers is that for Tier 1 offerings there is no financial statement assurance requirement. Rule 300(a)(3) also would include an additional limitation on secondary sales in the first year of reliance on the fundraising exemption. Under this rule, the portion of the aggregate offering price attributable to

securities of selling securityholders would not be permitted to exceed 30 percent of the aggregate offering price of a particular offering in (i) the issuer’s first offering under this exemption or (ii) subsequent offerings under this exemption that are qualified within one year of the qualification date of the issuer’s first offering.²⁵⁵

In addition, for purposes of the Tier 1 and Tier 2 offering limits under Rule 300(a), the amount of eligible securities sold by the issuer and the amount sold by its affiliates would be aggregated together. This restriction is intended to avoid circumvention of the offering limits by precluding multiple affiliated issuers (e.g., each of which is under common control) from each selling an amount of eligible securities that, individually, does not exceed the offering limits but, when combined, would exceed those limits.²⁵⁶

Rule 300(a) would permit Tier 2 offerings of up to \$75 million in a 12-month period, which is the same limit as in Tier 2 of Regulation A. Some commenters stated that issuers may desire to conduct covered investment contract offerings exceeding the limits in Regulation A and that a higher limit would accommodate issuers’ funding needs for the development of crypto asset projects.²⁵⁷ On the other hand, we note that when the Commission amended Regulation A in 2015, it expressed concerns that larger offering limits may increase risks to investors by encouraging larger issuers to conduct Regulation A offerings in instances where the disclosure required in registered offerings would be more appropriate.²⁵⁸ We believe that limiting the fundraising exemption to offerings of covered investment contracts coupled with the other issuer eligibility criteria discussed in section II.C.2.a.ii below sufficiently mitigates this risk. As such, we believe that the proposed \$75 million offering limit for Tier 2 offerings of covered investment contracts appropriately balances issuers’ potential capital needs with the investor protection interests underlying the offering limit.

To the extent issuers have capital raising needs beyond the \$75 million

limit in Tier 2 offerings, they may rely on other offering pathways, including the proposed startup exemption. In addition, to address potential concerns that offering limit amounts may become diluted over time, Rule 102 would establish a process for the Commission to periodically adjust the proposed Tier 1 and Tier 2 offering amount limitations as necessary for inflation. We are seeking commenter input on the appropriateness of the proposed offering limits.

Request for Comment

80. Should the fundraising exemption include both Tier 1 and Tier 2 offerings as proposed or should the exemption consist of a single tier?

81. Should the fundraising exemption permit resales by selling securityholders for offerings under Tier 1, Tier 2, or both tiers? Should there be additional restrictions on an insider’s ability to participate as a selling securityholder under the proposed fundraising exemption?

82. Are the proposed Tier 1 and Tier 2 offering limits appropriate? Should we adopt higher or lower offering limits? For example, should the Tier 1 offering limit be \$25 million rather than \$20 million?

83. Should issuers be permitted to conduct a Tier 2 offering if they offer less than \$20 million? In other words, should we require a minimum offering amount of \$20 million for Tier 2 offerings and, if so, would this minimum offering amount provide any benefit to issuers or investors or both?

84. Is it appropriate to apply the offering limits to both the issuer and its affiliates, as proposed?

ii. Issuer Eligibility Criteria

Rule 300(b) would set forth the eligibility criteria that an issuer would have to satisfy in order to rely on the fundraising exemption. Under these criteria, the fundraising exemption would be available only for an issuer that is an entity organized in the United States. The proposed rule would also require that (i) a majority of the issuer’s executive officers or directors are U.S. citizens or residents, (ii) more than 50 percent of the issuer’s assets are located in the United States, and (iii) the issuer’s business is administered principally in the United States.²⁵⁹ The fundraising exemption would not be available to:

- A development stage company that either has no specific business plan or purpose, or has indicated that its business plan is to merge with or

²⁵² We believe it is appropriate to limit the fundraising exemption to covered investment contracts because the disclosure and other requirements of the exemption (including under proposed Form 1-CRYPTO, a description of which would be codified at 17 CFR 239.600) would be tailored to offerings of covered investment contracts. As such, permitting offerings of securities beyond covered investment contracts would undermine the objective of creating an exemption that is specifically designed for offerings of covered investment contracts.

²⁵³ Proposed 17 CFR 228.300(a)(1).

²⁵⁴ See proposed 17 CFR 228.300(a)(2).

²⁵⁵ See proposed 17 CFR 228.300(a)(3).

²⁵⁶ See *supra* note 114 and accompanying text for a discussion of how “aggregate offering price” and “aggregate sales” are determined for purposes of the offering limits in both the startup exemption and the fundraising exemption.

²⁵⁷ See, e.g., letters from CfPA (suggesting an increase of the offering limit for Tier 2 of Regulation A to at least \$150 million to better align with “with modern capital needs”); GDCA; see also *supra* note 243 and accompanying text.

²⁵⁸ See 2015 Regulation A Release at section II.B.3.c.

²⁵⁹ See proposed 17 CFR 228.300(b)(1).

acquire an unidentified company or companies;²⁶⁰

- An investment company registered or required to be registered under the Investment Company Act of 1940 (“Investment Company Act”) or a business development company as defined in section 2(a)(48) of the Investment Company Act;²⁶¹ or
- An issuer that is or has been subject to any order of the Commission entered pursuant to section 12(j) of the Exchange Act within five years before the filing of the offering statement; provided, however, that the exemption would be available to any issuer subject to an order of the Commission entered pursuant to section 12(j) before the date on which Rule 300 becomes effective, if the rule is ultimately adopted.²⁶²

In addition, in order to be eligible to rely on the fundraising exemption, the issuer would have had to have filed with the Commission all reports required to be filed, if any, pursuant to Rule 305 or pursuant to section 13 or 15(d) of the Exchange Act during the two years before the filing of the offering statement (or for such shorter period that the issuer was required to file such reports), as applicable.²⁶³ Finally, the issuer must have satisfied the applicable requirements set forth in subpart A of Regulation Crypto Assets.²⁶⁴ This includes the disqualification provision in Rule 104.²⁶⁵

We believe that the proposed issuer eligibility requirements would appropriately balance, on the one hand, ensuring that a sufficiently broad scope of issuers can utilize the fundraising exemption so as to increase investment opportunities for investors and capital formation options for covered investment contract issuers with, on the other hand, maintaining appropriate investor protections by limiting issuer eligibility. Further, the issuer eligibility criteria are modeled in large part on issuer eligibility criteria in Regulation A, with some differences reflecting that this is a bespoke fundraising exemption

intended to be tailored to the unique circumstances of covered investment contract offerings and issuers.²⁶⁶

Unlike the startup exemption,²⁶⁷ an issuer would be required to be an entity organized under, and subject to, the laws of the United States (or any State or territory of the United States or the District of Columbia) to be eligible to conduct offerings under the fundraising exemption. We believe this requirement in the fundraising exemption (as compared to the startup exemption, which would allow the issuer to be an entity, an individual, or a group of individuals or entities) is appropriate in light of the much higher offering limit under this exemption as compared to the startup exemption.

It also is appropriate given that an issuer would be required to provide financial statements under the fundraising exemption (but would not be required to do so under the startup exemption). We believe that a financial statement requirement would become much more administratively complex if an issuer could be an individual or a group of unrelated individuals or entities (as is permitted under the startup exemption). The ability to clearly define a reporting entity and separate its economic activities from those of other reporting entities is a fundamental concept in U.S. GAAP²⁶⁸ and, therefore, is foundational to the preparation and presentation of the financial statements meeting the requirements we propose in Part F/S to Form 1-CRYPTO and other filings in conjunction with the fundraising exemption.

Similarly, unlike the startup exemption, we also believe it is appropriate to require that (i) a majority of the issuer’s executive officers or directors are U.S. citizens or residents, (ii) more than 50 percent of the issuer’s assets are located in the United States, and (iii) the issuer’s business is administered principally in the United States. We believe these requirements—which are based on a portion of the

definition of “foreign private issuer”²⁶⁹—as well as the requirement that the issuer be organized under, and subject to, the laws of the United States (or any State or territory of the United States or the District of Columbia), could serve as an additional investor protection. Specifically, they would facilitate the ability of the Commission and investors to seek recourse against issuers in the event of fraud or other misconduct and provide domestic investors with more easily accessible investment opportunities.²⁷⁰ Additionally, as the Commission explained in the 2015 Regulation A Release, there may be challenges and costs for less sophisticated investors resulting from information asymmetries for foreign issuers and other categories of issuers justifying the eligibility restriction.²⁷¹ As the President’s Working Group and commenters noted, regulatory uncertainty in the United States has encouraged crypto asset projects to move overseas.²⁷² We believe that this proposed requirement could help reverse this trend and result in better protections for U.S. investors and encourage domestic innovation and capital formation.

Some commenters and others suggested that we extend eligibility of any proposed offering exemption to certain non-U.S. issuers and other categories of issuers.²⁷³ The Commission sought comment in the 2013 Regulation A Proposing Release on whether to expand eligibility to use Regulation A to foreign issuers “with a substantial U.S. nexus.”²⁷⁴ The Commission relatedly sought comment regarding the implications of extending Regulation A eligibility to foreign private issuers, particularly the applicability of Exchange Act section 10(b) and Securities Act section 17(a) liability to foreign private issuers.²⁷⁵ The Commission determined not to expand to non-Canadian foreign issuers

²⁶⁹ See 17 CFR 230.405; 17 CFR 240.3b–4(c)(2).

²⁷⁰ See, e.g., letter from Decentralization Research Center (Mar. 10, 2025) (stating that “US users should have access to the broadest swath of opportunities to participate”).

²⁷¹ See 2015 Regulation A Release at section III.C.1.

²⁷² See, e.g., President’s Working Group Report at 24–25 (noting that “[m]any crypto firms turned their attention overseas due to regulatory uncertainty,” among other factors); letters from a16z 4; Healthy Markets Association (Apr. 11, 2025); Lawrence J. Trautman (July 11, 2025).

²⁷³ See, e.g., LeXpung Regulation X Proposal, *supra* note 141; letter from Nasdaq.

²⁷⁴ See 2013 Regulation A Proposing Release at 3932.

²⁷⁵ See *id.* at 3932 and n.72 (discussing *Morrison v. Nat’l Australia Bank Ltd.*, 130 S. Ct. 2869 (2020) and section 929P(b) of the Dodd-Frank Act, Pub. L. 111–203, 929P(b)).

²⁶⁰ See proposed 17 CFR 228.300(b)(2).

²⁶¹ See proposed 17 CFR 228.300(b)(3).

²⁶² See proposed 17 CFR 228.300(b)(4). This carveout with respect to section 12(j) orders entered prior to the proposed rule’s effectiveness is intended to be consistent with the similar carveout in the disqualification provision in proposed Rule 104 with respect to otherwise disqualifying events that occurred before the date on which the proposed rule becomes effective. See *supra* section II.A.5.

²⁶³ See proposed 17 CFR 228.300(b)(5).

²⁶⁴ See proposed 17 CFR 228.300(b)(6).

²⁶⁵ See *supra* section II.A.5 for a discussion of this provision. As noted in that section, requests for waivers of disqualification, where appropriate, would remain available to the same extent they are available under Rule 262. See *supra* note 181 and accompanying text.

²⁶⁶ For example, as compared to 17 CFR 230.251(b)(5) under Regulation A, the proposed issuer eligibility criteria omit as unnecessary a prohibition on issuers of interests in mineral rights. Because this proposed fundraising exemption is limited to offerings of covered investment contracts, based on the definitions of “covered investment contract” and “crypto asset” in Rule 100, those mineral rights would not constitute eligible securities. As such, excluding issuers of those rights in Rule 300(b) would be duplicative.

²⁶⁷ Under the startup exemption, an eligible issuer could be an entity, an individual, or a group of individuals or entities. See proposed 17 CFR 228.200(b)(2).

²⁶⁸ See FASB Statement of Financial Accounting Concept No. 8, Conceptual Framework for Financial Reporting (Dec. 2021).

eligibility to conduct Regulation A offerings before the Commission had an opportunity to assess new market practices.²⁷⁶ We believe that these considerations apply with equal force to the proposed fundraising exemption. We invite comment on the appropriate scope of issuer eligibility criteria in requests for comment below.

Request for Comment

85. Should we expand or otherwise modify the proposed issuer eligibility requirements? Why or why not?

86. Should we expand the proposed issuer eligibility criteria to permit Canadian issuers (or other types of foreign issuers) to rely on the fundraising exemption?

87. To the extent that an issuer has relied on Regulation A to issue securities, should the issuer be required to have filed all reports required to be filed under Regulation A, if any, in order for the issuer to rely on the fundraising exemption? Alternatively, should a requirement to have filed all reports required under Regulation A, if any, be limited to a specific time period (such as a certain number of months or years immediately prior to the filing of an offering statement under the fundraising exemption), in order for the issuer to qualify for the fundraising exemption? Why or why not? If so, what amount of time should be required and why?

iii. Offers and Sales; Investment Limitations

Rule 300(c) would include offering conditions that are substantially similar to those in 17 CFR 251(d) of Regulation A. With respect to offers, the rule would provide that, other than solicitation of interest (*i.e.*, testing the waters) communications under proposed Rule 304, no offer of securities may be made unless an offering statement has been filed with the Commission.²⁷⁷ After the offering statement has been filed but prior to qualification, the following offers would be permitted: oral offers, written offers under proposed Rule 303, and solicitations of interest and other communications under proposed Rule 304. In addition, offers would be permitted after the offering statement has been qualified, but any written offers would be required to be accompanied with or preceded by the most recent offering circular filed with the Commission for the offering.²⁷⁸ As

with Regulation A, offerings conducted under the fundraising exemption after qualification would be public offerings with no prohibition on general solicitation.

With respect to sales, the rule would provide that no sale of securities may be made until the offering statement has been qualified.²⁷⁹ Additionally, if the issuer is not subject at the time of sale to the reporting requirements in Rule 305(b), it must deliver a preliminary offering circular at least 48 hours prior to sale to any person that indicated an interest in purchasing securities in the offering.²⁸⁰

Finally, if the purchaser is not an accredited investor as defined in Rule 501 of Regulation D, the aggregate purchase price to be paid by the purchaser cannot exceed 10 percent of the greater of the purchaser's annual income or net worth (or in the case of non-natural persons, the greater of revenue or net assets for the most recently completed fiscal year).²⁸¹ For this purpose, annual income and net worth would be calculated as provided for in the definition of "accredited investor" contained in Rule 501 of Regulation D.²⁸² Consistent with Regulation A, an issuer may rely on a representation of the purchaser when determining compliance with this investment limitation, provided that the issuer does not know at the time of sale that the representation is untrue.²⁸³ This proposed investment limitation is

of Regulation A. As with that rule, for written confirmations and notices of allocation in the post-qualification period, issuers and intermediaries may rely on the EDGAR filing of the final offering circular to satisfy any delivery requirements that may apply under Rule 300(c)(1)(iii). *See* 2015 Regulation A Release at n.260. This approach also is consistent with 17 CFR 230.172(a) in the context of registered offerings. *Id.* As discussed *infra* note 292 and accompanying text, however, we are soliciting input as to the proposed delivery requirements under the fundraising exemption.

²⁷⁹ Proposed 17 CFR 228.300(c)(2)(i)(A).

²⁸⁰ Proposed 17 CFR 228.300(c)(2)(i)(B).

²⁸¹ Proposed 17 CFR 228.300(c)(2)(i)(C).

²⁸² Under Rule 501 of Regulation D, natural persons are accredited investors if they (i) have an individual income in excess of \$200,000 in each of the two most recent years or joint income with that person's spouse or spousal equivalent in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year, (ii) serve as director, executive officer, or general partner of the issuer or serve as any director, executive officer, or general partner of a general partner of the issuer, or (iii) their individual net worth, or joint net worth with that person's spouse or spousal equivalent, exceeds \$1,000,000 (excluding the value of their primary residence). Additional criteria are contained in Rule 501 including, among other things, that certain enumerated entities that satisfy an asset-based test also qualify as accredited investors, while others, including regulated entities such as banks and registered investment companies, are not subject to the asset test.

²⁸³ Proposed 17 CFR 228.300(d)(2)(i)(D).

generally consistent with the analogous offering condition in Regulation A.²⁸⁴ Unlike Regulation A, however, as an additional investor protection to mitigate potential losses, the investment limitation in the proposed fundraising exemption would apply to all offerings irrespective of whether the offering is a Tier 1 offering or a Tier 2 offering. Additionally, unlike Regulation A, there would not be a carveout for Tier 2 offerings of securities listed on a registered national securities exchange.²⁸⁵

We believe that the proposed investment limitations serve an important investor protection function. Consistent with the Commission's adoption of investment limitations for Tier 2 offerings under Regulation A, we believe that the proposed investment limitations may help to mitigate the risk of potential losses for non-accredited investors.²⁸⁶ In this regard, we believe that applying the investment limitation to all offerings under the proposed fundraising exemption would enhance investor protection and would be appropriate in the context of offerings of covered investment contracts. We recognize that one commenter stated that existing offering exemptions are not efficient options for sales of covered investment contracts, in part, because of investment limitations on non-accredited investors.²⁸⁷ We do not believe that including the investment limitation in the fundraising exemption will undermine the utility of the rules we are proposing today. We note, for example, that despite its investment limitations for non-accredited investors, Tier 2 of Regulation A accounted for over 80 percent of the more than 1,400 Regulation A offerings qualified during a nearly 9.5 year period ending December 31, 2024.²⁸⁸ We also note that, under our proposed rules, covered investment contract issuers also could rely on the startup exemption to the extent they are seeking to ensure that non-accredited investors make up a particular portion of their investor base (*e.g.*, if they expect that such investors are more likely to participate in the associated crypto network or associated

²⁸⁴ *See* 17 CFR 230.251(d)(2)(i)(C) and (D).

²⁸⁵ *See* 17 CFR 230.251(d)(2)(i)(C).

²⁸⁶ *See* 2015 Regulation A Release at section II.B.4.

²⁸⁷ *See* letter from Coinbase.

²⁸⁸ *See* Angela Huang, *Analysis of the Regulation A Market: A Decade of Regulation A* (May 2025), available at <https://sec.gov/files/dera-reg-2505.pdf> ("Across all metrics, Tier 2 accounted for the vast majority of capital raising under Regulation A, including over 80 percent of qualified offerings, over 90 percent of amounts sought in qualified offerings, and over 95 percent of reported proceeds.").

²⁷⁶ 2015 Regulation A Release at section II.B.1.c.

²⁷⁷ Proposed 17 CFR 228.300(c)(1).

²⁷⁸ Proposed 17 CFR 228.300(c)(1)(iii). This requirement with respect to written offers made after the offering statement has been qualified mirrors the requirement in 17 CFR 230.251(d)(1)(iii)

crypto application). Nonetheless, we are seeking commenters' input on this aspect of the proposal.

Finally, Rule 300(c) would set forth several other offering conditions with respect to sales that are consistent with 17 CFR 230.251(d)(ii) in Regulation A. The rule would provide that in a transaction that represents a sale by the issuer or an underwriter, or a sale by a dealer within 90 calendar days after qualification of the offering statement, each issuer, underwriter or dealer selling in such transaction must deliver to each purchaser from it, not later than two business days following the completion of such sale, a copy of the final offering circular, subject to the following provisions:

- If the sale was by the issuer and was not effected by or through an underwriter or dealer, the issuer is responsible for delivering the final offering circular as if the issuer were an underwriter;
- For continuous or delayed offerings under Rule 300(c)(3), the 90-calendar day period for dealers must commence on the day of the first bona fide offering of securities under such offering statement;
- If the security is listed on a registered national securities exchange, no offering circular need be delivered by a dealer more than 25 calendar days after the later of the qualification date of the offering statement or the first date on which the security was bona fide offered to the public;
- No offering circular need be delivered by a dealer if the issuer is subject, immediately prior to the time of the filing of the offering statement, to the reporting requirements of Rule 305(a); and
- The final offering circular delivery requirements set forth in this rule may be satisfied by delivering a notice to the effect that the sale was made pursuant to a qualified offering statement that includes a link to where the final offering circular, or the offering statement of which such final offering circular is part, may be obtained on EDGAR and contact information sufficient to notify a purchaser where a request for a final offering circular can be sent and received in response.

As with Regulation A, these requirements reflect an "access equals delivery" model for final offering circulars when sales are made on the basis of offers conducted during the prequalification period and the final offering circular is filed and available on

EDGAR.²⁸⁹ Under this model, where sales occur after qualification on the basis of offers made using a preliminary offering circular, issuers, underwriters, and dealers can presume that investors have access to the internet and may satisfy their delivery requirements for the final offering circular by filing it on EDGAR. Issuers are, however, required to include a notice in any preliminary offering circular that will inform potential investors that the issuer may satisfy its delivery obligations for the final offering circular electronically.²⁹⁰ Further, as with Regulation A, "electronic-only" offerings would be permitted under the proposed fundraising exemption provided that issuers and intermediaries comply with applicable requirements.²⁹¹

Broadly speaking, the proposed delivery requirements are modeled on the delivery requirements in Regulation A. Those requirements, in turn, were designed to be consistent with the requirements for registered offerings.²⁹² Although we believe there are benefits associated with aligning the proposed delivery requirements with these existing delivery requirements, we are soliciting input as to whether an alternative approach is warranted with respect to the proposed fundraising exemption.

²⁸⁹ See 2015 Regulation A Release at 21822; see also *Securities Offering Reform*, Release No. 33-8591 (July 19, 2005) [70 FR 44722 (Aug. 3, 2005)].

²⁹⁰ See proposed 17 CFR 228.303(a).

²⁹¹ See 2015 Regulation A Release at 21823. An electronic-only offering is an offering in which investors are permitted to participate only if they agree to accept the electronic delivery of all documents and other information in connection with the offering. See *Use of Electronic Media*, Release No. 34-42728 (Apr. 28, 2000) [65 FR 25843 (May 4, 2000)]; *Use of Electronic Media by Broker-Dealers, Transfer Agents and Investment Advisers for Delivery of Information*, Release No. 34-37182 (May 9, 1996) [61 FR 24644 (May 15, 1996)]; *Use of Electronic Media for Delivery Purposes*, Release No. 33-7233 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] ("The Commission would view information distributed through electronic means as satisfying the delivery or transmission requirements of the federal securities laws if such distribution results in the delivery to the intended recipients of substantially equivalent information as these recipients would have had if the information were delivered to them in paper form." (internal citation omitted)). Potential issuers could consult the foregoing releases when considering whether a potential medium of electronic delivery satisfies the proposed requirements. For example, we recognize that there may be new blockchain-based technologies that may be used as mediums to satisfy the electronic delivery requirements.

²⁹² See, e.g., 2015 Regulation A Release at 21822 ("The expanded use of the internet and continuing technological developments suggest that we should update the final offering circular delivery method for Regulation A in a manner that is consistent with similar updates to delivery requirements for registered offerings.").

Request for Comment

88. Should the fundraising exemption include the proposed delivery requirements, which are modeled on the delivery requirements in Regulation A (which were, in turn, modeled on the requirements for registered offerings)? Alternatively, is a different approach warranted with respect to the proposed fundraising exemption and, if so, how should that approach operate?

89. Should we revise the fundraising exemption such that an EDGAR filing by itself (*i.e.*, without a notice to investors) satisfies the delivery requirements?

90. Given the unique technological attributes associated with crypto assets and the blockchain-based technologies that issuers may want to use as mediums to satisfy the electronic delivery requirements, should the Commission clarify how electronic means may satisfy the delivery requirements under the proposed fundraising exemption?

iv. Continuous or Delayed Offerings

Rule 300(c)(3) would permit continuous or delayed offerings under the fundraising exemption, modeled on the analogous provision in Regulation A, and tailored to offerings of covered investment contracts. The Regulation A continuous and delayed offering framework, most recently amended by the Commission in 2015, is based upon 17 CFR 230.415 ("Rule 415"), but its scope is limited to permissible Regulation A offerings. The Commission adopted Rule 415 in 1983 to promote efficiency and flexibility with respect to capital raising transactions by permitting continuous or delayed offerings in certain contexts.²⁹³ Rule 300(c)(3) is intended to achieve these same benefits and would permit the following continuous or delayed offerings: (A) offerings of covered investment contracts by selling securityholders; (B) offerings of covered investment contracts pursuant to an employee benefit plan; (C) offerings of covered investment contracts to be issued upon the exercise of outstanding options, warrants, or rights; (D) offerings of covered investment contracts that are to be issued on conversion of other outstanding securities; (E) offerings of covered investment contracts pledged as collateral; and (F) certain continuous offerings of covered investment contracts.

Rule 300(c)(3)(i)(A) would permit selling securityholders to participate in offerings qualified under the fundraising

²⁹³ See 2013 Regulation A Proposing Release at 3953 (citing *Shelf Registration*, Release No. 33-6499 (Nov. 17, 1983) [48 FR 52889 (Nov. 23, 1983)]).

exemption, subject to the limitations on offering amount in Rule 300(a). Consistent with the Commission's rationale for permitting selling securityholder participation in Regulation A offerings, we believe that permitting selling securityholder participation in offerings under this proposed exemption may decrease the cost of capital for issuers, encourage investment in an innovative and rapidly growing sector of the economy, and facilitate liquidity for existing securityholders and new investors in the offering.²⁹⁴ Commenters and others generally supported selling securityholder participation in covered investment contracts offerings, subject to limitations.²⁹⁵ Further, permitting selling securityholder participation in offerings under the proposed exemption may facilitate a more widespread distribution of the subject crypto assets, which in turn may help issuers more efficiently meet development targets. This would be consistent with the principles underlying Regulation Crypto Assets. Unduly restricting selling securityholder participation in offerings under this fundraising exemption may also greatly offset the utility of this exemption for issuers relative to other public or private capital raising methods, which risks undermining the policy objectives in creating a bespoke offering exemption.

We acknowledge that some of the concerns expressed by commenters in prior Regulation A rulemakings about secondary sales may similarly apply to the fundraising exemption.²⁹⁶ These commenters stated that certain insiders should be restricted from participating in Regulation A offerings because those insiders had superior negotiating power at the time of their initial investment and greater access to information relative to new, unaffiliated investors and could therefore "offload their investment on the general public."²⁹⁷ Additionally, these commenters

expressed the view that, to the extent selling securityholders are participating in the offering, this would reduce the net proceeds available to the issuer, thus undermining the capital raising benefits of the fundraising exemption.²⁹⁸ Commenters that provided input to the Crypto Task Force suggested we impose insider restrictions specific to covered investment contract issuers. For instance, one commenter suggested a limitation on covered investment contract sales by insiders until the crypto asset network or application has become sufficiently decentralized.²⁹⁹ The goal of such a limitation would be to help "ensure [insiders] have continued economic incentive to complete the project."³⁰⁰ Another commentator supported lockup periods for large holders and insiders to prevent a "dump on retail" by these large holders and insiders using other exemptions to sell significant amounts of crypto assets shortly after a public offering.³⁰¹

We believe these concerns would be mitigated, at least in part, by the limitations on securityholders in Rule 300(a) and the principles-based disclosure requirement in Rule 103(b)(4) regarding (i) the material aspects of the issuer's management and related persons; (ii) the material aspects of any conflicts of interest or related person transactions involving the issuer; and (iii) whether related persons are subject to any transfer or resale restriction(s) with respect to the covered investment contract or subject crypto asset and, if so, the material terms of such restriction(s). These proposed requirements would provide important investor protections while still facilitating liquidity for securityholders and preserving the utility of the proposed fundraising exemption for capital formation. That said, we invite comment below on the appropriate scope of restrictions on selling securityholder participation in offerings under the proposed fundraising exemption.

Rule 300(c)(3)(i)(B) would permit continuous or delayed offerings with respect to covered investment contracts that are to be offered and sold pursuant to an employee benefit plan of the issuer. This provision would be substantially identical to the analogous provision in 17 CFR 230.251(d)(3)(i)(B) of Regulation A. Although we are not aware of the extent to which this practice is being or would be used by

covered investment contract issuers, we do not believe there is a compelling basis on which to omit this provision from the fundraising exemption. That said, 17 CFR 230.251(3)(i)(B) of Regulation A permits offerings of securities that are to be offered and sold pursuant to a dividend or interest reinvestment plan. Because the defined scope of the terms "covered investment contract" and "crypto asset" would exclude dividend- or interest-bearing assets,³⁰² we have excluded those references from proposed Rule 300(c)(3)(i)(B).

Rule 300(c)(3)(i)(C), (D), and (E) would permit continuous or delayed offerings with respect to (1) covered investment contracts that are to be issued on exercise of outstanding options, warrants, or rights; (2) covered investment contracts that are to be issued on conversion of other outstanding securities; and (3) covered investment contracts that are pledged as collateral. These provisions would be substantially identical to the analogous provisions in 17 CFR 230.251(d)(3)(i)(C), (D), and (E) of Regulation A. As noted in section II.A.1.b above, the only securities that may be offered under the fundraising exemption (or any other exemption in Regulation Crypto Assets) are covered investment contracts. And, as noted in section II.A.1.b above, the definition of "covered investment contract" excludes investment contracts that involve any other type of security, such as a stock or bond that is convertible. Nonetheless, it is possible that an issuer would offer an option, warrant, right, or convertible security that is convertible into a covered investment contract. Although the overlying security would not be eligible to use the fundraising exemption, the issuer may be able to rely on the fundraising exemption with respect to the covered investment contracts into which those overlying securities are convertible. In those circumstances, the issuer may be able to utilize Rule 300(c)(3)(i)(C) and (D).

Finally, Rule 300(c)(3)(i)(F) would permit continuous or delayed offerings with respect to covered investment contracts the offering of which will be commenced within two business days after the qualification date, will be made on a continuous basis, may continue for a period in excess of 30 calendar days from the date of initial qualification, and will be offered in an amount that, at the time the offering statement is qualified, is reasonably expected to be offered and sold within two years from the initial qualification date. As with

²⁹⁴ See 2013 Regulation A Proposing Release at section II.B.3.

²⁹⁵ See, e.g., LeXpunks Regulation X Proposal at nn.30–31 and accompanying text (addressing concerns with "dump on retail," stating "[w]e are reluctant to facilitate Insider exit liquidity due to the risks it imposes on retail investors; however, we would prefer that these sales occur transparently and this resale limit is consistent with that provided in existing securities laws. Additionally, these resale limits would provide more certainty around underwriter liability for early purchasers. Selling tokenholders would also be limited in their participation by any pre-existing vesting or lockup requirements attached to their Tokens, which would need to be disclosed at the time of the offering.").

²⁹⁶ See 2013 Regulation A Proposing Release at section II.B.3; 2015 Regulation A Release at section II.B.3.

²⁹⁷ 2013 Regulation A Proposing Release at 3937.

²⁹⁸ See *id.*

²⁹⁹ See letter from Coinbase.

³⁰⁰ *Id.*

³⁰¹ LeXpunks Regulation X Proposal at n.36.

³⁰² See *supra* section II.A.1.b.

the other provision of Rule 300(c)(3), this provision would largely mirror the analogous provision in 17 CFR 230.251(d)(3)(i)(F) of Regulation A.³⁰³ Among other things, similar to Regulation A, offerings under proposed Rule 300(c)(3)(i)(F) would be conditioned on the issuer being current in its annual and semiannual reporting obligations at the time of sale. Unlike Regulation A, however, this requirement would apply irrespective of Tier, as we propose that both Tier 1 and Tier 2 issuers be subject to ongoing reporting obligations as discussed in section II.C.2.e below.

Several commenters recommended that the Commission should permit delayed or at the market offerings of covered investment contracts.³⁰⁴ One commenter stated that permitting delayed and at the market offerings of covered investment contracts would allow issuers to match supply and demand, noting that “market dynamics often require the ability to adjust offering terms in real time.”³⁰⁵ Other commentators have proposed a “token shelf” offering similar to short-form registration on Form S-3 or Form F-3.³⁰⁶

Rule 415 permits at the market offerings only for issuers eligible to conduct primary offerings on Form S-3 or Form F-3.³⁰⁷ Under Rule 415, an at the market offering is “an offering of equity securities into an existing trading market for outstanding shares of the same class at other than a fixed price.” The Commission prohibited at the market offerings in Regulation A, stating at that time that it was premature to permit at the market offerings under Regulation A because a market for Regulation A securities had not yet developed.³⁰⁸ The Commission also expressed concern with the challenge of administering maximum offering limits in an offering sold at fluctuating market prices.³⁰⁹

³⁰³ As compared to Regulation A, however, the proposed rule would require the offering to commence within two business days after the qualification date rather than two calendar days. The use of “business days” is intended to avoid a situation where the rule would require an offering to commence on a weekend or Federal holiday.

³⁰⁴ See letter from TDC 2; LeXpUnK Regulation X Proposal, *supra* note 141.

³⁰⁵ Letter from TDC 2.

³⁰⁶ See LeXpUnK Regulation X Proposal at 13–14. This proposal would involve offerings through an intermediary using a short form statement consisting of a facing page, prior filings and ongoing reports incorporated by reference, signatures, and pricing and other information related to the offering.

³⁰⁷ 17 CFR 230.415(a)(4).

³⁰⁸ See 2015 Regulation A Release at 21840.

³⁰⁹ See *id.*

We note that some of the considerations that led the Commission not to permit delayed and at the market offerings under Regulation A similarly apply to offerings under the proposed fundraising exemption. Accordingly, the proposed fundraising exemption does not permit delayed or at the market offerings beyond what is currently permitted under Regulation A (and as described in this section).³¹⁰ We invite comment, however, on the appropriate scope of continuous and delayed offerings under the fundraising exemption, including whether we should expand offerings permitted under the proposed fundraising exemption to include delayed offerings, at the market offerings, or other mechanisms to promote flexibility in offerings of covered investment contracts.

Request for Comment

91. Should we permit delayed offerings under the proposed fundraising exemption? Should we consider a “token shelf” for secondary or follow-on offerings? If so, under what circumstances? What aspects of offerings of covered investment contracts make delayed offerings appropriate?

92. Should we permit at the market offerings under the proposed fundraising exemption? If so, under what circumstances? Consistent with Rule 415, should we require that there be an “existing trading market” for the covered investment contracts? If so, how should we determine what constitutes an existing trading market?

93. As discussed in footnote 310, proposed Rule 300(c)(3)(ii) is intended to require offerings under the fundraising exemption to be made at a specified dollar amount per security and, by contrast, prohibiting variable pricing. If we continue to prohibit at the market offerings under the fundraising exemption, should we otherwise permit variable pricing?

94. Proposed Rule 300(c)(3)(ii) largely mirrors the corresponding provision in Regulation A. Should we revise the proposed rule to clarify our view, as provided in footnote 310, that the proposed rule would require offerings under the fundraising exemption to be made at a specified dollar amount per

³¹⁰ Proposed Rule 300(c)(3)(ii) would provide that at the market offerings, by or on behalf of the issuer or otherwise, are not permitted under the fundraising exemption. The rule would further state that the term “at the market offering” means an offering of securities at other than a fixed price. The proposed provision is intended to require offerings under the fundraising exemption to be made at a specified dollar amount per security and, by contrast, prohibiting variable pricing.

security and, by contrast, prohibit variable pricing?

vi. Confidential Treatment

Finally, Rule 300(d) would provide that a request for confidential treatment may be made under 17 CFR 230.406 for information required to be filed, and under 17 CFR 200.83 for information not required to be filed. This provision would mirror the analogous provision in 17 CFR 230.251(e) of Regulation A.

b. Offering Statement (Form 1–CRYPTO and Rules 301, 306, and 307)

Offering statements filed under Regulation Crypto Assets would utilize a new Form 1–CRYPTO (with a description codified at 17 CFR 239.600), which uses Form 1–A as a model but is tailored to offerings of covered investment contracts and is attached hereto as Appendix A. Similar to Form 1–A, proposed Form 1–CRYPTO would consist of three parts:

- *Part I:* An eXtensible Markup Language (“XML”) based fillable form with key information about the issuer and offering.
- *Part II:* Attachments containing the body of the disclosure document and financial statements (the offering circular); and
- *Part III:* Attachments containing the signatures, exhibit index, and exhibits to the offering statement.

As discussed above,³¹¹ Rule 101(c) would require that all documents filed or otherwise provided to the Commission pursuant to Regulation Crypto Assets, including offering statements and other documents required under the fundraising exemption, be submitted or filed electronically on EDGAR.

i. Part I of Form 1–CRYPTO (Notification)

Part I of proposed Form 1–CRYPTO serves as a notice of basic information about the issuer and the proposed offering. Issuers would file Part I of proposed Form 1–CRYPTO with the Commission via EDGAR in XML specific to proposed Form 1–CRYPTO (“Form 1–CRYPTO-specific XML”). Issuers would have two ways to file proposed Form 1–CRYPTO with the Commission. An issuer could use a fillable web form the Commission would provide on EDGAR to input the proposed disclosures for Part I of Form 1–CRYPTO, which EDGAR would convert to the Form 1–CRYPTO-specific XML. Alternatively, an issuer could use its own software tool to file Part I of Form 1–CRYPTO to EDGAR directly by

³¹¹ See *supra* section II.A.2.b.

following EDGAR's Form 1-CRYPTO technical specifications. The information contained in Part I would be publicly available on EDGAR as an online data cover sheet but not otherwise required to be distributed to investors.

Part I of Form 1-CRYPTO would require information be provided in response to the following items:

- Item 1 (Issuer Information) would require the issuer to disclose its identity and certain contact information.
- Item 2 (Summary Information Regarding the Offering and Other Current or Proposed Offerings) would require the issuer to disclose the number of units of covered investment contracts offered, the number of covered investment contracts already outstanding, the price per covered investment contract, proposed sales by selling securityholders and affiliates, and estimated aggregate sales of any concurrent offerings under this proposed fundraising exemption. As compared to the corresponding item in Form 1-A, Item 2 would not solicit information about the types of securities being offered, as only covered investment contracts may be offered under Form 1-CRYPTO.

Request for Comment

95. Should we require the information in Part I of Form 1-CRYPTO as proposed? Would that information benefit investors and/or other market participants? If so, please describe how such information would be beneficial.

96. Are there other information requirements (other than those in Part I of Form 1-A) that we should include in Part I of Form 1-CRYPTO? Alternatively, should we reduce (or eliminate entirely) the proposed information requirements in Part I of Form 1-CRYPTO?

97. Are there certain types of organizational structures that cannot satisfy the disclosure requirement to provide a jurisdiction of incorporation or formation (if the issuer is or includes an entity)? For example, could decentralized unincorporated nonprofit associations satisfy this requirement? If not, should we revise this requirement to accommodate any such organizational structures?

98. Should we require disclosure of the address of the issuer's principal executive office only if the issuer has a principal executive office, as proposed in Form 1-CRYPTO? If an issuer does not have a principal executive office, should we require the issuer to provide a different address (for example, the address for the issuer's agent for service of process)?

99. Should we require the disclosures in Part I of proposed Form 1-CRYPTO to be submitted using a different structured data language than Form 1-CRYPTO-specific XML? Why or why not? If another structured data language would be more appropriate, please identify which one, and explain why.

ii. Part II of Form 1-CRYPTO (Offering Circular)

Part II of Form 1-CRYPTO would consist of the following substantive offering circular disclosure requirements:³¹²

- *Non-financial Disclosure:* Items 1 through 12 would consist of the following non-financial disclosure requirements: Cover Page of Offering Circular (Item 1), which would require the cover page of the offering circular to include some fundamental details regarding the issuer and the offering;³¹³ Table of Contents (Item 2), which would require the second page of the offering circular to include a table of contents; Covered Investment Contract (Item 3), which would require the issuer to furnish the information required by Rule 103(b)(1); Offering (Item 4), which would require the issuer to furnish the information required by Rule 103(b)(2); Subject Crypto Asset (Item 5), which would require the issuer to furnish the information required by Rule 103(b)(3); Management, Related Persons, and Conflicts of Interest (Item 6), which would require the issuer to furnish the information required by Rule 103(b)(4); Associated Crypto Network/ Application; Plan of Development (Item 7), which would require the issuer to furnish the information required by Rule 103(b)(5); Security; Source Code (Item 8), which would require the issuer to furnish the information required by Rule 103(b)(6); Subject Crypto Asset Economics and Allocations (Item 9), which would require the issuer to furnish the information required by Rule 103(b)(7); Governance (Item 10), which would require the issuer to furnish the information required by Rule 103(b)(8); Subject Crypto Asset Ecosystem (Item 11), which would require the issuer to furnish the information required by Rule 103(b)(9);

³¹² Part II of Form 1-CRYPTO would consist of an attachment to Part I containing the body of the disclosure document and financial statements, formatted in HTML, as would be further provided in the EDGAR Filer Manual, to be compatible with EDGAR.

³¹³ Those fundamental details include, for example, the name of the issuer, the full mailing address of the issuer's principal executive offices (if any) and the issuer's telephone number and (if applicable) website address, the date of the offering circular, and the title and amount of securities offered.

and Risk Factors (Item 12), which would require the issuer to furnish the information required by Rule 103(b)(10). The principles-based non-financial information requirements in Rule 103 are discussed in detail in section II.A.4 above.

- *Discussion of Financial Condition* (Item 13): Additionally, the offering circular would be required to contain a narrative discussion of the issuer's financial condition modeled on the narrative discussion required in 17 CFR 227.201(s) of Regulation Crowdfunding. This discussion of the issuer's financial condition would include, to the extent material, changes in financial condition, liquidity, capital resources, and historical results of operations. The narrative would cover each period for which financial statements of the issuer are provided. Issuers also would be required to discuss any material changes or trends known to management in the financial condition and results of operations of the issuer subsequent to the period for which financial statements are provided. The proposed Item 13 includes instructions to guide the narrative discussion for those issuers with no prior operating history and for those issuers with an operating history.

- *Financial Statements (Part F/S):* Form 1-CRYPTO would require that offering statements include financial statements prepared in accordance with U.S. GAAP meeting the requirements set forth in proposed Part F/S of Part II to Form 1-CRYPTO. Further, financial statements will be subject to assurance requirements based on whether the offering statement relates to a Tier 1 offering or a Tier 2 offering. For Tier 1 offerings, there is no financial statement assurance requirement. As we discuss in section II.C.2.b.iii below, to the extent the issuer has obtained an audit of its financial statements performed by an independent public accountant in accordance with either U.S. Generally Accepted Auditing Standards ("U.S. GAAS") or the standards of the Public Company Accounting Oversight Board ("PCAOB"), the issuer would be required to file the signed audit report accompanying the audited financial statements. For Tier 2 offerings, the financial statements included in the offering statement must be audited in accordance with either U.S. GAAS or PCAOB standards by an auditor that is independent under 17 CFR 210.2-01 ("Rule 2-01") of Regulation S-X.

As noted previously in this section, Form 1-CRYPTO would incorporate the principles-based narrative disclosure requirements in Rule 103 rather than create a separate set of non-financial

disclosures. These principles-based disclosure requirements are tailored to covered investment contract offerings and issuers. These disclosures are based on the unique attributes of these offerings and issuers and are designed to capture the information most relevant to investors in these offerings.

Item 13 of Form 1-CRYPTO also would require disclosure of the issuer's financial condition. Given the potential size of the offering amount under this exemption (*i.e.*, up to \$75 million in a 12-month period), we believe that this additional disclosure would be important to investors in capital-raising transactions involving the offering of covered investment contracts. We believe the proposed requirement, modeled on an analogous provision in Regulation Crowdfunding, is more appropriate for covered investment contract offerings and issuers than the Form 1-A requirement to provide a full Management's Discussion and Analysis of Financial Condition and Results of Operations.³¹⁴ Similar to Regulation Crowdfunding issuers, we expect that many of the issuers who would utilize the proposed fundraising exemption would be in an early stage of development, with a narrower operational focus and with less complex operations relative to reporting companies and issuers conducting registered offerings.³¹⁵ Moreover, this principles-based discussion is intended to provide, in a clear and understandable manner, management's perspective on the issuer's operations and financial results, including information about liquidity and capital resources and known material trends or uncertainties. We believe, therefore, that the flexible nature of this principles-based disclosure requirement would elicit material information that investors need to make informed investment decisions with respect to offerings by both mature and early-stage issuers.³¹⁶ We discuss more fully the proposed financial statements and assurance requirements in section II.C.2.b.iii below.

Request for Comment

100. Should we require the information in Part II of Form 1-CRYPTO as proposed? Is there

information that we should require to be disclosed under Part II other than what we have proposed? For example, is there any information required to be provided under Part II of Form 1-A that also should be required to be disclosed under Part II of Form 1-CRYPTO?

101. As noted in this section above, the information requirement in Item 13 is modeled on the narrative discussion required in 17 CFR 227.201(s) of Regulation Crowdfunding. Is 17 CFR 227.201(s) an appropriate model? Should we instead require a Management's Discussion and Analysis of Financial Condition and Results of Operations similar to Item 9 of Form 1-A?

102. As an alternative to both the approach taken in proposed Item 13 of Form 1-CRYPTO and the approach taken in Item 9 of Form 1-A, should the information requirement in Item 13 instead be more closely tailored to reflect the characteristics of covered investment contracts? If so, what should such alternative discussion require? For example, rather than focusing on the financial condition of the issuer, should such requirements focus on financial matters related to the development of the associated crypto network or associated crypto application?

103. Rather than cross-referencing the disclosure requirements in proposed Rule 103, should we set forth the disclosure requirements directly in Form 1-CRYPTO? Would that facilitate compliance or otherwise reduce burdens for issuers?

iii. Financial Statements and Assurance Requirements

Part F/S of Part II to Form 1-CRYPTO would require that offering statements include financial statements prepared in accordance with U.S. GAAP.³¹⁷ The proposed financial statements requirements are substantially similar to the corresponding requirements under Form 1-A.³¹⁸ Under Part F/S of Form 1-CRYPTO, issuers using the fundraising exemption would be required to provide the following financial statements prepared in accordance with U.S. GAAP for the issuer or the issuer and its predecessors or any businesses to which the issuer is a successor: consolidated balance sheets and statements of comprehensive income, cash flows, and changes in stockholder's equity.

Consistent with the requirements in Regulation A offerings, we propose the following requirements for the age of the

balance sheet at the date of filing and at qualification:

- If the filing is made, or the offering statement is qualified, during the period from inception until three months after reaching the annual balance sheet date for the first time, include a balance sheet as of a date within nine months of filing or qualification.

- If the filing is made, or the offering statement is qualified, within three months after the most recently completed fiscal year end, include a balance sheet as of the two fiscal year ends preceding the most recently completed fiscal year end and an interim balance sheet as of a date no earlier than six months after the date of the most recent fiscal year-end balance sheet that is required.

- If the filing is made, or the offering statement is qualified, more than three months but no more than nine months after the most recently completed fiscal year end, include a balance sheet as of the two most recently completed fiscal year ends.

- If the filing is made, or the offering statement is qualified, more than nine months after the most recently completed fiscal year end, include a balance sheet as of the two most recently completed fiscal year ends and an interim balance sheet as of a date no earlier than six months after the most recently completed fiscal year end.

Additionally, and consistent with the requirements in Regulation A offerings, we propose that the issuer include consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flows, and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed or such shorter period as the issuer has been in existence.

As with Regulation A, these age of financial statements requirements are intended to align with the timing of the proposed ongoing updating requirements.³¹⁹ Further, the proposed requirements would ensure that the financial statements included in the offering statement at the date of filing and qualification are no older than nine months.

Consistent with Regulation A, in Tier 1 offerings under the proposed fundraising exemption, issuers would

³¹⁴ See Item 9, Management's Discussion and Analysis of Financial Condition and Results of Operations in Part II of Form 1-A; see also 17 CFR 229.303 (Item 303 of Regulation S-K).

³¹⁵ See Crowdfunding Adopting Release at section II.B.a.2(a).

³¹⁶ See *supra* section II.B.2.b.ii. (discussing proposed instructions for narrative disclosure that would recognize that issuers may or may not have a prior operating history).

³¹⁷ Financial statements included in offerings under Regulation Crowdfunding similarly must be prepared in accordance with U.S. GAAP. See 17 CFR 227.201, instruction 3 to paragraph (t).

³¹⁸ See Part F/S of Form 1-A.

³¹⁹ See 2015 Regulation A Release at section II.C.3.b.(2). The proposed ongoing updating requirements are discussed in greater detail in section II.C.2.e. below.

need to follow the rules for providing the appropriate financial statements set forth in proposed Part F/S of Form 1-CRYPTO, but financial statements for Tier 1 offerings would not need to be prepared in accordance with Regulation S-X. In Tier 2 offerings, issuers would be required to follow the financial statement requirements of Article 8 of Regulation S-X, as if the issuer conducting the Tier 2 offering were a smaller reporting company (unless otherwise noted). Further, consistent with the treatment of issuers in Regulation A offerings and emerging growth companies under section 102(b)(1) of the JOBS Act, we propose to permit issuers, where applicable, to delay complying with new or revised financial accounting standards with election and disclosure requirements as is permitted in Regulation A offerings.³²⁰

As discussed in section II.C.2.a.ii above, the proposed fundraising exemption is intended to be used by an entity. The reporting entity concept establishes the boundaries of economic activities to be included in the financial statements. Identifying the boundaries of economic activities is necessary to faithfully present financial information, and there can be practical complexities when those boundaries are not clearly defined.³²¹ As such, we believe that the proposed fundraising exemption should be limited to entity-issuers.

Further, financial statements will be subject to assurance requirements based on whether the offering statement relates to a Tier 1 offering or a Tier 2 offering.

- With respect to Tier 1 offerings, issuers would not be subject to a financial statement assurance requirement. Issuers in Tier 1 offerings that do not provide audited financial statements would be required to label the financial statements as unaudited.

³²⁰ See paragraph (a)(3) of Part F/S of proposed Form 1-CRYPTO and paragraph (a)(3) of Part F/S of Form 1-A. Additionally, and consistent with Regulation A, in certain less common circumstances, such as in the case of an acquired business or an issuer or guarantor of a guaranteed security, proposed Part F/S would require Tier 1 issuers to consider the requirements of Regulation S-X. This requirement would be applicable to circumstances in which the financial statements of, or disclosures about, entities other than the issuer would be required. Regulation S-X would be applicable in these circumstances to issuers in Tier 2 offerings because, as discussed above, they would be required to follow the financial statement requirements of Article 8 of Regulation S-X as if the issuer conducting the Tier 2 offering were a smaller reporting company (unless otherwise noted). See proposed paragraph (b)(6) of Part F/S of Form 1-CRYPTO.

³²¹ See FASB Statement of Financial Accounting Concept No. 8, Conceptual Framework for Financial Reporting (Dec. 2021).

Consistent with the requirement in Regulation A,³²² to the extent the issuer has obtained an audit of its financial statements performed in accordance with either U.S. GAAS or the standards of the PCAOB—by an auditor that is independent under either the independence standards of the American Institute of Certified Public Accountants (“AICPA”) or Rule 2-01 of Regulation S-X—the issuer would be required to file those audited financial statements as well as an audit opinion complying with 17 CFR 210.2-02 (“Rule 2-02”) of Regulation S-X.³²³

- With respect to Tier 2 offerings, the financial statements included in the offering statement would be required to be audited in accordance with either U.S. GAAS or the standards of the PCAOB—by an auditor that is independent under the independence standards of Rule 2-01 of Regulation S-X—and the report and qualifications of the independent accountant would be required to comply with the requirements of Article 2 of Regulation S-X.³²⁴

We believe that the proposed assurance requirements would appropriately balance the costs imposed on issuers against the investor protection benefits derived from audited financial statements. We believe the proposed assurance provisions, which are the same as the assurance requirements in Regulation A, are consistent with issuer, investor, and market expectations relating to the audit of financial statements by an independent accountant in offerings involving the amounts that may be raised under the proposed fundraising exemption. We further believe that independent audit firms would be willing and able to perform audits of covered investment contract issuers.³²⁵

We believe that the proposed approach to financial reporting under the proposed fundraising exemption is appropriate and consistent with investor protection, including because it would be consistent with the approach in offerings under Regulation A. U.S.

³²² Paragraph (b)(2) of Part F/S of Part I-A; see 2015 Regulation A Release at n.445 (“[I]ssuers in Tier 1 offerings may have independent business reasons why they seek to provide, or investors that may otherwise demand, audited financial statements.”).

³²³ Paragraph (b)(2) of Part F/S of proposed Form 1-CRYPTO.

³²⁴ Paragraph (c)(1)(iii) of Part F/S of proposed Form 1-CRYPTO.

³²⁵ Several audit firms provided input to the Crypto Task Force. See letters from AICPA (Apr. 21, 2025); CAQ; Deloitte; EY; PwC. Each of these commenters discussed developments in audit and attestation practices regarding covered investment contracts and made recommendations for future standard-setting or guidance.

GAAP provides a comprehensive basis for the preparation of general-purpose financial statements, which is best suited to provide the information that investors need to make decisions about providing resources to covered investment contract issuers. Further, we believe that financial statements prepared in accordance with U.S. GAAP provide the most appropriate framework for reflecting the effects of an entity’s activities on its operating results, financial position, and capital structure.

We acknowledge requests from commenters for additional clarity with respect to accounting standards relating to crypto asset-related transactions.³²⁶ The Financial Accounting Standards Board (“FASB”) recently issued Accounting Standards Update (“ASU”) 2023-08 requiring the subsequent measurement of certain crypto assets at fair value.³²⁷ Stakeholders provided feedback that because ASU 2023-08 does not address the initial measurement, recognition, or derecognition of crypto assets, the FASB should prioritize a project to address those areas. The FASB included in its January 2025 Invitation to Comment, Agenda Consultation a solicitation for additional feedback regarding potential standard setting to address existing challenges in accounting for crypto asset-related transactions.³²⁸ The FASB then added two projects to its technical agenda to address the accounting for crypto asset transfers³²⁹ and whether certain digital assets may be classified as cash equivalents.

We agree with commenters that the FASB is best positioned to establish and

³²⁶ See *supra* section II.C.1; see also President’s Working Group Report at 147 (“observ[ing] that many questions on the accounting for digital asset transactions relate to . . . key concepts that FASB should consider for further consultation through public engagement,” including issues related to recognition and derecognition and issuer accounting).

³²⁷ See FASB, Intangibles—Goodwill and Other—Crypto Assets (Subtopic 350-60), Accounting Standards Update No. 2023-08 (Dec. 2023).

³²⁸ See Financial Accounting Standards Board Agenda Consultation Invitation to Comment, File Ref. No. 2025-ITC100, (Jan. 3, 2025) 15. Question 24 of the Invitation to Comment asks: “What challenges, if any, are there in applying current recognition and derecognition guidance to crypto asset transactions? Are there specific transactions that are more challenging? If so, how pervasive are those transactions and does the application of the current guidance appropriately portray the economics of those transactions (and if not, why)? Please explain, including whether and how these challenges could be addressed through standard setting.”

³²⁹ The project addresses the accounting for crypto asset transfers that will include expanding the scope of the guidance issued in ASU 2023-08 to address wrapped tokens and receipt tokens, as well as clarifying the derecognition guidance for crypto transfer arrangements to assess whether the control of a crypto asset has been transferred.

revise accounting standards relating to crypto assets.³³⁰ We also agree with commenters that independent accountants are willing and able to provide assurance on crypto asset issuers' financial statements using existing auditing standards and guidance.³³¹ We will continue to engage with issuers, the public, and with the FASB, PCAOB, and AICPA to help ensure that the relevant accounting and auditing standards and best practices keep pace with emerging technology. Additionally, we believe that the proposed period for which financial statements would be required (two fiscal years or such shorter period as the issuer, or the issuer and its predecessors or any businesses to which the issuer is a successor has been in existence) is appropriate. This requirement is consistent with the periods required in offerings under Regulation A and Regulation Crowdfunding, and therefore consistent with the expectations of issuers and investors.³³² We considered proposing a shorter period for the required financial statements, but we believe two years is appropriate given that covered investment contract issuers at various stages of development may utilize the exemption. While many issuers who utilize the proposed fundraising exemption may be newly-formed or otherwise developing subject crypto assets and associated crypto networks or associated crypto applications that have not yet been launched or are at an early stage (in which case the issuer would need to provide financial information only for so long as it has been in existence, if less than two years), Regulation Crypto Assets is not limited to these types of issuers. We expect that issuers of covered investment contracts related to more mature subject crypto assets and associated crypto networks or associated crypto applications also may utilize the proposed fundraising exemption.

As discussed more fully in section IV below, we believe that alternatives to U.S. GAAP would not be appropriate, may not provide investors with the information they need to make an informed investment decision, and may not realize meaningful benefits relative to our proposed approach. Nonetheless,

we invite comment below on the proposed financial statement and assurance requirements.

Request for Comment

104. Should we adopt the financial statement requirements in Part F/S of Form 1-CRYPTO as proposed? Should we adopt different financial statement requirements for Tier 1 offerings versus Tier 2 offerings? What are the costs and benefits of the proposed financial statement requirements?

105. Are there alternative financial information requirements that we should consider? What are the costs and benefits of alternative approaches compared to the proposed financial statement requirements?

106. Beyond FASB's current efforts, is there a need for additional clarity on accounting for crypto assets and crypto asset-related transactions?

107. Is there a need for additional standard-setting or guidance from the PCAOB or AICPA with respect to auditing crypto assets and related transactions?

108. Is it appropriate to allow the financial statements included in the Tier 2 offering statement to be audited in accordance with U.S. GAAS, or should we require audits to be conducted in accordance with PCAOB standards?

109. Should the financial statement assurance requirements for Tier 1 and Tier 2 offerings mirror the assurance requirements that are required under Regulation A, as proposed?

110. Should the financial statements of an issuer conducting a Tier 1 offering be required to be reviewed or audited by an independent public accountant, and if so, at what level of assurance?

111. Under the proposed rule, when the issuer is required to obtain an audit of its financial statements, should the audit be required to be performed by an accounting firm that is registered with the PCAOB?

iv. Part III of Form 1-CRYPTO (Exhibits)

Part III of Form 1-CRYPTO would set forth exhibit requirements that are similar to those in Part III of Form 1-A, but tailored to covered investment contract offerings and issuers.³³³ The proposed requirements would include filing with the offering statement an Exhibit Index (Item 14) and the following exhibits: underwriting agreement; charter and by-laws; instrument defining the rights of

securityholders (including any whitepaper or similar document published by the issuer); subscription agreement; voting trust agreement; material contracts; plan of acquisition, reorganization, arrangement, liquidation, or succession; escrow agreements; consents; opinion regarding legality; "testing the waters" materials; appointment of agent for service of process; and any additional exhibits the issuer may wish to file. The exhibit requirements are largely consistent with those in Part III of Form 1-A. Certain exhibit requirements are tailored to covered investment contract offerings and issuers. For example, the legality opinion relating to the securities covered by the offering statement would require counsel to opine that the securities, when sold, will be binding obligations of the issuer, to reflect that the securities offered and sold under this proposed fundraising exemption are limited to covered investment contracts. Other exhibit requirements are tailored to simplify the form and reduce issuers' compliance costs. For example, the material contracts exhibit requirement in Form 1-CRYPTO only requires the filing of a contract: (a) not made in the ordinary course of business; (b) that is material to the issuer; and (c) that either (i) is to be performed in whole or in part at or after the filing of the offering statement or (ii) was entered into not more than two years before such filing.³³⁴ Finally, we have omitted certain exhibits required by Form 1-A relating to appointment of agent for service of process³³⁵ and certain technical reports³³⁶ as these exhibits are not applicable to offerings of covered investment contracts under this proposed fundraising exemption.

Request for Comment

112. Item 15 to Form 1-CRYPTO requires an opinion of counsel as to the legality of the securities covered by the offering statement and specifies that the opinion should indicate whether the securities will be binding obligations of the issuer. Are there additional instructions or modifications to the

³³⁴ By contrast, the "Material contracts" requirement in Item 17 of Form 1-A contains this general principal as well as additional provisions that, among other things, specify certain types of contracts that must be filed (notwithstanding the fact that the contract would otherwise not have to be filed under the general principal) and require that certain management contracts and compensatory plans, contracts, and arrangements are deemed material and must be filed.

³³⁵ See exhibit 14 in Part III of Form 1-A. This exhibit is required for Canadian issuers.

³³⁶ See exhibit 15 in Part III of Form 1-A. This exhibit is required for technical reports under subpart 1300 of Regulation S-K, which applies to registrants engaged in mining operations.

³³⁰ See letters from Deloitte; EY; PwC.

³³¹ See letters from Deloitte; EY; PwC (stating that "the principles-based nature of the PCAOB's auditing standards and guidance have allowed auditors of public companies to adapt traditional procedures to address crypto assets" and observing that additional "guidance and clarification from the PCAOB would help maintain consistency in application and execution as well as help align regulatory and stakeholder expectations").

³³² See Part F/S of Form 1-A and Instruction 3 to paragraph (t) of Rule 201.

³³³ Part III of Form 1-CRYPTO would consist of attachments, containing the signatures, exhibits index, and the exhibits to the offering statement, formatted in HTML to be compatible with the EDGAR filing system.

substance of the required opinion(s) that we should make?

113. Item 15 to Form 1-CRYPTO takes a principles-based approach to the requirement of filing material contracts. Should we provide examples of contracts that are deemed material or otherwise revise this item to more closely align with the requirement in Item 17 of Form 1-A?

v. Rules 301, 306, and 307

Rules 301, 306, and 307 would set forth some of the filing, amendment, qualification, and other mechanics with respect to Form 1-CRYPTO. Rule 301 would set forth the following general requirements applicable to offering statements and amendments, each of which are substantially similar to analogous provisions in 17 CFR 230.252 under Regulation A:

- *Content, filing fees, and signatures:* Under Rule 301(a), the offering statement would consist of the information required by Form 1-CRYPTO and any other material information necessary to make the required statements, in light of the circumstances in which they are made, not misleading. Rule 301(b) would provide that no fee is payable to the Commission upon either the submission or filing of an offering statement on Form 1-CRYPTO, or any amendment to an offering statement. Rule 301(c) would set forth who must sign the offering statement, in what capacity, and requirements with respect to signatures by a person on behalf of another person.

- *Non-public submission:* Rule 301(d) would permit issuers to submit draft offering statements to the Commission for non-public review by the Commission's staff before public filing of the offering statement.³³⁷ All non-public submissions under the proposed rule would be required to be publicly filed on EDGAR not less than 15

calendar days prior to qualification of the offering statement. We note that in 2015 the Commission adopted a similar provision under Regulation A but required non-public submissions to be publicly filed on EDGAR not less than 21 calendar days prior to qualification of the offering statement.³³⁸ At that time, section 6(e) of the Securities Act,³³⁹ added by Title 1 of the JOBS Act, required non-public submissions made under that section to be publicly filed not later than 21 calendar days before the issuer conducts a roadshow. Section 6(e) was subsequently amended by the FAST Act and currently requires non-public submissions to be publicly filed not later than 15 days before the issuer conducts a road show. Our proposed rule, therefore, would be consistent with section 6(e) in this regard.

- *Qualification, withdrawal, and abandonment:* We are proposing offering statement qualification, withdrawal, and abandonment procedures that are substantially similar to those applicable to Regulation A offering statements. Consistent with 17 CFR 230.252(e) under Regulation A, Commission action would be required to qualify the offering statement under the fundraising exemption. Specifically, Rule 301(e) would permit the offering statement to be qualified by disseminating a notice of qualification, issued by the Division of Corporation Finance pursuant to delegated authority.³⁴⁰ In addition, consistent with 17 CFR 230.259(a) of Regulation A, Rule 307(a) would permit an issuer to withdraw an offering statement, with the Commission's consent, if none of the securities that are the subject of the

offering statement have been sold and the offering statement is not the subject of a Commission order temporarily suspending a Regulation Crypto Assets exemption. Finally, consistent with 17 CFR 230.259(b) of Regulation A, Rule 307(b) would permit the Commission to declare an offering statement abandoned if the offering statement has been on file with the Commission for more than nine months without amendment and has not become qualified.

- *Amendments:* Rule 301(f) would set forth form and content rules for amendments to the offering statement that are substantially similar to 17 CFR 230.252(f).

- *Post-qualification amendments:* We are proposing requirements for post-qualification amendments to the offering statement that are substantially similar to those in 17 CFR 230.252(f)(2) of Regulation A. Rule 301(f)(2)(i) would require a post-qualification amendment for ongoing offerings at least every 12 months after the qualification date to include the financial statements that would be required by Form 1-CRYPTO as of such date. Rule 301(f)(2)(ii) would require a post-qualification amendment for ongoing offerings to reflect any facts or events arising after the qualification date of the offering statement (or the most recent post-qualification amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the offering statement. Consistent with Regulation A, an issuer may qualify the offering of additional covered investment contracts by filing a post-qualification amendment to the qualified offering statement.³⁴¹

- *Suspension of the exemption:* Rule 306 would provide that the Commission may issue an order suspending the availability of the fundraising exemption in certain specified circumstances, modeled on an analogous provision 17 CFR 230.258 in Regulation A.

Request for Comment

114. Should we adopt the proposed period for filing non-public submissions?

115. Should we permit non-public submission from issuers whose securities have been previously sold pursuant to a qualified offering statement under the proposed exemption?

³³⁷ The corresponding provision in Regulation A limits non-public submission to issuers whose securities have not been previously sold pursuant to a qualified offering statement under Regulation A or an effective registration statement under the Securities Act. See 17 CFR 230.252(d). We are not proposing to include a similar limitation in the fundraising exemption in order to further reduce barriers to entry and support capital formation. This is consistent with recent action taken by the staff of the Division of Corporation Finance, which expanded the availability of the nonpublic review process by permitting issuers to submit draft registration statements regardless of how much time has elapsed since becoming subject to the reporting requirements of section 13(a) or 15(d) of the Exchange Act. See U.S. Securities and Exchange Commission, Division of Corporation Finance, *Enhanced Accommodations for Issuers Submitting Draft Registration Statements* (Mar. 3, 2025), available at <https://sec.gov/about/divisions-offices/division-corporation-finance/draft-registration-statement-processing-procedures-expanded>.

³³⁸ See 2015 Regulation A Release at section II.C.2.c.

³³⁹ 15 U.S.C. 77f(e).

³⁴⁰ A notice of qualification is analogous to a notice of effectiveness in registered offerings. See 17 CFR 200.30-1(a)(5) (providing the Director of the Division of Corporation Finance with the delegated authority to declare registration statements to be effective within shorter periods of time than 20 days after filing, consistent with section 8(a) of the Securities Act); 17 CFR 200.30-1(b) (providing the Director of the Division of Corporation Finance with the delegated authority to determine the date and time of qualification for offering statements and amendments to offering statements filed pursuant to Regulation A). We are also proposing a conforming amendment to the Commission's organizational rules, by adding 17 CFR 200.30-1(n), to delegate authority to the staff to qualify offering statements under the proposed fundraising exemption. Relatedly, we are also proposing an amendment to the Commission's Rules of Practice, 17 CFR 201.431, that would add 17 CFR 200.30-1(n)(2) to the list of actions for which there is no automatic stay of the delegated action when the Commission reviews that action. See 17 CFR 201.431(e)(3). This amendment is intended to conform to the Commission's recent change of its rule of practice in this area. See *Amendments to the Commission's Rules of Practice*, Release No. 34-103980 (Sept. 17, 2025) [90 FR 45123 (Sept. 19, 2025)].

³⁴¹ Proposed 17 CFR 228.300(d)(3)(i)(F); Proposed 17 CFR 228.302, note to paragraph (b).

c. Offering Circular (Rules 302 and 303)

Rules 302 and 303 would set forth requirements for the use of offering circulars that are substantially similar to the offering circular requirements in 17 CFR 230.253 and 254 of Regulation A.³⁴² The proposed rules would include general requirements for use of offering circulars, requirements for preliminary offering circulars, and requirements for offering circular supplements, summarized as follows:

- *General requirements:* Under Rule 302(a), an offering circular used pursuant to the fundraising exemption would be required to include the information required by proposed Form 1-CRYPTO. Rule 302(b) would provide that a qualified offering circular may omit information with respect to the public offering price, certain information relating to the underwriting arrangements, and certain terms dependent on the offering price, offering date, or delivery dates. The omission of certain information from the qualified offering circular is subject to the same conditions in the analogous provisions in 17 CFR 230.253 of Regulation A and, for registered offerings, 17 CFR 230.430B under the Securities Act. Consistent with Regulation A and similar to registered offerings, Rule 302(c) would provide that information omitted in reliance on proposed Rule 302(b) would be required to be contained (i) in an offering circular supplement filed within 15 business days of the date the offering statement is qualified (or 15 business days of the date a post-qualification amendment that contains an offering circular is qualified) or (ii) a qualified post-qualification amendment. In addition, Rule 302(d) and (e) would include provisions for the date the offering circular was filed with the Commission and the required cover page legend, respectively. As with offering statements and other materials, all offering circulars would be subject to electronic filing and delivery requirements that are substantially similar to analogous requirements in Regulation A.

- *Preliminary offering circulars:* Rule 303 would set forth requirements for preliminary offering circulars that are substantially similar to those for preliminary offering circulars under 17 CFR 230.254 of Regulation A. Under Rule 303(a), the preliminary offering

circular would be required to be appropriately captioned, include the date of issuance, and include a prominent legend. Rule 303(b) would require the preliminary offering circular to contain substantially the information required to be in an offering circular by Form 1-CRYPTO except information that may be omitted under proposed Rule 302(b). Rule 303(c) would require the preliminary offering circular to be filed as part of the offering statement.

- *Offering circular supplements:* Rule 302(f) would set forth requirements for the use of offering circular supplements that are substantially similar to the requirements in 17 CFR 230.253(g) of Regulation A and consistent with analogous requirements in 17 CFR 230.424(b) for prospectus supplements used in registered offerings. Under Rule 302(f), an issuer would be required to file an offering circular supplement to reflect information previously omitted from the offering circular in reliance on proposed Rule 302(b) no later than two business days following the earlier of the date of the determination of the offering price or the date of first use of the offering circular in a public offering or sale following qualification. Further, to the extent an offering circular reflects information that constitutes a substantive change from or addition to information included in the last offering circular filed with the Commission, an issuer must file an offering circular supplement reflecting this substantive change no later than five business days following the date it is first used after qualification in connection with a public offering or sale. Rule 302(f) also contains provisions relating to offering circular supplements, including a requirement with respect to offering circulars not timely filed.

d. “Testing the Waters” Communications (Rule 304)

Rule 304 would permit non-binding solicitations of interest and similar pre-qualification “testing the waters” offering communications subject to specified conditions, substantially similar to the non-binding solicitations of interest permitted in 17 CFR 230.255 of Regulation A offerings.

Under proposed Rule 304(a), at any time before qualification of the offering statement, including before any non-public submission or public filing of the offering statement, an issuer or any person authorized to act on behalf of the issuer may communicate orally or in writing to determine whether there is any interest in the contemplated offering under the fundraising exemption. Written communications under this rule may include a means by

which a person may indicate to the issuer that the person is interested in the potential offering.³⁴³ Consistent with other proposed provisions in Regulation Crypto Assets, communications under this proposed rule would be deemed to be an offer of a security for sale for purposes of the antifraud provisions of the Federal securities laws.³⁴⁴

Similar to the testing the waters provision in Regulation A, no solicitation or acceptance of money or other consideration, nor of any commitment, binding or otherwise, from any person would be permitted until the offering statement is qualified.³⁴⁵ Communications under this proposed rule would be subject to the conditions detailed in proposed Rule 304(b). The proposed rule also provides for the redistribution of revised solicitation of interest materials in the event solicitation of interest materials used after the public filing of the offering statement and before its qualification contain information that is inaccurate or inadequate in any material respect.³⁴⁶ Finally, written communications or broadcast scripts used in testing the waters communications under this proposed rule must be filed as an exhibit to the Form 1-CRYPTO offering statement.³⁴⁷

e. Ongoing Reporting (Rule 305(a), (b), and (c))

Under Rule 305(a), issuers that have qualified Tier 1 or Tier 2 offerings under the fundraising exemption would be subject to ongoing periodic reporting requirements. Issuers subject to ongoing reporting would be required to file semiannual, annual, and current reports on proposed new Form 1-SC (with a description codified at 17 CFR 239.602), Form 1-KC (with a description codified at 17 CFR 239.601), and Form 1-UC (with a description codified at 17 CFR 239.603), respectively, which are attached hereto as Appendix C, Appendix B, and Appendix D, respectively. Each of those forms would be modeled on the analogous Regulation A ongoing reporting forms and tailored

³⁴³ See proposed 17 CFR 228.304(c).

³⁴⁴ See proposed 17 CFR 228.304(a).

³⁴⁵ See *id.*

³⁴⁶ See proposed 17 CFR 228.304(d).

³⁴⁷ See proposed exhibit number 13 to Item 15 of Part III to Form 1-CRYPTO. The instruction for the “testing the waters” exhibit in the proposed Form 1-CRYPTO is substantially similar to the instruction in Form 1-A, which also requires filing of any written communication or broadcast script used under the generic solicitations of interest rule, 17 CFR 230.241. See 2015 Regulation A Release at section II.B.2.iii.

³⁴² As discussed in the 2015 Regulation A Release, the offering circular requirements for Regulation A offerings were modeled on analogous requirements for the use of prospectus supplements in registered offerings. See 2015 Regulation A Release at section II.C.4; see also 17 CFR 230.424(b) and 230.430B.

to covered investment contract offerings and issuers.³⁴⁸

Rule 305(a)(1) would require each issuer that has qualified an offering statement under the fundraising exemption to file with the Commission an annual report on Form 1-KC for the fiscal year in which the offering statement became qualified and for any fiscal year thereafter, unless the issuer's obligation to file such annual report is suspended under Rule 305(c) or is terminated under Rule 305(d).³⁴⁹ Annual reports would be required to be filed within 120 calendar days after the end of the fiscal year covered by the report. Annual reports would include non-financial disclosure items corresponding to the disclosure requirements in Rule 103(b) (other than Rule 103(b)(2), which requires a description of the material terms of an offering). Annual reports also would require the issuer to provide a Discussion of Financial Condition (which would require the issuer to include the disclosure required by Item 13 of Form 1-CRYPTO) and would require disclosure of any information required to be disclosed, but not reported, in a report on proposed Form 1-UC during the last six months of the fiscal year covered by the annual report.

Rule 305(a)(3) would require each issuer that has qualified an offering statement under the fundraising exemption to file with the Commission a semiannual report on Form 1-SC within 90 calendar days after the end of the semiannual period covered by the report. Semiannual reports would be required to cover the first six months of each fiscal year of the issuer, commencing with the first six months of the fiscal year immediately following the most recent fiscal year for which financial statements were included in the offering statement, or, if the offering statement included financial statements for the first six months of the fiscal year following the most recent full fiscal year, for the first six months of the following fiscal year.³⁵⁰ Semiannual

reports would include the following non-financial disclosure items: Item 1 (Covered Investment Contract), which would include the information required by proposed Rule 103(b)(1); Item 2 (Associated Crypto Network/ Application; Plan of Development), which would include the information required by proposed Rule 103(b)(5); Item 3 (Discussion of Financial Condition), which would include the information required by the related item of Form 1-CRYPTO for the interim period for which financial statements are required; and Item 4 (Other Information), which would include any information required to be disclosed, but not reported, in a report on proposed Form 1-UC during the last six months of the fiscal year covered by the semiannual report (whether or not otherwise required by Form 1-SC).

The financial statements requirements for semiannual reports on Form 1-SC and annual reports on Form 1-KC would be the same as provided in the qualified offering statement. The assurance requirements in semiannual and annual reports would be modeled on Regulation A ongoing reporting: the financial statements in a semiannual report would not be subject to any assurance requirement; and the financial statements in an annual report filed by issuers who qualified a Tier 2 offering would be subject to the same assurance requirement as in the qualified offering statement, as discussed in section II.C.2.b.iii above. The financial statements in an annual report filed by issuers who qualified a Tier 1 offering need not be audited; however, as discussed in section II.C.2.b.iii above for Tier 1 offering statements, if an audit of these financial statements is obtained for other purposes and that audit was performed in accordance with either U.S. GAAS or the standards of the PCAOB—by an auditor that is independent under either the independence standards of the AICPA or Rule 2-01 of Regulation S-X—the issuer would be required to file those audited financial statements as well as an audit opinion complying with Rule 2-02 of Regulation S-X along with those audited financial statements. Rule 305(a)(4) would require each issuer that has qualified an offering statement under the fundraising exemption to file with the Commission current reports on Form 1-UC with respect to the matters specified in the form, within four business days after the occurrence of one of the specified events, unless substantially the same information has

been previously reported to the Commission by the issuer under cover of Form 1-KC or Form 1-SC.³⁵¹

Rule 305(a)(2) would require each issuer that has qualified an offering statement under the fundraising exemption to file with the Commission a special financial report on Form 1-KC or Form 1-SC if the offering statement did not contain the following: (A) financial statements (which are required to be audited for Tier 2 offerings) for the issuer's most recent fiscal year (or for the life of the issuer or the issuer and its predecessors or any businesses to which the issuer is a successor if less than a full fiscal year) preceding the fiscal year in which the issuer's offering statement became qualified; or (B) unaudited financial statements covering the first six months of the issuer's current fiscal year if the offering statement was qualified during the last six months of that fiscal year. With respect to special financial reports filed on Form 1-KC, they would be required to be filed within 120 calendar days after the qualification date of the offering statement and must include audited financial statements for such fiscal year or other period specified in that paragraph, as the case may be. With respect to special financial reports filed on Form 1-SC, they would be required to be filed within 90 calendar days after the qualification date of the offering statement and must include the semiannual financial statements for the first six months of the issuer's fiscal year, which may be unaudited. Those special financial reports also would be required to be signed in accordance with the requirements of the form on which it is filed.

Unlike Regulation A, issuers who have qualified Tier 1 offerings under the proposed fundraising exemption would be subject to ongoing reporting requirements. We believe that requiring ongoing and current reporting for all issuers under the proposed fundraising exemption is appropriate given that the issuer's ongoing efforts to develop its associated crypto network or associated crypto application are directly relevant to the value of the covered investment contract and the subject crypto asset. Further, and unlike the rationale for excepting Tier 1 issuers under Regulation A from ongoing reporting, we do not anticipate that Tier 1 issuers using the proposed rule will be conducting offerings that are "more local in nature" than Tier 2 offerings

³⁴⁸ Rule 305(b) would set forth requirements for amendments to the required reports that are substantially similar to the requirements under the analogous provision in 17 CFR 230.257(c) of Regulation A. Rule 305(a)(5), (6), and (7) also would set forth provisions applicable to successor issuers, Exchange Act reporting requirements, and subsidiary issuers of guaranteed securities and subsidiary guarantors that would substantially mirror the analogous provisions in 17 CFR 230.257(b)(5), (6), and (7) of Regulation A.

³⁴⁹ Form 1-KC would be required to be formatted in HTML, as would be further provided in the EDGAR Filer Manual, to be compatible with EDGAR.

³⁵⁰ Form 1-SC would be required to be formatted in HTML, as would be further provided in the

EDGAR Filer Manual, to be compatible with EDGAR.

³⁵¹ Form 1-UC would be required to be formatted in HTML, as would be further provided in the EDGAR Filer Manual, to be compatible with EDGAR.

and we do anticipate that there may be secondary markets for the securities issued in Tier 1 offerings.³⁵²

We do not believe that requiring ongoing reporting for all issuers would impose undue costs on issuers in smaller, Tier 1 offerings. These issuers would benefit from tailored disclosure requirements, would not be subject to greater financial statement or assurance requirements than in their qualified offering statements,³⁵³ and the scope of disclosure to be updated would not be greater than that required to be updated by issuers relying on the startup exemption. If an issuer is or becomes subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, its duty to file reports under the proposed rule will be deemed to have been met if, as of each Form 1-KC and Form 1-SC due date, the issuer has filed all reports required to be filed by section 13 or 15(d) of the Exchange Act during the 12 months (or such shorter period that the registrant was required to file such reports) preceding such due date.

Commenters supported varying degrees of ongoing periodic disclosure focusing on material changes in the development of the subject crypto asset and the associated crypto network or associated crypto application.³⁵⁴ One commenter stated that “[o]ne-time disclosures at launch are insufficient to protect investors in dynamic, evolving token ecosystems.”³⁵⁵ Other commenters observed that the importance of ongoing periodic disclosure decreases as control of an associated crypto network or associated crypto application becomes dispersed.³⁵⁶ In these cases, in the view

of some commenters, material information likely would consist of progress toward development milestones or other material changes during the time the issuer retains control over the subject crypto asset or the associated crypto network or associated crypto application.³⁵⁷

We believe that ongoing public disclosures serve an important investor protection function in offerings involving covered investment contracts. An issuer’s ongoing reporting obligations will, however, terminate once the covered investment contract has ceased to exist, including if the issuer has qualified for the investment contract safe harbor. Rule 305(d), discussed in section II.C.2.f below, would address these circumstances.

Request for Comment

116. As noted previously in this section, each form for the proposed fundraising exemption is attached hereto as Appendices A through D. The forms generally track corresponding Regulation A forms with changes intended to reflect the circumstances of covered investment contract offerings and their issuers. Should we further tailor the forms to better reflect such circumstances? To illustrate, as proposed, many of the events triggering disclosure in Form 1-UC relate to matters involving the issuer rather than focusing on the associated crypto network or associated crypto application. For example, under Item 6 of Form 1-UC, disclosure is required upon certain changes in control of the issuer. Should we revise Form 1-UC such that the triggering events are more focused on the associated crypto network or associated crypto application rather than the issuer by, for example, requiring disclosure upon certain changes in control of the associated crypto network or associated crypto application?

117. As proposed, periodic and current reporting would be required for both Tier 1 and Tier 2 issuers that have qualified an offering statement under Regulation Crypto Assets. Should we require such reporting for issuers that have conducted only a Tier 1 offering? Alternatively, similar to Regulation A, should we require ongoing reporting

only for issuers conducting Tier 2 offerings?

118. Form 1-SC would require the issuer to furnish the information required by proposed Rule 103(b)(1) and (b)(5). Among other things, those rules would require the issuer to provide disclosure regarding its progress with respect to its representations or promises to engage in essential managerial efforts under the covered investment contract and its progress with respect to its plan of development. Should we include the proposed financial statements requirements for semiannual reports on Form 1-SC, or should that form’s disclosure requirements focus on the issuer’s progress with respect to such representations or promises and its plan of development? If we do not adopt the proposed financial statement requirements for that form, should those financial statements be disclosed in some other manner? If not, would the lack of semiannual financial statements result in material risks to investors?

119. As noted in section II.C.2.b.v above, proposed Rule 301(f)(2) would require post-qualification amendments for ongoing offerings in certain circumstances. To the extent an issuer files a post-qualification amendment before the issuer’s Form 1-KC is due, and such post-qualification amendment contains the information (including the financial statements) that the issuer would be required to provide on the Form 1-KC, should the issuer not be required to also file the Form 1-KC? That is, in those circumstances, would filing a Form 1-KC provide investors with any benefits, or would it simply be duplicative of the information provided in the post-qualification amendment?

120. Should the proposed fundraising exemption, consistent with Regulation A, permit an issuer to register a class of securities sold in a Tier 2 offering under the Exchange Act by filing a Form 8-A in conjunction with the qualification of a Form 1-CRYPTO?

121. Are there certain types of organizational structures that cannot satisfy the disclosure requirement in Form 1-KC, Form 1-SC, and Form 1-UC to provide a jurisdiction of incorporation or formation (if the issuer is or includes an entity)? For example, could decentralized unincorporated nonprofit associations satisfy this requirement? If not, should we revise this requirement to accommodate any such organizational structures?

122. Should we require disclosure of the address of the issuer’s principal executive office only if the issuer has a principal executive office, as proposed in Form 1-KC, Form 1-SC, and Form 1-

³⁵² See 2015 Regulation A Release at section II.E.

³⁵³ As discussed above, if an audit of a Tier 1 issuer’s financial statements is obtained for other purposes and that audit was performed in accordance with either U.S. GAAS or the standards of the PCAOB—by an auditor that is independent under either the independence standards of AICPA or Rule 2-01 of Regulation S-X—the issuer would be required to file those audited financial statements as well as an audit opinion complying with Rule 2-02 of Regulation S-X along with those audited financial statements.

³⁵⁴ See, e.g., letters from GDCA (“We strongly suggest requiring disclosure at both the time of sale and on an ongoing basis.”); L. Cohen; Coinbase.

³⁵⁵ Letter from GDCA.

³⁵⁶ See, e.g., letter from L. Cohen (“A project team that has completed a fundraising transaction involving crypto assets associated with a blockchain system they are developing might remain subject to certain scaled disclosure obligations so long as the team’s ongoing efforts remain material to the growth and development of the blockchain system (and, hence, the value of the associated crypto asset).”); see also letter from Coinbase (“To the extent that ongoing disclosure is required, it should be limited to material changes in the token and associated network and, to the extent that the token and/or associated network was not yet operational or was still in development at

the time of any securities transactions pursuant to these rules, any material developments related to the issuer’s ability to complete its initially disclosed development efforts.”).

³⁵⁷ See letter from Coinbase; see also letter from GDCA (noting that as the network or application decentralizes, financial and other information may be publicly available timelier than the information is made available in periodic reports).

UC? If an issuer does not have a principal executive office, should we require the issuer to provide a different address (for example, the address for the issuer's agent for service of process)?

f. Transition Reporting (Rule 305(c) and (d))

Rule 305(c) and (d) would set forth transition reporting provisions that would apply equally to issuers in Tier 1 and Tier 2 offerings and set forth pathways to suspend or terminate ongoing reporting obligations under the proposed fundraising exemption.

Rule 305(c) and (d)(1) would substantially mirror the suspension and termination of duty to file reports that are in 17 CFR 230.257(d) and (e)(1) of Regulation A. Under Rule 305(c)(1), the duty to file reports under Rule 305(a) with respect to a class of securities held of record (which, for purposes of determining whether securities are "held of record" under the proposed rule, will be as defined in 17 CFR 240.12g5-1) by less than 300 persons would be suspended for such class of securities immediately upon filing with the Commission a transition report on Form TR if the issuer of such class has filed all reports required to be filed under Rule 305 before the date of such Form TR filing for the shorter of: (i) the period since the issuer became subject to such reporting obligation; or (ii) its most recent three fiscal years and the portion of the current year preceding the date of filing Form TR. Rule 305(c)(2) would provide that the term "class" is construed to include all securities of an issuer that are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. The rule further would provide that if the Form TR is subsequently withdrawn or if it is denied because the issuer was ineligible to use the form, the issuer must, within 60 calendar days, file with the Commission all reports which would have been required if such transition report had not been filed. If the suspension resulted from the issuer's merger into, or consolidation with, another issuer or issuers, the notice must be filed by the successor issuer.

Further, under Rule 305(c)(3), the ability to suspend reporting under Rule 305(c)(1) would not be available if: (i) during that fiscal year the issuer has an offering statement that was qualified; (ii) the issuer has not filed an annual report under Rule 305 or the Exchange Act for the fiscal year in which an offering statement was qualified; or (iii) offers or sales of securities of that class are being made pursuant to an offering under the fundraising exemption.

Rule 305(d)(1) would provide that if the duty to file reports is deemed to have been met under Rule 305(a)(6) (*i.e.*, because the issuer is subject to Exchange Act reporting requirements and is current with respect to those requirements) and such status ends because the issuer terminates or suspends its duty to file reports under the Exchange Act, the issuer's obligation to file reports under Rule 305(a) will: (i) automatically terminate if the issuer is eligible to suspend its duty to file reports under Rule 305(c)(1) and (3); or (ii) recommence with the report covering the most recent financial period after that included in any effective registration statement or filed Exchange Act report.

Rule 305(d)(2) sets forth separate bases on which an issuer may terminate its ongoing reporting obligations. These bases reflect the unique nature of covered investment contracts. Under Rule 305(d)(2), if an issuer satisfies the conditions of the investment contract safe harbor³⁵⁸ or the covered investment contract otherwise ceases to exist during the period in which the issuer is required to file reports under Rule 305(a), the issuer's obligation to file reports under Rule 305(a) will terminate immediately upon filing with the Commission a transition report on Form TR.³⁵⁹

As discussed previously in this section, issuers would use proposed Form TR for any transition report filed under Regulation Crypto Assets, checking the box to indicate the specific provision under which the issuer is filing the report. If the issuer is filing the Form TR to suspend its ongoing reporting obligations pursuant to Rule 305(c), Form TR would require similar information as would be required in an exit report on Form 1-Z under Regulation A. If the issuer is filing the Form TR to terminate its ongoing reporting obligations under Rule 305(d)(2), then Form TR would require the same information as would be required in a transition report under the startup exemption.³⁶⁰ The issuer's ongoing reporting obligations would terminate in the two scenarios discussed in Rule 305(d)(2) because there would no longer be a covered investment contract.

Request for Comment

123. Should we adopt the provisions for suspension and termination of ongoing reporting as proposed? Is 300

record holders an appropriate threshold in the context of covered investment contracts? Should we define "held of record" by reference to 17 CFR 240.12g5-1 as proposed?

D. Investment Contract Safe Harbor (Subpart D, Rule 400)

Subpart D of Regulation Crypto Assets would set forth a non-exclusive safe harbor from the term "investment contract" in the definitions of "security" in section 2(a)(1) of the Securities Act³⁶¹ and section 3(a)(10) of the Exchange Act.³⁶² As proposed, if the conditions of the safe harbor are satisfied, then a covered investment contract will be deemed by the Commission to have ceased to exist, and the crypto asset that was subject to the covered investment contract will be deemed by the Commission not to be subject to such investment contract for purposes of those statutory definitions of "security." This safe harbor is intended to provide market participants with greater clarity as to when a covered investment contract has ceased to exist because of a lack of essential managerial efforts and, therefore, the crypto asset is no longer a "subject crypto asset."

1. Background

As discussed throughout this release, many covered investment contracts eventually will cease to exist. In addition, as noted in section I.B.1 above, the *Howey* test can be complex and difficult to apply to crypto assets. As such, issuers understandably may be concerned that the Commission may second-guess their determinations as to whether a crypto asset is subject to an investment contract under the *Howey* test. We recognize that this uncertainty could complicate an issuer's transaction planning which, in turn, may impede capital formation and innovation in the crypto asset markets. Several commenters, echoing this concern, expressed a desire for greater clarity as to when a crypto asset is subject to an investment contract.³⁶³

The Commission recently took steps to increase clarity on this point by issuing the 2026 Interpretation which, among other things, provided the Commission's view that a covered investment contract separates from the subject crypto asset and ceases to exist when either: (1) the issuer has fulfilled its representations or promises to engage in essential managerial efforts under the covered investment contract, or (2) the purchaser would not reasonably expect

³⁵⁸ See *infra* section II.D.

³⁵⁹ See 2026 Interpretation at 13723; see also *supra* section I.A.2.b.

³⁶⁰ See *supra* section II.B.2.e.

³⁶¹ 15 U.S.C. 77b(a)(1).

³⁶² 15 U.S.C. 78c(a)(10).

³⁶³ See *supra* section I.B.1 and 2.

the issuer to be able to fulfill or to continue to engage in the essential managerial efforts it represented or promised it would undertake.³⁶⁴ Proposed Rule 400 would codify this portion of the 2026 Interpretation in a safe harbor and provide a mechanism whereby the issuer can notify the Commission and the public that it has determined that the covered investment contract has ceased to exist and explain the basis on which it has made that determination. The proposed safe harbor may provide issuers, investors, and other market participants with greater certainty as to when a crypto asset is no longer subject to an investment contract. Any resulting increased predictability and certainty may reduce transaction costs and facilitate better transaction planning while also protecting investors.

2. Proposed Rules

The investment contract safe harbor would be set forth in proposed Rule 400. Rule 400 would provide that a covered investment contract will be deemed to have ceased to exist, and the crypto asset that was subject to the covered investment contract will be deemed not to constitute or represent or to be subject to that investment contract for purposes of section 2(a)(1) of the Securities Act and section 3(a)(10) of the Exchange Act, if the conditions set forth in Rule 400(a) and (b) are satisfied.

Rule 400(a) would require that the issuer of the covered investment contract has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under the covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset.³⁶⁵ These conditions are intended to codify the Commission's views expressed in the 2026 Interpretation regarding some of the circumstances under which a covered investment contract ceases to exist.³⁶⁶

Rule 400(b) would require the issuer of the covered investment contract to file a transition report containing the information required by Form TR with the Commission (which would be required to be filed on EDGAR, pursuant to Rule 101(c)³⁶⁷). Form TR would set forth the information that the issuer would have to provide to perfect their reliance on the investment contract safe harbor. Form TR would require the issuer to provide the following information:

- Information regarding the issuer, including the issuer's name (or names, if the issuer is a group of individuals and/or entities), jurisdiction of incorporation or formation (if the issuer is or includes an entity), address of principal executive offices (if any), telephone number, and email address;³⁶⁸
- A brief description of the covered investment contract and crypto asset sufficient for a reasonable investor to identify the security and crypto asset to which the filing relates;
- A certification that the issuer has satisfied the condition in Rule 400(a) with respect to that covered investment contract; and
- An analysis supporting that certification.

The purpose of this Form TR filing is to apprise investors, the Commission, and the public that the issuer has determined that the covered investment contract has ceased to exist, as well as the basis on which the issuer made that determination.³⁶⁹ The issuer's analysis should be sufficiently clear and detailed such that a reasonable investor could understand how the issuer made its determination. In conducting this analysis, we expect that the issuer would refer to information it disclosed in response to proposed Rule

103(b)(1),³⁷⁰ to the extent it had relied on the startup exemption or the fundraising exemption and, therefore, was required to provide such information. As noted in section II.A.4.b.i above, those disclosures may provide issuers, investors, and other market participants with a more objective means by which to determine whether a covered investment contract has ceased to exist. The Form TR filing requirement would serve to inform investors and other members of the public that the issuer has determined that the protections of the Federal securities laws are no longer applicable to transactions involving a particular crypto asset.³⁷¹

The investment contract safe harbor would be available to any issuer that satisfies its conditions. Thus, the safe harbor would be available to issuers that have utilized the startup exemption or the fundraising exemption once they have satisfied the safe harbor's conditions. The safe harbor also would be available to issuers that have not utilized these proposed exemptions.

Regardless of the path taken, if issuers have satisfied the investment contract safe harbor, the Commission would take the position in its administration of the Federal securities laws that the reporting, registration, and other requirements of the Federal securities laws no longer apply from the point in time at which the issuer satisfied the safe harbor and thereafter. As with any safe harbor, however, the investment contract safe harbor would apply only to the extent that an issuer satisfies its conditions, and the Commission would not be precluded from challenging whether an issuer did, in fact, satisfy those conditions. For example, if an issuer files a Form TR and misrepresents, either intentionally or otherwise, that it has satisfied the conditions in Rule 400(a), the Commission may take the position that, notwithstanding the issuer's attempted reliance on the investment contract safe harbor, the issuer's covered investment contract has not ceased to exist and the reporting, registration, and other requirements of the Federal securities laws continue to apply.

³⁶⁷ See *supra* section II.A.2 for a discussion of proposed Rule 101(c).

³⁶⁸ To the extent that the issuer is composed of a group of individuals and/or entities, the issuer would be required to designate a single telephone number and email address for purposes of the Form TR.

³⁶⁹ In the 2026 Interpretation, the Commission stated that "[a] non-security crypto asset that was offered and sold subject to an investment contract is no longer subject to an investment contract if . . . the issuer . . . publicly announce[s] that it will no longer perform the essential managerial efforts it represented or promised it would undertake (e.g., where the issuer effectively 'abandons' the development of a crypto system)." 2026 Interpretation at 13723. The Commission further stated that "[a] public announcement of non-performance should be widely disseminated to market participants and unambiguous in order for investors to no longer reasonably expect the issuer to perform the essential managerial efforts." *Id.* at n.98. A Form TR filed pursuant to proposed Rule 400 that contains the information required by that form would constitute such a public announcement.

³⁷⁰ See proposed 17 CFR 228.103(b)(1) (requiring disclosure, among other things, of the issuer's representations or promises to engage in essential managerial efforts under the covered investment contract and its progress with respect to such representations or promises).

³⁷¹ With such knowledge, purchasers of that crypto asset may choose to take other steps to protect themselves, including seeking contractual arrangements with their transactional counterparties that provide them with potential recourse.

³⁶⁴ See 2026 Interpretation at 13722–23.

³⁶⁵ See *supra* section II.A.4.b.i for a discussion of the types of efforts that may be regarded as essential managerial efforts as well as those that would not constitute essential managerial efforts.

³⁶⁶ As noted above, the 2026 Interpretation provided the Commission's view that a covered investment contract separates from the subject crypto asset and ceases to exist when either: (1) the issuer has fulfilled its representations or promises to engage in essential managerial efforts under the covered investment contract, or (2) the purchaser would not reasonably expect the issuer to fulfill or to continue to engage in the essential managerial efforts it represented or promised it would undertake. See 2026 Interpretation at 13722–23.

Finally, even if an issuer has not satisfied the investment contract safe harbor, a crypto asset may nonetheless not be subject to an investment contract under the *Howey* test. That is, the investment contract safe harbor, if satisfied, does not provide the sole means by which a crypto asset may fall outside the scope of the Federal securities laws.³⁷² Moreover, while the investment contract safe harbor would control with respect to the Commission's administration of the Federal securities laws, it would not prevent other parties from asserting that a crypto asset is subject to an investment contract (or is otherwise a security).

Request for Comment

124. Should we adopt Rule 400 as proposed?

125. Are there any portions of Rule 400 that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the rule.

126. Should Rule 400 address any of the other terms that are enumerated in the Securities Act and Exchange Act definitions of "security" in addition to the term "investment contract" (such as, for example, the terms "note" or "certificate of interest or participation in any profit-sharing agreement")?

127. Are there other conditions to relying on Rule 400 that we should include in the final rule?

128. Would investors and other market participants stand to benefit from the Form TR filing requirement in Rule 400(b)? Should Form TR require different or additional information as compared to what we have proposed? In particular, is there any additional information we should require pursuant to Part I of Form TR?

129. Instead of Form TR, which also would be used as a transition report pursuant to the proposed startup exemption and fundraising exemption, should there be a dedicated form for reliance on Rule 400 (e.g., to avoid potential investor confusion)?

130. Should Form TR require issuers to include an analysis supporting their determination with respect to the proposed condition in Rule 400(a)? Alternatively, should we allow issuers to certify that they have made this determination without requiring them to include any analysis?

³⁷² See, e.g., 2026 Interpretation at 13723 (noting that a covered investment contract may cease to exist if an issuer fails to satisfy its representations or promises to engage in essential managerial efforts under the covered investment contract).

131. Would codifying the 2026 Interpretation in Rule 400 as we have proposed provide greater certainty to issuers? Is there a more objective standard that we should use in place of the proposed standard in Rule 400(a) for determining whether an issuer has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under a covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset?

132. Is additional guidance required beyond the views that the Commission expressed in the 2026 Interpretation regarding the types of efforts that may be regarded as essential managerial efforts for purposes of the investment contract safe harbor? If so, which issues should we address on this point?

133. Should we modify the proposed safe harbor to cover only certain circumstances in which a covered investment contract may cease to exist? For example, should the proposed safe harbor only be available for issuers that have fulfilled their representations or promises to engage in essential managerial efforts under the covered investment contract?

134. We recognize that some parties may be reluctant to rely on the investment contract safe harbor because they may view the safe harbor as requiring a tacit admission that the crypto asset previously was subject to an investment contract and that the party relying on the safe harbor was the issuer for such investment contract. Are there changes we could make to the investment contract safe harbor that would address these concerns? Will issuers opt to rely on the 2026 Interpretation instead of using Rule 400?

135. Should Rule 400 also set forth a safe harbor from the term "investment contract" in the definitions of "security" in section 2(a)(36) of the Investment Company Act and section 201(a)(18) of the Investment Advisers Act of 1940? If so, how should we revise Rule 400 to incorporate these uses of the term?

E. Preemption of State Registration and Qualification Requirements (Definition of "Qualified Purchaser" in Subpart E, Rule 500)

Section 18(a) of the Securities Act provides that States may not require registration or qualification of "covered securities." ³⁷³ Section 18(b)(3) of the Securities Act states that a security "is

³⁷³ 15 U.S.C. 77r(a).

a covered security with respect to the offer or sale of the security to qualified purchasers, as defined by the Commission by rule." ³⁷⁴ We are proposing to add a new definition of "qualified purchaser" under section 18(b)(3) of the Securities Act such that State securities law registration and qualification requirements would be preempted with respect to offers and sales of covered investment contracts pursuant to an exemption in Regulation Crypto Assets, as well as secondary market transactions with respect to such covered investment contracts by any person other than an issuer, underwriter, or dealer of such covered investment contracts. ³⁷⁵ With respect to secondary market transactions, the proposed amendments would preempt State securities law registration and qualification requirements for covered investment contracts that were initially sold by the issuer either pursuant to an exemption in Regulation Crypto Assets or another exemption under the Federal securities laws. Such secondary market preemption would continue for the period during which the issuer continues to satisfy the disclosure and filing and/or periodic reporting requirements of an exemption under Regulation Crypto Assets for that covered investment contract.

1. Background

Section 18(a) of the Securities Act provides that no law, rule, regulation, or order, or other administrative action of any state (or political subdivision thereof) requiring (or with respect to) the registration or qualification of securities shall (1) directly or indirectly apply to a covered security or to a security that will be a covered security upon completion of the transaction, (2) directly or indirectly prohibit, limit, or impose any conditions upon the use of any offering document that is prepared by or on behalf of the issuer, among other things, or (3) directly or indirectly prohibit, limit, or impose any conditions based on the merits of such offering or issuer, upon the offer or sale of any covered security. ³⁷⁶

Sections 18(b)(1), (b)(2), and (b)(4) of the Securities Act specify certain covered securities. ³⁷⁷ Section 18(b)(3) provides that a security "is a covered security with respect to the offer or sale

³⁷⁴ 15 U.S.C. 77r(b)(3).

³⁷⁵ The proposed definition of "qualified purchaser" under section 18(b)(3) of the Securities Act does not relate to or affect the definition of the term "qualified purchaser" under section 2(a)(51) of the Investment Company Act of 1940 and the rules thereunder.

³⁷⁶ 15 U.S.C. 77r(a)(1)–(3).

³⁷⁷ 15 U.S.C. 77r(b)(1)–(2) and 77r(b)(4).

of the security to qualified purchasers, as defined by the Commission by rule” and states that “[i]n prescribing such rule, the Commission may define the term ‘qualified purchaser’ differently with respect to different categories of securities, consistent with the public interest and the protection of investors.”³⁷⁸

Section 18(c) of the Securities Act preserves State authority with respect to “covered securities” in several ways. Pursuant to section 18(c), States:

- retain jurisdiction under the laws of such State to investigate and bring enforcement actions, in connection with securities or securities transactions, with respect to (i) fraud or deceit or (ii) unlawful conduct by brokers or dealers;
- retain the ability to require the filing of any document filed with the Commission (together with annual or periodic reports of the value of securities sold or offered to be sold to persons located in such state, if such sales data is not included in documents filed with the Commission), solely for notice purposes and the assessment of any fee, together with a consent to service of process and any required fee; and
- have the power to suspend the offer or sale of securities within the state as a result of the failure to submit any filing or required fee.³⁷⁹

Congress added these provisions to section 18 of the Securities Act when it enacted the National Securities Markets Improvement Act of 1996 (“NSMIA”). The legislative history indicates that Congress intended for its amendments preempting State law in section 18 to “eliminate the costs and burdens of duplicative and unnecessary regulation by, as a general rule, designating the Federal government as the exclusive regulator of national offerings of securities.”³⁸⁰ The Commission has understood the policy underlying NSMIA’s enactment to suggest that states should “generally retain their authority to regulate small, regional, or intrastate securities offerings.”³⁸¹

Based on industry feedback and our own observations of covered investment contract offerings, we believe that most issuers of covered investment contracts will conduct offerings that are neither regional nor solely intrastate. As explained by the President’s Working Group Report, “[a]ctivity in digital asset markets is often characterized as borderless, reflecting the ease of transacting worldwide.”³⁸² One commenter observed that “every policy discussion, whether in the securities context or otherwise, concerning blockchain technology must take account of its global phenomenology.”³⁸³ In addition, hallmarks of crypto assets include their “ability to reach people without intermediaries and . . . ease of storage, transport, and access.”³⁸⁴ As such, we expect that issuers will not routinely seek to limit sales of covered investment contracts to a single state because of the unlikelihood that information about such asset will be limited or tied to one geographic location.

This technological and geographic reality makes the review and qualification of covered investment contracts a difficult and inefficient task for issuers to conduct on a state-by-state basis. This potential difficulty and inefficiency supports using section 18(b)(3) to preempt State registration and qualification requirements in this context. For example, the Commission has previously observed that offerings made through the internet could result in an issuer potentially violating State securities laws absent preemption of State-level registration and qualification requirements.³⁸⁵ The Commission also has discussed how preemption would reduce both costs associated with State registration laws and issuer uncertainty about whether State registration is required.³⁸⁶

Preemption would more efficiently allow issuers to communicate with potential investors across state lines, which we anticipate will happen within the ordinary course of capital formation efforts undertaken by covered investment contract issuers given the nature of the asset, the underlying

blockchain technology, and potential markets. We anticipate that preemption of State securities laws registration and qualification requirements would reduce issuer costs and promote efficiency by reducing duplicative requirements. We also believe such preemption would enhance secondary market liquidity by eliminating uncertainty as to whether investors need to register or qualify their resale of a covered investment contract in a specific state. Our proposed rules contain investor protections that could address potential concerns that may arise as a result of the preemption of State securities laws. These investor protections include the following:

- Disclosure requirements under the startup exemption and the fundraising exemption;
- Amendment and ongoing reporting obligations under the startup exemption and the fundraising exemption, respectively;
- A “bad actor” disqualification provision applicable to the startup exemption and the fundraising exemption;
- Issuer eligibility conditions under the fundraising exemption;
- A maximum four-year offering duration and one-time use limitation under the startup exemption;
- A qualification process under the fundraising exemption;
- Investment limitations under the fundraising exemption for non-accredited investors;
- Financial statement disclosure and assurance requirements under the fundraising exemption; and
- Application of the Federal securities laws’ antifraud and antimanipulation provisions.

We also note that covered investment contract issuers often engage in developing and utilizing associated crypto networks and associated crypto applications that have publicly available open-source code, as well as networks and applications in which ownership records and crypto asset transactions are recorded. Given the unique technological attributes of crypto assets, we expect that many such issuers will publish their source code in a manner that makes it available to potential investors in all states prior to conducting any offering. Put simply, access and information concerning crypto assets and their associated crypto networks and associated crypto applications generally are not (nor expected to be) limited to a single state.

As a result, consistent with the public interest and protection of investors, we are proposing preemption of State registration and qualification

³⁷⁸ 15 U.S.C. 77r(b)(3).

³⁷⁹ See 15 U.S.C. 77r(c)(1)–(3).

³⁸⁰ H.R. Rep. No. 622, 104th Cong. 2d Sess. at 16 (1996) (House Report).

³⁸¹ See 2015 Regulation A Release at section II.H.3.d (quoting House Report at 16); see also *Lindeen v. SEC*, 825 F.3d 646, 650 (D.C. Cir. 2016) (upholding the Commission’s preemption of Tier 2 Regulation A offerings and stating that NSMIA “designated the federal government to oversee nation-wide securities offerings while allowing the states to retain control over small, regional or intrastate offerings,” and that NSMIA intended for the SEC to play a role in determining its preemptive scope by: (i) including in its list of covered securities any security sold to qualified purchasers, as defined by the Commission by rule, and (ii) granting the Commission authority to define the

term qualified purchaser differently with respect to different categories of securities, consistent with the public interest and the protection of investors) (citations omitted).

³⁸² President’s Working Group Report at 17.

³⁸³ Letter from Consensus (Feb. 21, 2025).

³⁸⁴ See, e.g., Commissioner Hester M. Peirce, *Paper, Plastic, Peer-to-Peer* (Mar. 15, 2021), available at <https://sec.gov/newsroom/speeches-statements/peirce-paper-plastic-peer-peer-031521>.

³⁸⁵ See, e.g., Crowdfunding Adopting Release at 71519; 2015 Regulation A Release at 21856–62.

³⁸⁶ See, e.g., Crowdfunding Adopting Release at 71519; 2015 Regulation A Release at 21886–88.

requirements for transactions conducted in reliance on one or more of the exemptions in Regulation Crypto Assets and secondary market transactions (*i.e.*, transactions by any person other than an issuer, underwriter, or dealer) with respect to a covered investment contract for which the issuer has satisfied the requirements of an exemption under Regulation Crypto Assets.

2. Proposed Rule

Subpart E of Regulation Crypto would set forth a definition of “qualified purchaser” in Rule 500. The proposed definition would, for purposes of section 18(b)(3) of the Securities Act (15 U.S.C. 77r(b)(3)) provide that a “qualified purchaser” include any person to whom securities are offered or sold pursuant to an offering under Regulation Crypto Assets or an offering pursuant to a transaction by any person other than an issuer, underwriter, or dealer with respect to a covered investment contract; provided that: (1) the issuer has satisfied the requirements of an exemption under Regulation Crypto Assets with respect to such covered investment contract; and (2) the issuer remains subject to, and is current with respect to, such exemption’s disclosure and filing requirements and/or periodic reporting obligations, as applicable.³⁸⁷ Thus, covered investment contracts sold in an offering conducted pursuant to Regulation Crypto Assets, as well as secondary market transactions of such covered investment contracts under the circumstances described in the section above, would be “covered securities,” resulting in preemption of certain State securities regulations as provided under section 18 of the Securities Act.

With “covered security” status, transactions conducted pursuant to Regulation Crypto Assets would be primarily regulated by the Federal securities laws. Our goal, as it was when the Commission adopted Regulation Crowdfunding³⁸⁸ and Regulation A,³⁸⁹ is to enhance efficiency and reduce duplicative regulation while maintaining investor protection. We also note that several commenters supported preemption of State securities regulation for crypto asset transactions.³⁹⁰

The proposed exemption would apply preemption to all offerings of covered investment contracts under the startup exemption and the fundraising exemption. We considered whether our proposed definition of “qualified purchaser” should distinguish between Tier 1 and Tier 2 offerings conducted pursuant to the fundraising exemption. Unlike what the Commission observed in the Regulation A Release in 2015 with respect to Tier 1 offerings, we do not anticipate that there will be issuers likely to rely on our proposed exemptions to conduct offerings that are more “local” in nature (given, as explained in the background section above, our understanding of the crypto asset ecosystem and its use of technology that spans geographies and aims to develop decentralized networks). There are additional investor protections for Tier 1 offerings under the fundraising exemption that are not present with respect to Tier 1 Regulation A offerings. These include ongoing reporting requirements for issuers and investment limitations for non-accredited investors (neither of which apply to issuers or investors, respectively, in Tier 1 offerings conducted under Regulation A). In light of these investor protection-based requirements applicable to both Tier 1 and Tier 2 offerings under the fundraising exemption, we believe it is appropriate to preempt both types of offerings.

We also considered whether preemption should be available for offerings under only the fundraising exemption and not the startup exemption. Although the startup exemption would not include financial statement disclosure requirements, ongoing reporting requirements to the same extent as the fundraising exemption, or investment limitations, we believe the investor protection-based requirements of the startup exemption support preemption. For example, the startup exemption’s disclosure requirements would require issuers to provide the same disclosures under Rule 103 as would be required under the fundraising exemption. In addition, although not as robust as the ongoing reporting obligations under the fundraising exemption, the startup exemption would include an annual amendment requirement to reflect any material changes in the information previously disclosed. When considered in the context of the lower offering limit (as compared to the fundraising exemption), as well as the four-year maximum duration and one-time use requirements, we believe the startup

exemption contains appropriate investor protections that also support preemption.

For both the startup exemption and fundraising exemption, a potential investor’s need for an illiquidity discount at the time of the initial purchase of a covered investment contract (issued pursuant to one of the proposed exemptions) likely would depend on the extent that a liquid secondary market for securities issued pursuant to Regulation Crypto Assets develops, which could be hampered by uncertainty as to whether resales need to be qualified or registered with specific states. In order to encourage capital formation and not inhibit the development of this potential secondary market, we are including the specified secondary market transactions in our proposed definition of “qualified purchaser.”

The proposed amendment also would apply preemption to all secondary market transactions of a covered investment contract—by any person other than the issuer, an underwriter, or a dealer—if the issuer of such covered investment contract has satisfied the requirements of an exemption under Regulation Crypto Assets with respect to that covered investment contract. Thus, under the proposed amendments, preemption would apply to secondary market transactions of such covered investment contracts regardless of whether a given covered investment contract was initially issued under one of the Regulation Crypto Assets exemptions so long as the issuer (1) satisfies an exemption under Regulation Crypto Assets with respect to such covered investment contract and (2) remains subject to (and is current with respect to) such exemption’s disclosure and filing requirements and/or periodic reporting obligations (as applicable). For example, if an issuer offered and sold some covered investment contracts under the fundraising exemption, and then later offered and sold some of the same covered investment contracts under Regulation D, secondary market transactions in those covered investment contracts all would be equally subject to preemption.

We believe it is appropriate to apply preemption broadly to secondary market transactions involving the same covered investment contract (regardless of the manner in which they were initially offered and sold) because of the investor protections provided by secondary market participants’ ability to access and benefit from the issuer’s initial and ongoing disclosures under either the startup exemption or the fundraising exemption. To that end, such

³⁸⁷ When using its authority to define “qualified purchasers” under section 18(b)(3), the Commission is not prohibited from concluding that all offerees and purchasers in an offering are qualified purchasers. *See Lindeen*, 825 F.3d at 654.

³⁸⁸ *See* Crowdfunding Adopting Release at section III.B.7.

³⁸⁹ *See* 2015 Regulation A Release at section II.H.3.b and section II.H.3.d.

³⁹⁰ *See, e.g.*, letters from TDC 3; GUARDD (May 13, 2025); CrowdCheck Law; CIPA.

preemption would apply only to the extent that the issuer remains subject to, and current with respect to,³⁹¹ the applicable Regulation Crypto Asset exemption's disclosure and filing requirements or periodic reporting obligations.³⁹² To illustrate, if an issuer offered and sold some covered investment contracts under the startup exemption, preemption would apply to secondary market transactions involving those covered investment contracts (and any of the same covered investment contracts that the issuer otherwise sold) during the four-year period, so long as the issuer continued to comply with the exemption's disclosure and filing requirements. If, after four years, the covered investment contract had not ceased to exist and the issuer filed a Form TR, thereby concluding its disclosure and filing requirements under the startup exemption, then preemption would not continue to apply to secondary market transactions involving any covered investment contracts that remained outstanding at that time.

Request for Comment

136. Should we adopt the definition of "qualified purchaser" in Rule 500 as proposed?

137. Are there any portions of the proposed definition of "qualified purchaser" that we either should not adopt or that we should change in the final rules? If so, please identify those provisions along with any recommended changes to the rule.

138. Is there an alternative approach by which we might address the concern that State registration and qualification requirements could pose a significant impediment to the use of the proposed rules? Should we treat all offerees and

all purchasers in an offering conducted pursuant to Regulation Crypto Assets as qualified purchasers or should we impose additional limitations (based on, for example, an income threshold, a net worth threshold, and/or an investment assets threshold)?

139. Are there other approaches we should consider to defining "qualified purchaser" for Regulation Crypto Asset offerings? For example, should we define "qualified purchaser" as any offeree or purchaser in a Regulation Crypto Asset offering by an issuer that meets certain criteria (e.g., specified financial criteria or operating or other criteria indicative of reduced risk)? Or should we define this term based on attributes of the offering that may reduce risk to investors (e.g., firm commitment underwritten offerings or offerings through a registered broker-dealer)? Alternatively, should we consider a "qualified purchaser" definition that reflects some attributes of the purchaser, issuer, and offering? Should we include, as proposed in our definition of "qualified purchaser," sales and offers made in secondary market transactions with respect to a covered investment contract that was issued pursuant to an offering relying on an exemption in Regulation Crypto Assets? Is it necessary or appropriate to include secondary market transactions as proposed?

140. Should the preemption of secondary market transactions be limited to the resale of covered investment contracts that were initially issued pursuant to an offering relying on an exemption in Regulation Crypto Assets and not another available exemption under the Federal securities laws? If so, how would secondary market participants be able to distinguish between covered investment contracts based on the manner in which they were originally issued, especially for covered investment contracts that involve fungible crypto assets?

141. Proposed Rule 500 generally would provide for preemption of secondary market transactions if issuer has satisfied the requirements of an exemption under Regulation Crypto Assets and if the issuer remains subject to, and is current with respect to, the disclosure and filing and/or periodic reporting requirements of such exemption. Will market participants be able to determine whether the issuer has satisfied the requirements of an exemption under Regulation Crypto Assets such that they would know that secondary market transactions in the covered investment contracts are preempted? If not, should we adopt a different standard? For example, should

the standard be that it is reasonable for a purchaser to conclude that the issuer has satisfied the requirements of an exemption under Regulation Crypto Assets? Alternatively, should the standard be that it is reasonable for a purchaser to conclude that the issuer has relied on an exemption under Regulation Crypto Assets? Should the standard be something else?

142. Should preemption of secondary market transactions apply for so long as the respective issuer of the covered investment contract (under either the startup or fundraising exemption) is current with respect to such exemption's disclosure and filing requirements and/or periodic reporting obligations, as applicable? For example, would a covered investment contract holder be able to determine whether the issuer is current with respect to an exemption's disclosure and filing requirements and/or periodic reporting obligations, as applicable, such that the investor would know whether preemption applies to its secondary market transactions in that covered investment contract? If not, should preemption of secondary market transactions apply for so long as the respective issuer of the covered investment contract (under either the startup or fundraising exemption) is subject to (and not necessarily current with respect to) such exemption's disclosure and filing requirements and/or periodic reporting obligations, as applicable?

143. Should we revise proposed Rule 500 such that secondary market preemption would depend on the issuer satisfying its current reporting obligations? That is, should we revise Rule 500 such that preemption of secondary market transactions would apply for so long as the respective issuer of the covered investment contract (under either the startup or fundraising exemption) is current with respect to such exemption's disclosure and filing requirements and/or periodic *and current* reporting obligations, as applicable? Would it be too difficult for secondary market participants that are unaffiliated with the issuer to know whether the issuer had satisfied its current reporting obligations, given their potential inability to independently determine whether a reportable event had occurred? If so, are there any mechanisms we could include to address this?

144. Should we otherwise modify the conditions under which preemption of secondary market transactions would apply? Should we consider limiting the proposed preemption of State securities laws to only certain aspects of

³⁹¹ In the context of proposed Rule 500, "current" means that the issuer would have had to file all periodic reports required under the fundraising exemption or made all required amendments to the information previously reported under startup exemption. If an issuer fell out of compliance with those requirements, preemption would not apply until the issuer cured such defect.

³⁹² Proposed Rule 500's reference to "periodic reporting obligations" is intended to cover each of the reporting obligations under proposed Rule 305 other than the requirement to file current reports under proposed Rule 305(a)(4) (i.e., current reports on Form 1-UC). We did not include these current reports in the proposed rule because it may be difficult for secondary market participants that are unaffiliated with the issuer to determine whether the issuer is current with respect to the filing of a Form 1-UC (based on their potential inability to independently determine whether a reportable event had occurred). Thus, such secondary market participants may not be able to determine whether preemption would apply to a potential secondary market transactions in the issuer's covered investment contract or whether they would have to comply with State registration and qualification requirements.

Regulation Crypto Assets offerings? For example, as in Regulation A, should we limit preemption to only Tier 2 offerings under the proposed fundraising exemption? Should preemption of secondary market transactions apply equally regardless of whether the issuer satisfied the startup exemption or the fundraising exemption?

General Request for Comment

We request and encourage any interested person to submit comments on any aspect of this proposing release, other matters that might have an impact on the topics discussed in this release, and any suggestions for additional changes. Please be as specific as possible in your discussion and analysis of any additional issues. We particularly welcome comments on any costs, burdens, or benefits that may result from possible regulatory responses related to the items identified in this release or otherwise proposed by commenters.

III. Other Matters

This proposing release is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866 and has been reviewed by the Office of Management and Budget (“OMB”), consistent with Executive Order 14215.

IV. Economic Analysis

We are mindful of the costs imposed by, and the benefits obtained from, our rules. Securities Act section 2(b)³⁹³ and Exchange Act section 3(f)³⁹⁴ require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. In addition, Exchange Act section 23(a)(2) requires the Commission to consider the effects on competition of any rules that the Commission adopts under the Exchange Act and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.³⁹⁵

Offerings of covered investment contracts are different from traditional securities offerings, such as equity or debt offerings. As discussed throughout this release, many covered investment contracts eventually will cease to exist. Although the covered investment

contracts are subject to the Federal securities laws when first offered or sold, the crypto assets may subsequently cease to be subject to the covered investment contracts. At that point, the Federal securities laws no longer would apply. As noted earlier in the release, the Commission’s existing rules generally do not contemplate or facilitate this type of evolution.³⁹⁶

In contrast to traditional securities, whose value may depend on ownership rights and/or expected cash flows, the value of crypto assets typically depends on their utility and security.³⁹⁷ These features often benefit from network effects, where the utility and security of a crypto system increases as more users participate and interact with the crypto system. In addition to crypto assets, sometimes economic incentives are also funded by externally-raised capital. As the crypto network matures, incentives can be financed by, for example, transaction fees, trading fees, and service fees. The Commission’s existing exemptions have features that may impede the development of crypto networks. For example, securities issued pursuant to the Commission’s existing exemptions may be restricted securities³⁹⁸ or otherwise subject to resale restrictions.³⁹⁹ Those exemptions also may limit the extent to which an issuer may sell securities to retail investors,⁴⁰⁰ which could result in concentrated (rather than widespread) holdings, impeding the accretion of desired network effects. Thus, issuers of covered investment contracts are likely to have reasons for choosing to raise capital using covered investment contracts instead of issuing traditional securities.

Further, many of the Commission’s existing rules require issuers to provide disclosures that may not be relevant to investors in covered investment contract offerings, and those rules often do not elicit other types of disclosures that are likely to be material to such investors. Existing disclosure rules are inapposite partially because purchasers of covered investment contracts are unlikely to

have ownership rights on assets or cash flows, as they do with equity securities. Unlike traditional securities, many purchasers of covered investment contracts could be potential users of the network or application. These users may derive nonpecuniary benefits from providing capital to issuers of covered investment securities and thus be willing to provide capital at lower cost. This contrasts with traditional equity securities where investors have claims on future cash flows and are generally distinct from intended customers.⁴⁰¹

Many commenters that provided input to the Crypto Task Force requested that the Commission adopt disclosure rules tailored to offerings of covered investment contracts.⁴⁰² Several commenters suggested that the Commission’s existing offering regimes, including the related disclosure requirements, are unfit for application to covered investment contracts and their issuers.⁴⁰³ Other commenters supported the adoption of an exemption from the registration requirements under the Securities Act for offers and sales of crypto assets during the development of a blockchain project.⁴⁰⁴

The proposed rules would address the need for a tailored offering regime for covered investment contracts. The proposed offering regime is intended to facilitate capital formation and accommodate innovation within the crypto asset markets while, at the same time, ensuring that investors are adequately protected and provided with the information they need to make informed investment decisions. The proposed rules would achieve these goals by, among other things, establishing two new exemptions from Securities Act section 5—the startup exemption and the fundraising exemption—as well as the investment contract safe harbor. These proposed rules are described in more detail in section II above.

Although the proposed rules are intended to promote capital formation while ensuring that investors are adequately protected, the proposed rules also may advance broader public benefits. For example, the proposed rules may enhance competition and

³⁹⁶ See discussion in section I.

³⁹⁷ See Lin W. Cong, et al., *Tokenomics: Dynamic Adoption and Valuation*, 34 Rev. Fin. Stud. 1105 (Sept. 2021).

³⁹⁸ See, e.g., 17 CFR 230.144(a)(3)(ii) (providing that the term “restricted securities” includes “[s]ecurities acquired from the issuer that are subject to the resale limitations of § 230.502(d) under Regulation D”).

³⁹⁹ See, e.g., 17 CFR 227.501 (imposing a one-year restriction on resales of securities issued pursuant to Regulation Crowdfunding).

⁴⁰⁰ See, e.g., 17 CFR 230.506(c)(2)(i) (requiring that all purchasers of securities sold in any offering under the exemption to be “accredited investors,” as defined in 17 CFR 230.501(a)).

⁴⁰¹ See, e.g., Sabrina Howell, Marina Niessner & David Yermack, *Initial Coin Offerings: Financing Growth with Cryptocurrency Token Sales*, 33 Rev. Fin. Stud. 3925 (Sept. 2020) (“Howell, et al.”). The study argues that “raising capital from customers could potentially redistribute network growth gains from financial intermediaries, such as VCs, to developers and customers. It also helps promote the brand among customers and provide the issuer with an early signal about demand.” See *id.* at 3946–47.

⁴⁰² See *supra* section I.B.

⁴⁰³ See *supra* section I.B.3.

⁴⁰⁴ See *supra* section I.B.4.

³⁹³ 15 U.S.C. 77b(b).

³⁹⁴ 15 U.S.C. 78c(f).

³⁹⁵ 15 U.S.C. 78w(a)(2).

innovation in markets for covered investment contracts and encourage offers and sales of covered investment contracts to be conducted in the United States, rather than abroad. Further, innovation in decentralized financing and transactional systems that facilitate automated, non-intermediated financial market activities (which often utilize cryptographically-secured distributed ledgers⁴⁰⁵) could have efficiencies (e.g., reduced transaction and intermediation costs and greater transactional speed and accessibility)⁴⁰⁶ that benefit U.S. entrepreneurship and the public.

We consider below the potential benefits and costs of the proposed rules and their likely effects on efficiency, competition, and capital formation. Many of the benefits and costs are difficult to quantify or estimate with any degree of certainty. These difficulties are exacerbated by the limited public data that would inform how market participants may respond to the proposed rules.⁴⁰⁷ Where we are unable to quantify the economic effects of the proposal, we provide a qualitative assessment of the potential effects and encourage commenters to provide data and information that would help quantify the benefits and costs of the proposed rules, and the potential impacts of the proposed rules on efficiency, competition, and capital formation.

A. Economic Baseline

The baseline against which the benefits, costs, and effects on efficiency, competition, and capital formation of the proposed rules are measured consists of the current state of the market and the current regulatory framework, in which issuers raise capital through securities offerings by registering the offer and sale of those securities under the Securities Act unless they can rely on an exemption from registration. The economic analysis considers the existing Federal securities laws and the Commission's rules and regulations, as further clarified through the views expressed by the Commission in the 2026 Interpretation,⁴⁰⁸ as part of its economic baseline against which the costs and

benefits of the proposed rules are measured.

The 2026 Interpretation set forth an interpretation of the definition of "security" as applied to crypto assets and transactions involving crypto assets.⁴⁰⁹ The interpretation classified crypto assets into five categories: digital commodities, digital collectibles, digital tools, stablecoins, and digital securities. The 2026 Interpretation addressed the Commission's view on how a non-security crypto asset can be offered and sold subject to an investment contract.⁴¹⁰ The interpretation also addressed how a non-security crypto asset ceases to be subject to an investment contract. Specifically, when a purchaser of a non-security crypto asset that had been subject to an investment contract could no longer reasonably expect the issuer's representations or promises to engage in essential managerial efforts to remain connected to the non-security crypto asset, the non-security crypto asset separates from such representations or promises, and thereafter the non-security crypto asset is not subject to the Federal securities laws. The 2026 Interpretation set forth the Commission's view that a non-security crypto asset would no longer be subject to an investment contract when: (1) the issuer has fulfilled its representations or promises to engage in essential managerial efforts, or (2) the purchaser would not reasonably expect the issuer to be able to fulfill or to continue to engage in the essential managerial efforts it represented or promised it would undertake.

1. Current Methods of Raising Up To \$75 Million in Capital

The potential economic impact of the proposed rules, including their effects on efficiency, competition, and capital formation, will depend on how the proposed exemptions compare to existing methods that issuers currently may have available to raise capital. Issuers can potentially access a variety of external financing sources in the capital markets through registered or exempt offerings of debt, equity, and hybrid securities, as well as bank loans. We expect issuers to choose the capital raising option that is optimal for them. The choice of financing method may depend on, among other things, the size of the issuer, the type of investors the issuer seeks to attract, and the amount

of new capital sought.⁴¹¹ For instance, small businesses usually have smaller, more variable cash flows than larger, more established companies, and internal financing from their own business operations tends to be limited and unstable. These businesses tend to have smaller asset bases⁴¹² and, thus, less collateral for traditional bank loans. We expect that most issuers of covered investment contracts would be small.⁴¹³ Registered offerings entail initial and ongoing costs that can weigh more heavily on smaller issuers, providing incentives to remain private and to raise capital outside of public markets.⁴¹⁴ To the extent that these issuance costs constrain issuers' access to capital, they may result in underinvestment in some value-generating projects and thus potentially less efficient allocation of capital to investment projects. Hence, issuers, particularly small issuers and issuers in early stages of development, may benefit significantly from the Commission's exempt offering framework for raising capital. This section describes the various offering methods currently available, including existing offering exemptions.

Every offer and sale of securities, including covered investment contracts, must be registered under Securities Act section 5 or conducted pursuant to an exemption from section 5. Although registered offerings provide issuers and investors alike with many benefits, such as access to a large pool of investors, liquidity, and lower information asymmetry, they also include costs (e.g., Commission filing fees, legal and accounting fees, and costs associated with Exchange Act reporting requirements) that can be disproportionately burdensome for many startups and small businesses vis-a-vis the amount of capital that they are seeking to raise. One survey concluded

⁴¹¹ Issuers of covered investment contracts may also consider how certain financing methods facilitate or restrict their ability to establish a functional associated crypto network or associated crypto application. For example, does the financing method impede issuers' ability to decentralize the associated crypto network or associated crypto application?

⁴¹² See, e.g., John Asker, et al., *Corporate Investment and Stock Market Listing: A Puzzle?*, 28 Rev. Fin. Stud. 342 (Feb. 7, 2015), available at <https://ssrn.com/abstract=1603484> (retrieved from SSRN Elsevier database).

⁴¹³ See Howell, et al., *supra* note 401. This study finds that companies conducting ICO issuances had on average thirteen employees (with a median of three employees). See also Ruediger Fahlenbrach & Marc Frattaroli, *ICO Investors*, 35 Fin. Mkts. & Portfolio Mgmt. 1 (2021) ("Fahlenbrach study"). The study mentions that "Entities conducting ICOs have unproven business models and are most often in the preproduct stage."

⁴¹⁴ See IPO Task Force, *Rebuilding the IPO On-Ramp* (Oct. 20, 2011).

⁴⁰⁵ See *supra* note 3.

⁴⁰⁶ See Christian Catalini & Joshua S. Gans, *Some Simple Economics of the Blockchain*, 63 Comm'n ACM 80, 85 (June 18, 2020), available at <https://doi.org/10.1145/3359552> (noting blockchain technology lowering the cost of verification of transaction attributes and the cost of coordinating economic activity over the internet).

⁴⁰⁷ See section IV.A.2 for a discussion of available data.

⁴⁰⁸ See *supra* note 51.

⁴⁰⁹ See section I.A.2.b above for more detailed information on the 2026 Interpretation.

⁴¹⁰ See *supra* note 53.

that the average initial compliance cost associated with conducting an initial public offering (“IPO”) (excluding underwriter fees) is \$5.2 million, followed by ongoing compliance costs for issuers, once public, averaging \$2.0 million per year.⁴¹⁵ Hence, for a small issuer, a registered offering may not be economically feasible. Moreover, issuers conducting registered offerings often pay underwriter fees, which are, on average, approximately four to seven percent of the proceeds for IPOs, approximately five percent for follow-on equity offerings, and approximately one to one-and-a-half percent for public bond issuances.⁴¹⁶

As an alternative to raising capital through registered offerings, issuers may instead offer and sell securities in reliance on an exemption from Securities Act section 5. The Securities Act and the rules promulgated thereunder contain a number of such exemptions. Issuers can rely on current exemptions from registration under the Securities Act, such as section 4(a)(2), Regulation D, Regulation Crowdfunding, Regulation A, and the intrastate exemptions in section 3(a)(11) (as well as the related safe harbor in Rule 147) and Rule 147A. We note, however, that Regulation A is unlikely to be a viable option for issuers that are considering covered investment contract offerings. Covered investment contracts are not “eligible securities” under Regulation A.⁴¹⁷ Thus, issuers may not offer or sell covered investment contracts pursuant to Regulation A. We therefore do not consider Regulation A as an alternative method of raising capital for issuers of covered investment contracts.⁴¹⁸

⁴¹⁵ See *Rebuilding the IPO On-Ramp: Putting Emerging Companies and the Job Market Back on the Road to Growth*, U.S. Dep’t Treas. (Oct. 20, 2011), available at http://www.sec.gov/info/smallbus/acsec/rebuilding_the_ipo_on-ramp.pdf; Price Waterhouse Coopers (PwC) Deals, *Considering an IPO to Fuel Your Company’s Future? Insight into the Costs of Going Public and Being Public* (Nov. 2017), available at https://pwc.com/hu/hu/szolgaltatasok/konyvvizsgalat/szamviteli-tanacsadas/kiadvanyok/cost_of_an_ipo_2017.pdf.

⁴¹⁶ See, e.g., Hsuan-Chi Chen & Jay R. Ritter, *The Seven Percent Solution*, 55 J. Fin. 1105–31 (2000); Mark Abrahamson, et al., *Why Don’t U.S. Issuers Demand European Fees for IPOs?* 66 J. Fin. 2055–82 (2011); Shane A. Corwin, *The Determinants of Underpricing for Seasoned Equity Offers*, 58 J. Fin. 2249–79 (2003); Lily Hua Fang, *Investment Bank Reputation and the Price and Quality of Underwriting Services*, 60 J. Fin. 2729–61 (2005); Rongbing Huang & Donghang Zhang, *Managing Underwriters and the Marketing of Seasoned Equity Offerings*, 46 J. Fin. Quant. Analysis 141–70 (2011); Stephen J. Brown, et al., *Convertibles and Hedge Funds as Distributors of Equity Exposure*, 25 Rev. Fin. Stud. 3077–112 (2012).

⁴¹⁷ See *supra* note 249 and accompanying discussion.

⁴¹⁸ Issuers could raise capital pursuant to Regulation A by issuing “eligible securities” and

The statutory exemptions and those established by our rules include a variety of offering limits, requirements, disclosure frameworks, investor protections, and conditions. Some exemptions (e.g., Regulation Crowdfunding and Rule 504 of Regulation D) limit the amount of securities that may be offered or sold, while others (e.g., Rules 506(b) and (c) of Regulation D) allow issuers to offer and sell an unlimited amount of securities. Some exemptions (e.g., offerings under section 4(a)(2) and Rule 506(b) of Regulation D) limit the manner in which the offering can be conducted, such as by prohibiting the use of general solicitation or general advertising to solicit investors while others (e.g., Regulation Crowdfunding and Rule 506(c) of Regulation D) allow issuers to generally solicit and advertise subject to certain restrictions. Some exemptions are available only to offers and/or sales to persons within a single State or territory (e.g., section 3(a)(11) of the Securities Act, as well as its related safe harbor in Rule 147, and Rule 147A). One exemption (i.e., Rule 506(c) of Regulation D) restricts sales to accredited investors and requires issuers to take reasonable steps to verify such investors’ status as accredited prior to such sales.⁴¹⁹ The eligibility criteria for many of the exemptions prohibit certain types of issuers from relying on the exemption, such as non-U.S. issuers, issuers subject to the reporting requirements of the Exchange Act, investment companies, development stage or blank check companies, or certain “bad actors,” with the exact type of prohibitions varying from exemption to exemption. For example, Regulation Crowdfunding is not available to non-U.S. issuers (except Canadian issuers), blank check companies, Exchange Act reporting companies, and investment companies (including business development companies⁴²⁰).

In addition, some exemptions specify disclosures required to be included in prescribed forms that must be filed with the Commission or otherwise provided to all or a subset of prospective investors. For example, Regulation

separately using that capital to fund crypto asset projects. Such a strategy, however, would forgo the benefits and synergies of directly offering the crypto assets to investors via covered investment contracts.

⁴¹⁹ Accredited investors are presumed to possess sufficient financial sophistication and ability to sustain the risk of loss of their investment or to fend for themselves to render the protections of the Securities Act’s registration process unnecessary. See *Regulation D Revisions; Exemption for Certain Employee Benefit Plans*, Release No. 33–6683 (Jan. 16, 1987) [52 FR 3015 (Jan. 30, 1987)].

⁴²⁰ See 15 U.S.C. 80a–2(a)(48) for the definition of business development company.

Crowdfunding has broader disclosure requirements compared to some other existing offering exemptions. Under Regulation Crowdfunding, an issuer must file an offering statement at the onset of an offering and provide company financial statements for a specified period. Under certain circumstances, these financial statements must be audited. In addition to the initial disclosures, issuers relying on Regulation Crowdfunding must provide certain ongoing disclosures through the duration of their offering, including periodic reports and, at the culmination of the offering, a termination of reporting form. On the other hand, Regulation D requires only an initial notice filing on Form D with the Commission, which includes basic offering and issuer information without any financial statements. Rule 506(b) of Regulation D, however, requires issuers that are not subject to the reporting requirements of Exchange Act section 13 or 15(d) to provide a disclosure document to non-accredited investors (if any) with the kind of information as would be required in Part II of Form 1–A (if the issuer is eligible to use Regulation A)⁴²¹ and the financial statements required by Part F/S of Form 1–A of Regulation A, but there are no periodic reporting requirements. Issuers relying on Securities Act section 4(a)(2), section 3(a)(11) (as well as its related safe harbor in Rule 147), or Rule 147A are not required to provide one-time or ongoing disclosure.

Another characteristic of many of the existing offering exemptions (e.g., offerings under Rule 506(b), Rule 506(c), and section 4(a)(2)) is that investors acquire restricted securities. Those investors, therefore, may need to hold such securities for a specified period of time without the possibility of trading them. For example, if a non-affiliated investor relies on Rule 144 to resell its restricted securities, the investor must wait a year (if the issuer is not an Exchange Act reporting company) or six months (if the issuer is an Exchange Act reporting company) before trading the securities. Securities issued pursuant to Regulation Crowdfunding are not restricted securities under Rule 144; however, they are subject to resale restrictions within the first year of sale pursuant to 17 CFR 227.501.

Many of the aforementioned characteristics of existing offering exemptions may significantly limit the ability of issuers of covered investment

⁴²¹ See 17 CFR 230.502(b)(2)(i)(A). If an issuer is not eligible to use Regulation A, it is required to provide the same type of information that would be required by Part I of a registration statement filed on a form that it is eligible to use.

contracts to create economic incentives that encourage participation in their networks and applications. For example, some of the offering exemptions limit the type of investors that may purchase in the offering or restrict the ability of purchasers to resell those securities. This in turn may limit these issuers' ability to raise capital to help achieve such participation and ultimately benefit from network effects. Treating covered investment contracts as restricted securities would likely slow down the diffusion of the underlying crypto asset across potential users and other network participants, thus impeding the issuer's ability to achieve network effects. Additionally, State registration and qualification requirements (which are not preempted under some existing exemptions, either with respect to the primary offering of securities issued under the exemption, secondary market transactions with respect to such securities, or both) do

not fit with the typically global (cross-states, or even cross-country) nature of purchasers of covered investment contracts and the underlying crypto assets. Further, existing offering exemptions often rely on accredited investors for offering participation, thus potentially restricting the pool of purchasers of covered investment contracts and, therefore, the subject crypto assets. This could inhibit the development of many networks or applications, which require broad distribution of the related crypto asset among users who may be anonymous,⁴²² global, and retail.⁴²³

⁴²² Although a public observer can see and trace all transactions of a blockchain address which is theoretically associated with an investor, the public profile or any other private information is hidden. See, e.g., Dimitri Boreiko & Dimche Risteski, *Serial and Large Investors in Initial Coin Offerings*, 57 Small Bus Econ, 1053 (2021).

⁴²³ For example, the Fahlenbrach study finds that the average ICO has 4,700 investors, and the median

Lastly, some of the offering exemptions require issuers to provide disclosures that may not be relevant to investors in covered investment contract offerings. The cost of preparing those disclosures may limit issuers' interest in pursuing current exemptions.

Table 1 summarizes some of the characteristics of the most commonly used exemptions from registration.⁴²⁴

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ICO investor invests approximately \$1,200. See *supra* note 430.

⁴²⁴ Division of Corporation Finance, Office of Small Business Policy, *Overview of Capital-Raising Exemptions*, available at <https://sec.gov/files/2024-ospb-overview-capital-raising-exemptions-table-2.pdf>.

Table 1: Overview of Capital-Raising Exemptions

Type of Offering	Offering Limit within 12-month Period	General Solicitation	Issuer Requirements	Investor Requirements	SEC Filing Requirements	Restrictions on Resale	Preemption of State Registration and Qualification
Section 4(a)(2)	None	No	None	Transactions by an issuer not involving any public offering. <i>See SEC v. Ralston Purina Co.</i> ⁴²⁵	None	Yes. Restricted securities	No
Rule 506(b) of Regulation D	None	No	“Bad actor” disqualifications apply	Unlimited accredited investors Up to 35 sophisticated but non-accredited investors in a 90-day period	Form D notice of sale filed with the SEC Delivery of a disclosure document to non-accredited investors with financial statements consistent with Regulation A. Not filed with SEC.	Yes. Restricted securities	Yes
Rule 506(c) of Regulation D	None	Yes	“Bad actor” disqualifications apply	Unlimited accredited investors Issuer must take reasonable steps to verify that all purchasers are accredited investors	Form D notice of sale filed with the SEC	Yes. Restricted securities	Yes
Rule 504 of Regulation D	\$10 million	Permitted in limited circumstances	Excludes blank check companies, Exchange Act reporting companies, and investment companies “Bad actor” disqualifications apply	None	Form D notice of sale filed with the SEC	Yes. Restricted securities except in limited circumstances	No
Regulation A: Tier I	\$20 million	Permitted; before qualification, testing the waters permitted	U.S. or Canadian issuers Excludes blank check companies, registered investment	None	Form 1-A, including two years of financial statements Exit report	No	No

⁴²⁵ 346 U.S. 119, 126 (1953).

Regulation A: Tier 2	\$75 million	before and after the offering statement is filed	companies, business development companies, issuers of certain securities, certain issuers subject to a section 12(j) order, and Regulation A and Exchange Act reporting companies that have not filed certain required reports “Bad actor” disqualifications apply No asset-backed securities.	Non-accredited investors are subject to investment limits based on the greater of annual income and net worth, unless securities will be listed on a national securities exchange	Form 1-A, including two years of audited financial statements Annual, semi-annual, current, and exit reports	No	Yes
Regulation Crowdfunding; Section 4(a)(6)	\$5 million	Testing the waters permitted before Form C is filed Permitted with limits on advertising after Form C is filed Offering must be conducted on an internet platform through a registered intermediary	Excludes non-U.S. issuers, blank check companies, Exchange Act reporting companies, and investment companies “Bad actor” disqualifications apply	No investment limits for accredited investors Non-accredited investors are subject to investment limits based on the greater of annual income and net worth	Form C, including two years of financial statements that are certified, reviewed or audited, as required Progress and annual reports	12-month resale limitations	Yes
Intrastate: Section 3(a)(11)	No Federal limit (generally, individual state limits between \$1 and \$5 million)	Offerees must be in-state residents.	In-state residents “doing business” and incorporated in-state; excludes registered investment companies	Offerees and purchasers must be in-state residents	None	Securities must come to rest with in-state residents	No
Intrastate: Rule 147	No Federal limit (generally, individual state limits between \$1 and \$5 million)	Offerees must be in-state residents.	In-state residents “doing business” and incorporated in-state; excludes registered investment companies	Offerees and purchasers must be in-state residents	None	Yes. Resales must be within state for six months	No
Intrastate: Rule 147A	No Federal limit (generally, individual state limits between \$1 and \$5 million)	Yes	In-state residents and “doing business” in-state; excludes registered investment companies	Purchasers must be in-state residents	None	Yes. Resales must be within state for six months	No

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Finally, businesses may also seek to rely on private debt financing. While equity accounts for a significant proportion of the total capital of a typical small business, other sources of capital for small businesses include loans from commercial banks, finance companies and other financial

institutions, and trade credit.⁴²⁶

⁴²⁶ See Allen N. Berger & Gregory F. Udell, *Small Business Credit Availability and Relationship Lending: The Importance of Bank Organisational Structure*, 112 Econ. J. F32–F53 (Feb. 2002). In this study, equity accounted for approximately half of the total capital, including approximately 31 percent (45 percent for the smallest firms—that is, those, with less than \$1 million in revenues or less than 20 employees) attributed to the principal

Borrowing can be relatively costly for

owner. The remainder came from debt financing, with about one quarter accounted for by loans from commercial banks, finance companies and other financial institutions, and another 16 percent comprised of trade credit. The study was conducted based on the 1993 edition of the Federal Reserve Board’s Survey of Small Business Finances, which collects information on small businesses (fewer than 500 employees) in the United States.

many early-stage issuers as they may have low revenues, irregular cash-flow projections, insufficient assets to offer as collateral, and high external monitoring costs; therefore, they may be deemed riskier and may be unable to secure the most favorable loan terms.⁴²⁷ Financial institutions generally require such small business borrowers to provide collateral or a guarantee by owners,⁴²⁸ which some issuers may be unable or reluctant to provide. As mentioned above, it is likely that most issuers of covered investment contracts would be small, thus for them borrowing could be very costly.

2. Affected Issuers

The affected issuers consist of any issuer that has decided or may decide to offer and sell covered investment contracts. Any issuer meeting the eligibility criteria⁴²⁹ could use the exemptions set forth in the proposed rules to offer and sell covered investment contracts and/or rely on the investment contract safe harbor. We do not have reliable data or information that would allow us to estimate the number of issuers that would be able to rely on the proposed rules or that are likely to use them in the future. In light of this limitation, to inform our understanding of the scope of affected issuers, we look to available data about issuers that have made offerings involving crypto assets (which we refer to as “crypto asset-related offerings”) in the past. In particular, we analyzed information on each of the number of ICOs that were undertaken before the release of the DAO Report,⁴³⁰ the

number of crypto assets that are listed/traded on secondary crypto markets, and past exempt offerings that may have a connection to the crypto asset market. While our analysis below describes certain sets of potentially affected parties and estimates their numbers, we also recognize that there could be issuers that have not made crypto asset-related offerings in the past that may choose to do so in the future that are not represented in the estimates below. For the reason noted above, the challenges of conducting a crypto asset-related offering under the current offering exemptions may limit offerings in the United States. Our analysis provides some information about the approximate number of issuers that may be able to rely on the proposed rules. The number of affected issuers, however, is likely to be higher than the estimates we provide.

The proposed rules could incentivize some covered investment contract issuers that have used, or are currently using, existing offering exemptions to switch to the proposed startup exemption and/or the proposed fundraising exemption if they provide a cheaper way to raise capital. Further, the proposed rules could incentivize other covered investment contract issuers that have not pursued an offering under existing offering exemptions, or that pursued or are pursuing an offering abroad, to consider an offering in reliance on the proposed startup exemption and/or the proposed fundraising exemption. Importantly, to the extent the proposed rules help to bridge a gap in capital formation for prospective covered investment contract issuers, we expect that the proposed rules could draw new covered investment contract issuers to the market that have not, to date, relied on existing offering exemptions. Thus, the number of issuers utilizing the new provisions is likely to be higher than the estimates in this section.

We also expect that many issuers that rely on the proposed exemptions, or that in the past issued covered investment contracts, would eventually seek to satisfy the investment contract safe harbor to obtain certainty that their crypto assets no longer are subject to the

provisions of the Federal securities laws. Some affected issuers could, in fact, rely solely on the proposed investment contract safe harbor.⁴³¹ Thus, our analysis of prior exempt offerings, which is intended to approximate only the number of issuers that would rely on the proposed new exemptions, is likely to underestimate the number of potential affected issuers.

We first analyzed the number of ICOs that were undertaken before the release of the DAO Report.⁴³² ICOs were the most popular capital raising offerings for crypto asset issuers that were startups or in early stages of development.⁴³³ One study observed that there were 5,644 ICOs globally between January 1, 2016, and December 31, 2018.⁴³⁴ The study found that about 17 percent of the ICO sample used in the analysis had U.S.-based development teams. Based on that, we estimate that about 960 (*i.e.*, 17 percent) of the 5,644 ICOs from 2016 through 2018 had U.S.-based teams.⁴³⁵ We caveat that the peak of ICO activity was almost seven years ago, and the current number of potentially affected crypto asset issuers may differ significantly. Another study reports a similar total number of ICOs, 5,376 ICOs, from 2013 through 2019, with 13 percent of those ICOs (*i.e.*, 699 ICOs) located in the United States.⁴³⁶ A more recent study

⁴³¹ See section II.D.

⁴³² See *supra* note 430.

⁴³³ Some crypto asset issuers have undertaken IEOs. Others have used Simple Agreements for Future Tokens (“SAFTs”). SAFT issuers enter into an agreement with an investor for the future delivery of tokens once a platform is developed and becomes functional. See Howell, et al., *supra* note 401.

⁴³⁴ See Davydiuk Study, *supra* note 430.

⁴³⁵ We note that the location of the development team which is used in the study may not meet the issuer eligibility requirements in the fundraising exemption (that the issuer is an entity organized in the United States and with a majority of its executive officers or directors being U.S. citizens or residents, more than 50 percent of its assets located in the United States, and its business is administered principally in the United States.) Nonetheless, given the data limitations we face, we use this study to inform our estimates.

⁴³⁶ See Lyandres Study, *supra* note 430. In the empirical analysis, the study restricts the analysis to a subsample of 5,376 ICOs for which there is data on the number of tokens issued for sale, the amount raised in the ICO, or both. This is done in an attempt to eliminate incomplete ICOs, which are those that are halted before offering tokens to investors, as opposed to completed but unsuccessful ICOs (that is, those that fail to raise money), which are kept in the sample. Also, classification of ICOs in this study may not align identically with the issuer eligibility requirements in the fundraising exemption (that the issuer is an entity organized in the United States and with a majority of its executive officers or directors being U.S. citizens or residents, more than 50 percent of its assets located in the United States, and its business is administered principally in the United States).

⁴²⁷ See Alicia M. Robb & David T. Robinson, *The Capital Structure Decisions of New Firms*, 27 Rev. Fin. Studs. 153, 153–79 (Jan. 2014).

⁴²⁸ Approximately 92 percent of all small business debt to financial institutions is secured, and owners of the firm guarantee about 52 percent of that debt. See Allen N. Berger & Gregory F. Udell, *Relationship Lending and Lines of Credit in Small Firm Finance*, 68 J. Bus. 351, 351–81 (1995). Some studies of small business lending also document the creation of local captive markets with higher borrowing costs for small, opaque firms as a result of strategic use of soft information by local lenders. See Sumit Agarwal & Robert Hauswald, *Distance and Private Information in Lending*, 23 Rev. Fin. Studs. 2757, 2757–88 (Apr. 2010).

⁴²⁹ Issuers could be public or private, from the crypto asset industry or otherwise. The proposed rules would be applicable to any issuer, regardless of whether the issuer has operations that are unrelated to the crypto asset industry or whether, prior to engaging in the covered investment contract offering, the issuer was not engaged in operations related to the crypto asset industry.

⁴³⁰ There is empirical evidence in recent economic studies that the number of ICOs has declined dramatically after 2018. See, e.g., Evgeny Lyandres, et al., *ICO Success and Post-ICO Performance*, 68 Mgmt. Sci. 8658 (Feb. 2022) (“Lyandres Study”); Tatyana Davydiuk, et al., *De-Crypto-ing Signals in Initial Coin Offerings: Evidence of Rational Token Retention*, 69 Mgmt.

Sci. 6584 (Nov. 2023) (“Davydiuk Study”). For example, the Lyandres Study notes that “[p]ossibly due to regulatory uncertainty, ICOs became less frequent in the end of 2018 and in 2019, being partially replaced by ‘Security Token Offerings’ (STOs), which adhere to securities regulations, and ‘Initial Exchange Offerings’ (IEOs), in which an issuer combines raising capital with listing the token on a crypto exchange.” The Davydiuk Study mentions that “[s]ince 2019, industry reports show that ICO activity has declined, although the number of STOs and IEOs has been growing.”

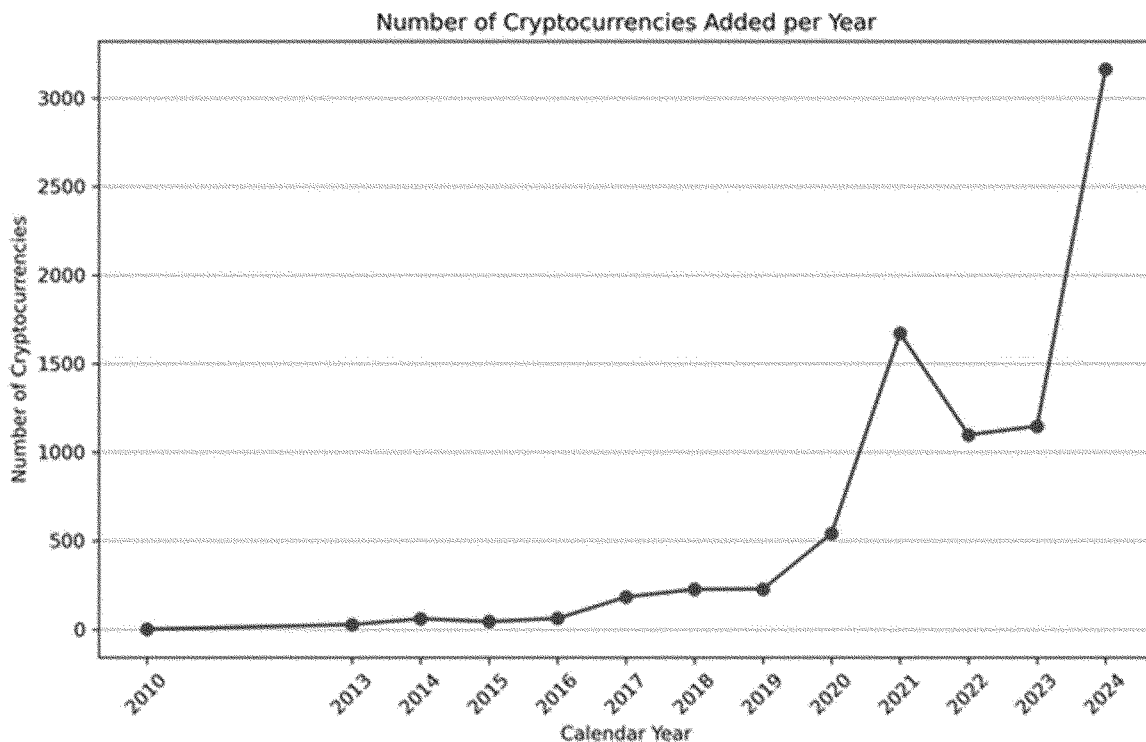
estimates the number of U.S. ICOs as of July 2025 to be 248, out of 1,096 ICOs (*i.e.*, 23 percent) launched globally.⁴³⁷

Our second analysis considered the number of crypto assets that are listed/traded on secondary crypto asset markets. The creators of those crypto assets have presumably sold the assets to acquirers and are working to develop, or have completed or abandoned development of, the associated blockchain network or application. Using data from CoinMarketCap,⁴³⁸ we have identified 9,746 crypto assets that are currently listed or traded on various crypto asset exchanges globally.

Assuming that each crypto asset is developed by a unique creator, there would be 9,746 creators of crypto assets from 2013 through 2024. Figure 1 lists the number of crypto assets that listed or started trading on one or more exchanges in any given calendar year from 2013 through 2024. As Figure 1 shows, the number of crypto assets that are added for listing or trading on a secondary exchange has dramatically increased over time, peaking in 2021 and then again in 2024. This data does not identify how many of these crypto assets have U.S.-based development

teams, which means that the numbers in Figure 1 could overstate the number of issuers that may use the fundraising exemption. The data also does not indicate how many crypto assets were removed from secondary exchanges each year, thus introducing potential downward selection bias. Because of this potential selection bias, the total number of 9,746 crypto assets likely understates the true number of crypto assets that were listed/traded across the world on secondary trading platforms (“crypto exchanges”) from 2010 through 2024.

Figure 1. Number of New Crypto Assets Listed on a Secondary Market by Year, 2010-2024



Lastly, we analyzed available data on the potential number of issuers that conducted crypto asset-related offerings under Regulation D, Regulation A,⁴³⁹ or Regulation Crowdfunding offerings. This analysis is subject to limitations and assumptions, as we explain in detail below. Our findings suggest that,

for the period from 2016 to 2024, 581 issuers made crypto asset-related offerings under Regulation D, 14 issuers made crypto asset-related offerings under Regulation A, and 41 issuers made crypto asset-related offerings under Regulation Crowdfunding. Thus, the data suggest that a total of 636

issuers made crypto asset-related offerings in the United States using at least one of the existing offering exemptions and thus would be potentially affected parties.

⁴³⁷ Barry Elad & Kathleen Kinder, *ICO Market Statistics 2025: Funding, Failures & Future Outlook*, CoinLaw (July 11, 2025), available at <https://coinlaw.io/ico-market-statistics/>.

⁴³⁸ *Crypto Market Overview*, CoinMarketCap, available at <https://coinmarketcap.com/charts/> (last visited June 6, 2025). The data are available from 2013.

⁴³⁹ Issuers conducting crypto asset-related offerings under Regulation A were identified based on issuances where the offering circular and/or exhibits reference terms in Form 1-A filings that connect to the crypto assets market. The securities that the issuers were offering and selling, therefore, were not necessarily covered investment contracts. Even though issuers are not able to offer or sell

covered investment contracts pursuant to Regulation A, it is still informative to identify issuers that have crypto asset-related characteristics and therefore may be more inclined to offer and sell covered investment contracts under a different exemption (*e.g.*, the proposed startup exemption or fundraising exemption).

a. Issuers Conducting Crypto Asset Related Offerings Under Regulation D

We analyzed Form D and Form D/A filings from 2009 through 2024 using certain criteria to identify likely issuers of crypto asset-related offerings.⁴⁴⁰ Over

this period, 581 issuers undertook 682 of crypto asset-related offerings under Regulation D, with the first offerings appearing in 2017. Figure 2 shows annual data on the number of crypto asset-related offerings under Regulation

D from 2017 through 2024.⁴⁴¹ The number of offerings was highest in 2018 (282 offerings), subsequently declined, and has trended upward in recent years, with 75 offerings conducted in 2024 as compared to 51 in 2023.

Figure 2. Number of Crypto Asset-Related Offerings Under Regulation D, 2017-2024

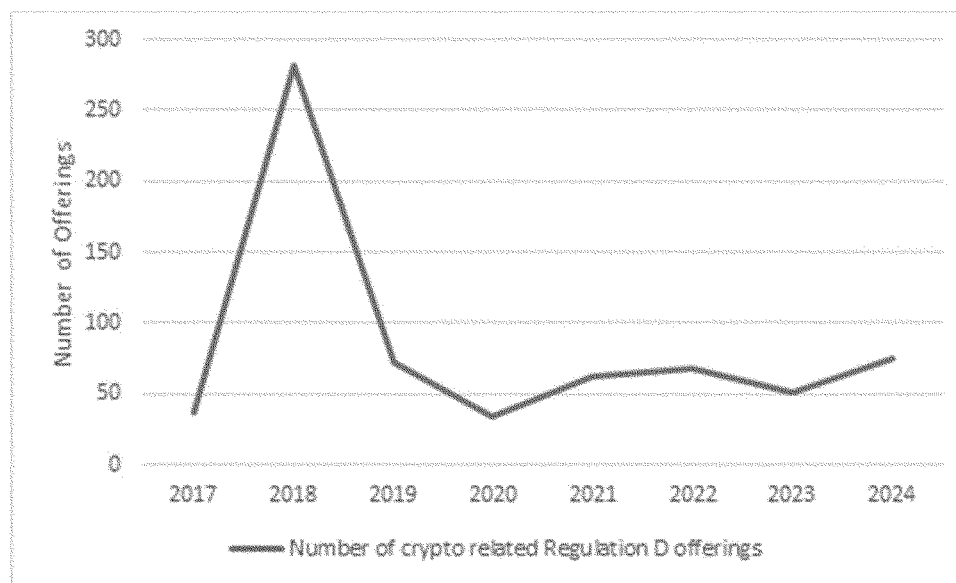


Table 2 provides some summary statistics of issuers that conducted crypto asset-related offerings under Regulation D. These issuers raised approximately \$4.7 billion from 2017 through 2024. Unlike Regulation D offerings by non-crypto asset issuers, issuers conducting crypto asset-related

offerings tend to rely more frequently on Rule 506(c) rather than Rule 506(b).⁴⁴² The average offering raised approximately \$7.4 million, with the median amount much smaller (\$1.2 million). Additionally, the crypto asset-related offerings involved approximately 67 investors on average,

and almost no non-accredited investors. The general absence of non-accredited investors is not surprising given the primary reliance on Rule 506(c) which allows sales only to accredited investors, while Rule 506(b) allows for up to 30 non-accredited investors.

⁴⁴⁰ We identify crypto asset-related offerings by checking if in Form D the issuer checked the "Other" box under Item 9 ("Type(s) of Securities Offered") and mentioned the word "Token" and variations of it (e.g., tokens, tokenization, etc.) or the word "Crypto" and variations of it (e.g., cryptocurrency, cryptoasset, etc.). This analysis includes Regulation D offerings for all issuers, including pooled investment funds. Data are obtained from Form D filings. The amount raised is based on "Total amount sold" in initial and amended Form D filings. Incremental proceeds reported in amended filings are recorded in the year

of the amended filing. We believe reported data is likely an underestimate of the amount raised because (1) Rule 503 of Regulation D requires issuers to file a Form D no later than 15 days after the first sale of securities, but a failure to do so does not invalidate the exemption; so, some Regulation D issuers may fail to file a Form, and (2) there is no requirement to file a Form D at completion of the offering, or to file an amendment to reflect additional amounts offered if the aggregate offering amount does not exceed the original offering size by more than ten percent (so, amounts reported may be lower than total amounts sold). While failure to

file Form D does not affect the exempt offering, it could have other consequences, including, under Rule 507, the potential loss of ability to rely upon Regulation D in the future.

⁴⁴¹ The first Regulation D offerings by crypto asset issuers appear in 2017, hence the period of coverage in Figure 2.

⁴⁴² See Scott Bauguess et al., *Capital Raising in the U.S.: An Analysis of the Market for Unregistered Securities Offerings, 2009–2017* (SEC, DERA White Paper, August 2018), available at https://sec.gov/files/dera-white-paper_regulation-d_082018.pdf.

Table 2. Summary Statistics for Crypto Asset-Related Offerings Under Regulation

D, 2017-2024

Number of offerings	682
	Rule 504 – 2.6 percent
Exemption used	Rule 506(b) – 40.2 percent
	Rule 506(c) – 57.2 percent
Number of unique issuers	581
Number of offerings that reported raised capital	394419
Total amount raised	\$4.7 bln
Average (median) amount raised	\$11.2 mln (\$1.2 mln)
Average (median) total number of investors per offering	67 (10)
Average (median) number of non-accredited investors per offering	(0)

b. Issuers Conducting Crypto Asset-Related Offerings Under Regulation A

We analyzed Form 1–A filings over the period from June 19, 2015 to December 31, 2024 using certain criteria to identify likely issuers of crypto asset-

related offerings under Regulation A (i.e., issuances where the offering circular and/or exhibits reference terms connected to the crypto asset market).⁴⁴³ From 2015 through 2024, there were 14 issuers that conducted qualified crypto asset-related offerings under Regulation

A. As seen in Table 3, these issuers sought to raise a total of \$546 million during the period under consideration. The average amount sought was approximately \$34 million, and most of the offerings were Tier 2 offerings.

⁴⁴³ The sample starts on June 19, 2015, the date when the 2015 Regulation A amendments went into effect. “Crypto asset-related” offerings are identified based on keyword searches (“token(s)”, “coin(s)”, “crypto(s)”, “blockchain(s)”, “cryptocurrency”, and “digital assets”) of issuer legal names on EDGAR and full text of offering circular filings and exhibits

in data provided by Intelligize, as well as assignment to the Division of Corporation Finance’s Office of Crypto Assets disclosure review subject to hand-checks to eliminate false matches. Note that many of the offerings do not necessarily involve issuance of crypto assets that are subject to an investment contract or are themselves digital

securities (as discussed in the 2026 Interpretation), but the offering circular may, for example, reference blockchain, mining, utility tokens, or other digital asset/crypto ecosystem activities as part of the issuer’s business.

Table 3. Financing Sought in Crypto Asset-Related Offerings Under Regulation A**During June 19, 2015 - December 31, 2024⁴⁴⁴**

Filed	Total	Tier 1	Tier 2
Aggregate dollar amount sought, \$ mln	\$575.7	\$64.0	\$511.7
Mean dollar amount sought, \$ mln	\$33.9	\$16.0	\$39.4
Median dollar amount sought, \$ mln	\$25.0	\$20.0	\$40.0
Number of offerings	17	4	13
Number of issuers	15	3	12
Qualified	Total	Tier 1	Tier 2
Aggregate dollar amount sought, \$ mln	\$545.7	\$64.0	\$481.7
Mean dollar amount sought, \$ mln	\$34.1	\$16.0	40.1
Median dollar amount sought, \$ mln	\$22.5	\$20.0	45
Number of offerings	16	4	12
Number of issuers	14	3	11

Table 4 reports the actual amounts raised for the qualified crypto asset-related offerings under Regulation A. There were nine issuers that raised a

total of \$119 million across 10 offerings, with an average amount raised per offering of about \$11.9 million. This is almost the same as the average amount

raised per offering across all Regulation A offerings, which is \$11.5 million.⁴⁴⁵

Table 4. Financing Reported Raised in Crypto Asset-Related Offerings Under**Regulation A During June 19, 2015 - December 31, 2024⁴⁴⁶**

	All	Tier 1	Tier 2
Aggregate dollar amount of reported proceeds, \$ mln	\$119.0	\$2.3	\$116.8
Mean dollar amount of reported proceeds, \$ mln	\$11.9	\$0.8	\$16.7
Median dollar amount of reported proceeds, \$ mln	\$4.5	\$0.5	\$7.5
Number of offerings	10	3	7
Number of issuers	9	3	6

Table 5 provides some characteristics of the issuers of qualified crypto asset-related offerings under Regulation A. The average crypto asset issuer using Regulation A was small, with average total assets of approximately \$4.8

million and an average of 13 employees. However, compared to the average Regulation A issuer over the same period, crypto asset issuers relying on Regulation A had larger revenues (\$4.9 million vs. \$1.9 million), were more

established (10.1 years vs. 6.7 years since incorporation), and were more likely to have generated some revenue at the time they made the Regulation A offering.

⁴⁴⁴ The data period is from June 19, 2015 to Dec. 31, 2024. Capital reported raised is based on information disclosed by companies in Forms 1-Z, 1-K, 1-SA, 1-U, and other filings, and presented as of that reporting date. Estimates represent a lower bound on the amounts raised and are affected by the timing of proceeds reporting by the issuer. As most offerings are conducted on a continuous basis, some time may elapse between offering initiation and completion or termination. After that issuers have 30 days to file Form 1-Z (however, Tier 2 issuers may instead report sales in their first

annual report after termination or completion of an offering). Tier 2 issuers may report proceeds in ongoing offerings in periodic reports. Such proceeds are likely to be reported at a future date. Issuers that report proceeds of zero are excluded from the count. If an issuer reports proceeds both from a Tier 1 and a Tier 2 offering, that issuer is counted twice (once under Tier 1 and once under Tier 2). Information collection is also affected by variance across filers in disclosure and tagging practices with respect to proceeds reporting.

⁴⁴⁵ See *supra* note 288.

⁴⁴⁶ Capital reported raised is based on information disclosed by companies in Forms 1-Z, 1-K, 1-SA, 1-U, and other filings for the period from June 19, 2015, to Dec. 31, 2024. Estimates represent a lower bound on the amounts raised and are affected by the timing of proceeds reporting by the issuer. Instances of zero proceeds are excluded. Information collection is affected by variance across filers in disclosure and tagging practices with respect to proceeds reporting.

Table 5. Issuer and Offering Characteristics in Qualified Crypto Asset-Related**Offerings Under Regulation A as of December 31, 2024⁴⁴⁷**

	Mean	Median
Total assets (\$ mln)	\$4.8	\$0.5
Employees	12.9	3.5
Age (years since incorporation)	10.1	7.0
Revenue (\$ mln)	\$4.9	\$0.0
% revenue >0	56%	
Net income (\$ mln)	\$0.0	-\$0.1
% net income >0	19%	
Cash and cash equivalents (\$ mln)	\$2.3	\$0.0
Property, plants, and equipment (\$ mln)	\$0.1	\$0.0
Long-term debt (\$ mln)	\$0.3	\$0.0
% testing the waters ^a	31%	
% offerings with affiliate selling security holders	25%	
States of solicitation (U.S.)	39	51
% equity offerings ^b	81%	
% offerings with an intermediary	38%	

- a. “% testing the waters” refers to oral or written communication from an issuer, or any person authorized to act on behalf of an issuer, to determine whether there is any interest in a contemplated offering of securities exempt from registration under the Securities Act. The data is collected based on information provided by issuers in Form 1-A. Such communications are deemed to be an offer of a security for sale for purposes of the antifraud provisions of the Federal securities laws. *See* 17 CFR 230.241.
- b. “% equity offerings” refers to the percentage of offerings of equity securities among all qualified offerings. In instances where security type was tagged as “other,” we examined the description of securities referencing equity or debt, respectively (e.g., offerings where security type was listed as “other” but the securities description was listed as “LLC interests,” “preferred stock,” “common shares,” “limited partner interests,” or “units of LLC membership interests” were reclassified as “equity”).

c. Issuers Conducting Crypto Asset-Related Offerings Under Regulation Crowdfunding

For Regulation Crowdfunding, we analyzed reported offering proceeds

(i.e., aggregate amount, average amount, median amount, and number of offerings) based on data available in reports on Form C–U from 2016 through 2024. From 2016 through 2024, 41 issuers conducted 42 crypto asset-

related offerings under Regulation Crowdfunding.⁴⁴⁸ The total amount raised was approximately \$13.6 million, and the average amount raised per offering was \$545,300.

⁴⁴⁷ Statistics in this table are based on offerings qualified as of Dec. 31, 2024. The information on offering and issuer characteristics is based on Part I of Form 1–A of Regulation A offering statements or the latest amendment qualified during the sample period. For ease of interpretation, in the case of variables that take on a value of 0 or 1, medians are not reported and the mean column

shows the percentage of the offerings that take on the value of 1.

⁴⁴⁸ Data comes from the XML portion of Forms C and C–U and amendments to them filed through Dec. 31, 2024. When we refer to offerings, we refer to initiated offerings that have not been withdrawn, unless specified otherwise. When discussing

proceeds, we refer to offerings that have reported proceeds on Form C–U. Offerings with Forms C–U without proceeds information are treated as not having proceeds. We identify crypto offerings by checking if in Form C the issuer described the securities issued in the “Security Other Description” field as “SAFT” or “Token.”

Table 6. Summary Statistics for Crypto Asset-Related Offerings Under Regulation**Crowdfunding, 2016-2024**

	Aggregate (\$ mlns)	Average (\$ 000s)	Median (\$ 000s)	Number of offerings
Target (minimum) amount	1.3	30.7	10.0	42
Maximum amount	58.7	1,398.4	1,070.0	42
Reported proceeds	13.6	545.3	80.1	25 ^a

- a. The information on reported offering proceeds (i.e., aggregate amount, average amount, median amount, and number of offerings) is based on data available to us in reports on Form C-U. Due to some cases where an offering closed successfully, but a Form C-U was not filed or lacked details of proceeds, our totals likely represent a lower bound estimate; industry reports sourcing information on investor commitments from platform websites directly tend to show higher total funding levels. The data on proceeds exclude Form C-U filings that did not contain identifiable proceeds information (e.g., reports noting “end of offering” without indicating a dollar amount of proceeds). For purposes of calculating the aggregate reported proceeds, for issuers with multiple filings of proceeds per offering, the latest filing is used to avoid duplication.

Table 7 presents some characteristics of the issuers that conducted crypto asset-related offerings under Regulation Crowdfunding. Compared to the average

Regulation Crowdfunding issuer, the issuers in crypto asset-related offerings tend to be much younger (1.3 years vs. 3.7 years) and much smaller in terms of

assets (\$407,000 vs. \$736,000) and revenues (\$21,000 vs. \$740,000).⁴⁴⁹ They also had less cash on hand and have raised less debt financing.

⁴⁴⁹ See Angela Huang & Vladimir Ivanov, *Analysis of Crowdfunding Under the JOBS Act*

(SEC, DERA White Paper, May 2025), available at <https://sec.gov/files/dera-reg-cf-2505.pdf>.

Table 7. Characteristics and Financials of Issuers Conducting Crypto Asset-Related Offerings Under Regulation Crowdfunding

	Mean	Median
Issuer age (years since formation)	1.3	0.5
%: Issuer age is ≤3 years	90%	
%: Issuer formed in DE	74%	
%: Issuer located in CA	31%	
Employees	5.5	4.0
% Issuer has assets	45%	
Assets (\$000s)	407.1	0.0
%: Issuer has revenue	21%	
Revenue (\$000s)	21.2	0.0
%: Issuer has a positive net income	2%	
Net income or loss (\$000s)	-115.0	0.0
Cash and Cash Equivalents (\$000s)	56.3	0.0
%: Issuer has debt	36%	
Debt (\$000s)	216.8	0.0
Long-term debt (\$000s)	171.1	0.0
%: Legal status is corporation	83%	

As an important caveat, due to limitations of the data, we are not able to determine which of the offerings relying on the existing exemptions would have involved securities that met the specific definition of covered investment contracts in the proposed rules.

3. Disclosures Provided by Current Issuers of Crypto Asset-Related Offerings

Historically, most ICOs included a whitepaper that provided certain information to potential investors. One study found that the items commonly disclosed in the whitepapers were similar to typical disclosure topics in IPO prospectuses, such as business, management, incentive structure and governance, and offering-related information.⁴⁵⁰ Using an international

sample of 2,113 ICOs from March 2014 through October 2018, the study found that almost all whitepapers provided at least some narrative description of the venture's primary business purpose; 81 percent also disclosed a roadmap or timeline for the development of the product or service, 71 percent provided information on the identities and professional biographies of team members, and 66 percent disclosed information on their incentive structure (*i.e.*, allocation of tokens to insiders). Another study also found that blockchain application was the most discussed topic in ICO whitepapers, followed by information on the network's development and discussions

process for both successful and failed ICOs," they "could only collect white papers for approximately 70 percent of the attempted ICOs," and that "[d]ue to the difficulties [they] encountered in locating a white paper that could be downloaded even when one was referenced in various data sources, [they] are certain that many more white papers were released than [they] were able to collect []" in their sample.

regarding data management and the application of artificial intelligence tools.⁴⁵¹ Apart from the emphasis on blockchain technology, this study observed that ICO whitepapers distinctly entailed substantial discussions on decentralization and network building. Topics related to legal disclaimers, risk management, and risk disclosures received comparatively less discussion.

Some ICO ventures also employ governance and incentive alignment practices, such as vesting and lock-ups for insiders' tokens, similar to those in the IPO market. The first study referenced above⁴⁵² found that 26 percent of those whitepapers contained information on the vesting of insiders' tokens, with vesting periods ranging from three to 12 months after the ICO and 65 percent of whitepapers

⁴⁵⁰ See Thomas Bourveau et al., *The Role of Disclosure and Information Intermediaries in an Unregulated Capital Market: Evidence from Initial Coin Offerings*, 60 J. Acct. Rsch. 129 (2022). The authors state "[d]espite a rigorous collection efforts

⁴⁵¹ See James Thewissen et al., *Unpacking the Black Box of ICO White Papers: A Topic Modeling Approach*, 75 J. Corp. Fin. 1 (2022).

⁴⁵² See *supra* note 450.

contained information about the expected use of proceeds from the ICO. Additionally, the study found that only four percent of whitepapers mentioned venture-specific risk factors, and less than two percent provided any financial information or projections. According to the study, this could be partly because ICO ventures are smaller and at an earlier stage than, for example, companies that pursue IPOs. Finally, the study found that six percent of whitepapers were purely technical documents that contained no marketing information.

ICO ventures also disclosed information through sources other than whitepapers. The same study found that 53 percent of the ICO ventures in the sample released the technical source code for their software product or token smart contract through online code repositories (e.g., GitHub), which allowed investors and customers to conduct technical due diligence and assess competitive differentiation; 63 percent released a video marketing presentation; and 97 percent were active on social media platforms, such as Facebook, X, and Medium. The videos typically presented the ICO venture's main business proposition. The social media platforms often were used to disseminate real-time information about the ICO's progress, communicate with potential investors, or to self-publish articles.

4. Affected Financial Intermediaries

The proposed rulemaking may also affect financial intermediaries that are involved or may become involved in the placement and quotation of crypto assets subject to the covered investment contracts. Currently, there are many crypto exchanges that quote and allow for trading of various crypto assets. For example, based on data from CoinMarketCap, there are 255 crypto asset exchanges providing such quotes and trades. Further, financial intermediaries involved in the offers and sales of covered investment contracts (as opposed to those "making" the market on crypto asset exchanges) may be affected by the rulemaking. We do not have a reliable estimate of how many current offerings of covered investment contracts involve financial intermediaries. From the 682 crypto asset-related offerings that were conducted under Regulation D from 2017 through 2024, 56 (approximately eight percent) reported using the services of placement agents and/or finders.⁴⁵³

⁴⁵³ The statistics on Regulation D offerings by crypto asset issuers are based on analysis of Form

Additionally, financial intermediaries are used in certain of the other types of offerings, including registered offerings and certain exempt offerings. To the extent that the proposed rules would impact the number and overall amount of capital raised in other types of offerings, financial intermediaries participating in such offerings may be affected. For example, in registered offerings, underwriters are frequently used to identify potential investors and are primarily responsible for facilitating a successful distribution of the securities offered. While intermediaries are used less frequently in Regulation D offerings, they play a role in some offerings. For example, from 2009 through 2017 approximately 20 percent of Regulation D offerings by non-fund issuers used an intermediary.⁴⁵⁴ Similarly, from 2015 through 2024 approximately 51 percent of Regulation A offerings involved the use of intermediaries.⁴⁵⁵ Regulation Crowdfunding offerings involve intermediaries by statutory requirement. We do not have information on whether and how often any of the other exempt offerings use intermediaries.

B. Economic Effects of Individual Provisions

The proposed rules would likely generate economic effects for issuers and investors.⁴⁵⁶ We discuss below broad economic considerations associated with the proposed rules and analyze in the subsequent sections the benefits and costs of the proposed rules, including their effects on efficiency, competition, and capital formation.

The proposed rules would create new exemptions for covered investment contracts under the Federal securities laws. Issuers' ability to broadly and timely disseminate crypto assets and

D and Form D/A filings during 2017–2024. To identify the presence of an intermediary in an offering, we identify those offerings that report paying a commission and/or finder's fee.

⁴⁵⁴ See *supra* note 442.

⁴⁵⁵ See *supra* note 288.

⁴⁵⁶ For purposes of measuring the effects of the proposed rules, this analysis assumes that market participants are compliant with existing applicable Commission rules. To the extent that some entities engaged in activities involving offerings of covered investment contracts are not, but should be, compliant with existing offering frameworks, they may derive benefits from coming into compliance with and incur additional costs to comply with existing rules and registration obligations that are not discussed in this analysis and are distinct from the benefits and costs associated with the proposed rules. For such entities, we expect the benefits and costs specifically associated with the proposed rules to be the same as those described below as applicable. Effects on efficiency, competition, and capital formation may differ from the discussion in this analysis to the extent impacted entities do not currently comply with existing applicable Commission rules.

raise capital to finance economic incentives are critical for the development of their crypto networks or applications. Studies have shown that developers of crypto projects significantly benefit from making their products/services available to those who naturally engage with new technologies at an early stage of development, also known as early adopters.⁴⁵⁷ Delays that discourage use by early adopters tend to undermine broader diffusion among later adopters. Facilitating the ability of developers to raise capital and grow the functionality and user adoption of their crypto projects can enhance their ability to innovate, succeed, and deliver value to their users and investors. The proposed startup exemption would exempt from Securities Act registration requirements smaller offerings of covered investment contracts that may incentivize user activity and support the growth, functionality, and usage of the associated crypto network or associated crypto application. Issuers needing larger amounts of capital would have the option to rely on the proposed fundraising exemption to raise up to \$75 million in a 12-month period. Further, the proposed investment contract safe harbor could provide issuers and investors with greater certainty as to when a crypto asset is no longer subject to an investment contract.

The impact of the proposed rules would, in part, depend on whether issuers elect to rely on the proposed exemptions for capital formation, either in place of other capital raising methods or where they cannot raise capital otherwise. The startup exemption and the fundraising exemption would be tailored to covered investment contracts and have different benefits and costs than other capital-raising methods. We note some differences here and analyze them in the sections below. Compared to a registered offering which has no limitation on the aggregate offering amount and can offer a degree of liquidity that is generally not available for securities issued in exempt offerings, the proposed exemptions should allow issuers to raise capital, up to certain limits, at a lower cost.⁴⁵⁸ Compared to Rule 506(b) and Rule 506(c) of Regulation D,⁴⁵⁹ the proposed

⁴⁵⁷ See Christian Catalini & Catherine Tucker, *When Early Adopters Don't Adopt*, 357 Sci. 135 (July 2017).

⁴⁵⁸ Issuance costs associated with small registered public offerings are generally a significant percentage of proceeds, and issuers in registered offerings must bear the costs arising from ongoing disclosure requirements under the Exchange Act. See *supra* section IV.A.1.

⁴⁵⁹ As we explained in section IV.A above, available data suggest that crypto asset issuers have

exemptions would have offering amount limits and, in some cases, more extensive disclosure requirements, but issuers would be able to sell securities to an unlimited number of non-accredited investors,⁴⁶⁰ and the securities sold under the proposed exemptions would not be restricted securities for purposes of the Federal securities laws. Also, compared to Regulation Crowdfunding, the proposed exemptions would not require the use of an intermediary, would allow for the offer and sale of larger amounts under the fundraising exemption, and the securities sold under the proposed exemptions would not be subject to restrictions on resale. Accordingly, an issuer's ability under the proposed exemptions to broadly solicit investors at a lower cost and offer and sell covered investment contracts not subject to restrictions on resale should enhance its ability to raise capital as well as the liquidity of its securities. This could in turn facilitate broad participation in a secondary market for these securities and help boost the adoption and use of the issuer's subject crypto asset, including as a medium of exchange or consumption.⁴⁶¹

Also, the impact of the proposed rules would depend on the extent to which new investor capital is attracted to covered investment contracts or investors reallocate existing capital among various types of offerings. The demand for covered investment contracts offered under the proposed rules would depend on the characteristics of these contracts, such as the utility of the subject crypto asset, its liquidity and security, and possibly its expected risk and return, including relative to what buyers could obtain from other investment opportunities. For example, some buyers of covered investment contracts may also want to hold a token to be used in a particular

ecosystem, an option that may not be available in a traditional securities offering of equity or debt. It is also possible that covered investment contracts may attract investors that are interested in holding covered investment contracts for diversification purposes, as these contracts may provide exposure to economic risks that differ from traditional securities. Because they involve various types of non-security crypto assets, covered investment contracts may have different risk-return profiles than more traditional securities like equity and debt.⁴⁶²

We estimate the annualized monetized costs of the proposed rules for all affected issuers would be approximately \$42,766,883 per year over 10 years, using real discount rates of both three percent and seven percent.⁴⁶³ This annualized cost estimate includes only those monetized costs estimated below and thus does not encompass all of the proposed rules' costs. In addition, the annualized monetized cost estimate assumes a fixed number of offerings each year, based on the estimates provided in section V, which are likely to change over time.⁴⁶⁴ The estimate would correspondingly increase or decrease with the changes in the number of offerings under Regulation Crypto Assets each year. Due to lack of data, we are unable to estimate annualized monetized benefits associated with the proposed rules.

We analyze below the likely benefits and costs of the individual provisions of the proposed rules for investors and the issuers that elect to rely upon them. The estimates of monetized costs below are not discounted.

⁴⁶² There is some empirical evidence from ICOs that at least some ICO investors view investments in underlying crypto assets as speculative investments. For example, the Fahlenbrach study finds that the typical ICO investor "sells a substantial fraction of his tokens shortly following the ICO, when the product of the company is not yet developed, indicating that he is more interested in financial gain than the underlying product." See *supra* note 430.

⁴⁶³ We estimate annualized monetized costs consistent with the requirements of Executive Order 12866. See *infra* note 571 and accompanying text. For each discount rate, the annualized monetized costs represent the constant annual stream of costs whose present value over a 10-year horizon equates to the corresponding present value of monetized costs for all affected issuers over the same horizon. For detailed explanations and calculations, see *infra* section VI.

⁴⁶⁴ For an explanation of the basis for the estimate of the number of annual offerings used in this analysis, see *infra* section V.B. For explanation of additional assumptions and calculations, see *infra* sections V & VI.

1. Benefits and Costs of Proposed Regulation Crypto Assets

As mentioned above,⁴⁶⁵ covered investment contracts have unique features that are difficult to accommodate within the existing exempt offering framework. Because of the nature of the technology, it is typically impractical to limit the sale of the underlying crypto assets to accredited investors or to persons in one geographic location, making it difficult to meet investor-based eligibility requirements. Such contracts often arise in the context of developers distributing crypto assets and raising capital to fund the development of the associated crypto networks or applications. Additionally, the tradability and liquidity of the covered investment contracts, and thus of the subject crypto assets, are often important for providing incentives for the purchasers of these contracts to participate and provide services that bolster the development of the associated crypto networks or applications.

The proposed rules would address the shortcomings of the existing exempt offerings with respect to these unique features of covered investment contracts. The proposed rules, by allowing an unlimited number of non-accredited investors to participate in offerings of covered investment contracts and preempting the State registration and qualification requirements, would enable issuers to broaden their participant base, thus making it easier to achieve network effects. The proposed rules would also allow for the issue and distribution of unrestricted covered investment contracts, thus improving their liquidity and, as a result, the liquidity of the subject crypto assets. This would allow for faster diffusion of the subject crypto assets across potential users and network participants, thereby bolstering an issuer's ability to achieve network effects. Also, the proposed rules, by allowing issuers to raise capital via the sale of covered investment contracts, would allow issuers to use this capital to provide incentives to the various participants in their associated crypto networks or associated crypto applications, thus incentivizing the development and utilization of these networks or applications.

The proposed Regulation Crypto Assets would provide important benefits to issuers and investors. The tailored principles-based disclosure requirements that issuers would be required to satisfy under the startup

⁴⁶⁵ See discussion in section I.A.

frequently relied on Rule 506(c) of Regulation D for capital raising, and such offerings are limited to accredited investors. Rule 506(b) offerings permit non-accredited investors so long as the information disclosure requirements are satisfied.

⁴⁶⁰ Under the proposed fundraising exemption, if the purchaser is not an accredited investor as defined in Rule 501 of Regulation D, the aggregate purchase price to be paid by the purchaser cannot exceed 10 percent of the greater of the purchaser's annual income or net worth (or in the case of non-natural persons, the greater of revenue or net assets for the most recently completed fiscal year). See proposed 17 CFR 228.300(c)(2)(i)(C).

⁴⁶¹ See Christian Catalini & Joshua S. Gans, *Financing Ventures with Fungible Tokens*, (working paper June 25, 2025), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3137213 (retrieved from SSRN Elsevier database) (stating that "early users who receive or purchase [crypto assets] obtain both consumption value and a stake in future network growth, generating demand-side externalities").

exemption and the fundraising exemption would reduce information asymmetries between issuers and investors, thus improving investor decision-making and allowing issuers to raise capital at lower cost. The proposed disqualification provision could help reduce potential fraud and thus strengthen investor protection. The proposed startup and fundraising exemptions would also allow issuers to offer and sell unrestricted covered investment contracts to potential investors, which could improve the liquidity of these securities and make them more attractive to potential investors. At the same time, however, the proposed Regulation Crypto Assets would generate costs for issuers and investors. For example, we expect issuers to incur direct and indirect disclosure costs. We discuss the benefits and costs of each provision of the proposed Regulation Crypto Assets in turn.

a. General Provisions

The general provisions of Regulation Crypto Assets would provide some important benefits to issuers and investors. Proposed Rule 101 streamlines compliance for crypto asset issuers by allowing the use of multiple exemptions, clarifying when offerings must be integrated, and requiring efficient electronic filings. It protects issuers from losing exemptions due to minor, good-faith errors, and standardizes how to count and price crypto asset units. Together, these provisions increase regulatory flexibility, reduce administrative burdens, and provide greater clarity and certainty for both issuers and investors.

Proposed Rule 101(a) would be beneficial to issuers because it ensures that they can utilize the exemptions in Regulation Crypto Assets without being restricted from using other exemptions.

Proposed Rule 101(b) would provide that issuers should refer to Rule 152 to determine whether offers and sales should be integrated. We also are proposing conforming amendments to Rules 152(c) and (d) to clarify when an offering under an exemption in Regulation Crypto Assets has commenced and terminated or completed, consistent with Rule 152's treatment of existing exemptions (including offerings under Regulation Crowdfunding and Regulation D). The proposed rule and conforming amendments would benefit issuers by helping them ensure compliance and prevent them from running afoul of the integration doctrine with respect to other exempt offerings conducted before, or close in time with, Regulation

Crypto Assets offerings. This certainty may be particularly beneficial for smaller issuers whose capital needs, and thus preferred capital raising methods, may change frequently.

Proposed Rule 101(c) would require documents filed or otherwise provided to the Commission pursuant to Regulation Crypto Assets to be submitted in electronic format on EDGAR. This rule would benefit investors by allowing them to access issuer information to more efficiently aggregate and analyze information across issuers relying on Regulation Crypto Assets. This could improve their investment decisions. Electronic filing on EDGAR could also benefit issuers by providing them with an efficient way to disseminate the disclosures required under the proposed rules and hence supply important information to investors. Electronic filing on EDGAR could also allow issuers of covered investment contracts to more efficiently collect and analyze relevant information from issuers relying on Regulation Crypto Assets, including their competitors, which could provide them with valuable insights into the market for covered investment contracts.

At the same time, some of the general provisions of proposed Regulation Crypto Assets would result in certain costs for issuers and investors. For example, the electronic filing requirement in proposed Rule 101(c) would impose compliance costs on issuers, particularly those issuers that have not previously used EDGAR, which include submitting Form ID⁴⁶⁶ and making filings on EDGAR. Such compliance costs associated with electronic filing requirement would be similar to those under existing exemptions such as Regulation D and Regulation Crowdfunding. We estimate compliance costs per issuer associated with Form ID to be \$381.⁴⁶⁷

⁴⁶⁶ Form ID, the application for EDGAR access, must be submitted and approved by SEC staff in order to make filings on EDGAR. See *Prepare and Submit My Form ID Application for EDGAR Access*, U.S. Securities and Exchange Commission (last reviewed or updated Dec. 22, 2025), <https://sec.gov/submit-filings/filer-support-resources/how-do-i-guides/prepare-submit-my-form-id-application>.

⁴⁶⁷ The \$381 estimate is based on the following calculation: 0.6 burden hours per response × \$635 per hour. See *infra* section V.c.4 (PRA analysis). Throughout this economic analysis, we have estimated certain costs based on our analysis of the collection of information burdens of the proposed rules for purposes of the Paperwork Reduction Act of 1995 ("PRA"). As discussed in more detail in section V.C.1.a., our PRA estimates represent the average burden for all respondents, both large and small, and the burdens will likely vary among individual respondents based on a number of factors, including the size and complexity of their business.

Proposed Rule 101(d) would provide, among other matters, that failure to comply with a term, condition, or requirement of Regulation Crypto Assets would not result in the loss of any exemption under Regulation Crypto Assets for any offer or sale to a particular individual or entity under certain conditions. Proposed Rule 101(d) is consistent with similar provisions in existing offering exemptions (e.g., 17 CFR 227.502 of Regulation Crowdfunding and 17 CFR 230.508 of Regulation D). This proposed rule would benefit issuers and investors as it allows for certain errors that can occur in the offering process without causing the issuer to lose the exemption and incur certain related negative consequences. These consequences may affect the issuer itself (e.g., by increasing compliance costs when trying to correct such errors and/or not being able to raise capital in a timely manner because of the loss of the exemption) as well as investors (e.g., by forgoing valuable investment opportunities when an issuer loses the exemption). Proposed Rules 101(d)(2) and 101(d)(3) would provide that failure to comply with the exemption is actionable by the Commission under Securities Act section 20 and could result in Commission enforcement action, helping to ensure that investors remain protected from misstatements in the offering process. Proposed Rule 101(d) could impose costs on investors to the extent that issuers lessen the vigor with which they develop and implement systems and controls to achieve compliance with the requirements of the proposed exemptions, which may result in a decrease in investor protection. Accordingly, we have designed the conditions for the reliance on this rule to lessen the potential impact on investor protection—specifically, the issuer would be required to establish that: (i) the failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity; (ii) the failure to comply was insignificant with respect to the offering as a whole; and (iii) a good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of Regulation Crypto Assets.

Finally, Rule 101(e) would specify how to determine the number of units of covered investment contracts and the price per unit of a covered investment contract. That rule would provide that, for purposes of determining the number of units of covered investment contracts as required by any rule or form in

Regulation Crypto Assets, one unit of a covered investment contract would be equivalent to one unit of the subject crypto asset. Similarly, the price per unit of a covered investment contract as required by any rule or form in Regulation Crypto Assets should be determined by reference to the price per unit of the subject crypto asset. As noted above, we included this provision because we believe that specifying how to measure the number of units of covered investment contracts and determine the price per unit of a covered investment contract would provide clarity and consistency to market participants.

b. Offering Limits and Inflation Adjustment for Offering Limits

Both the proposed startup exemption and the proposed fundraising exemption have offering limits, combined with required disclosures that are designed to provide appropriate investor protections while also helping facilitate issuers' ability to issue covered investment contracts to facilitate the distribution of the subject crypto asset and raise capital to fund the development of their associated crypto network or associated crypto application. The startup exemption would allow issuers to raise up to \$5 million in total for the four-year duration of the exemption. The size of the offering limit combined with the tailored (and, in some cases, less burdensome) disclosures should allow issuers, especially those in early stages of development, to raise capital at a lower cost compared to some of the existing exemptions. For example, an issuer that decides to raise \$5 million via Regulation Crowdfunding would have to provide financial statements (which would not be required under the startup exemption) and also would be required to use an intermediary which usually charges a fee. The average and median intermediary fee for Regulation Crowdfunding offerings is approximately 6.6 percent and six percent, respectively.⁴⁶⁸ Also, under the proposed rule, the amount of capital raised by affiliates would count towards the offering limit of \$5 million. This provision would strengthen investor protection by preventing issuers from raising an amount of capital substantially larger than \$5 million through affiliates without providing appropriate disclosures.

As explained above, the proposed fundraising exemption would include scaled regulatory requirements based on offering size, which should give issuers

more flexibility in raising capital under the fundraising exemption while providing appropriately tailored protections for investors in each tier. Issuers seeking to raise a larger amount of capital would be able to take advantage of the larger maximum offering size in Tier 2 (up to \$75 million in a 12-month period) and also would be subject to additional disclosures and other provisions. Covered investment contract issuers seeking to raise a smaller amount of capital could conduct Tier 1 offerings with a lower offering size limit (up to \$20 million in a 12-month period) and without being required to obtain an audit of their financial statements.

Notwithstanding the foregoing, offering limits could constrain the ability of issuers of covered investment contracts to achieve significant diffusion of the subject crypto asset across various parties participating in the associated crypto network or associated crypto application to obtain the benefits of network effects. Offering limits also could limit the ability of issuers to raise sufficient capital to grow and develop their associated crypto network or associated crypto application. This cost of the offering limits could be mitigated to a certain extent if issuers who would need larger amounts of capital would in addition rely on Rule 506(b) or Rule 506(c) of Regulation D, which include no offering limits.

During the peak ICO period from 2016 to 2017, the average amount raised in ICOs was approximately \$20 million.⁴⁶⁹ This number both tracks the limit that an issuer of covered investment contracts could raise in a Tier 1 offering under the proposed fundraising exemption, and it is well within the limit proposed for a Tier 2 offering. However, the standard deviation of the amount raised was reported to be approximately \$177 million, suggesting a wide variety of amounts raised. Based on this evidence, it is possible that some potential issuers of covered investment contracts may be aiming to raise much more than \$20 million. Nevertheless, issuers of covered investment contracts may be able to use the startup exemption in combination with the fundraising exemption and/or other current offering exemptions, assuming that such issuer does not run afoul of the integration doctrine.⁴⁷⁰ This ability to combine exemptions could provide issuers of covered investment contracts,

especially the larger ones, with valuable flexibility and significant access to capital.

Moreover, data on the use of existing offering exemptions by issuers of covered investment contracts suggests that the offering limits in the proposed rules would not constrain the ability of issuers to raise capital. Based on the analysis of crypto asset-related Regulation D offerings in Table 2, such issuers raised on average \$11.2 million per offering, which is much lower than what an issuer could raise in a Tier 1 or Tier 2 offering under the proposed fundraising exemption.

Small and early-stage issuers of covered investment contracts, on the other hand, may prefer the proposed startup exemption if they do not need large amounts of capital and may want to avoid the higher compliance costs associated with the proposed fundraising exemption. For those types of issuers, the comparison to capital raising under Regulation Crowdfunding may be more apt. The average amount raised by crypto asset-related Regulation Crowdfunding offerings (\$545,300 per Table 6) is smaller than the offering limit of the startup exemption. However, Regulation Crowdfunding also requires financial statement disclosures and involves an intermediary, both of which would result in higher offering costs, compared to the proposed startup exemption.

Rule 102 of proposed Regulation Crypto Assets would require an inflation adjustment for the offering limits of both the startup and fundraising exemptions periodically, but not less than once every five years, to reflect any changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such an adjustment would benefit issuers by ensuring that the offering limits do not decrease over time when measured in constant dollars (because they would be adjusted over time to account for inflation).

c. Disqualification

Proposed Rule 104 would provide that the exemptions in Regulation Crypto Assets are not available if the issuer or any associated person or entity (as listed in Rule 262(a)) would be subject to disqualification under Rule 262.

We expect that the disqualification provision could help reduce potential fraud and thus strengthen investor protection compared with not including a bad actor disqualification provision. If disqualification standards lower the risk premium associated with the risk of

⁴⁶⁹ See Howell, et al., *supra* note 401. The Davydiuk Study, *supra* note 430, also presents evidence that the average amount raised was approximately \$17 million.

⁴⁷⁰ See *supra* note 130.

⁴⁶⁸ See *supra* note 449.

fraud due to the presence of bad actors in covered investment contract offerings, they could also reduce the cost of capital for issuers that rely on the startup exemption or the fundraising exemption. In addition, the requirement that issuers determine whether any covered persons are subject to disqualification might reduce the need for investors to do their own investigations (including any associated costs) and could therefore increase efficiency.

Under proposed Rule 104, the issuer could still undertake a covered investment contract offering if the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known that a disqualification existed under Rule 262(a). This would decrease issuer compliance costs, because by relying on a reasonable care standard, the issuer would avoid the potentially large costs of having to do a more comprehensive investigation to determine that no disqualification exemption exists.

Under proposed Rule 104, the disqualification provisions would not apply to any disqualification event that occurred prior to the effective date of these proposed rules. This provision would benefit issuers because it would allow them to engage in covered investment contract offerings without the risk of the proposed rules being applied retroactively.

Nevertheless, proposed Rule 104 would require the issuer to include in an offering circular—or otherwise furnish to each purchaser, at a reasonable time prior to sale—a description in writing of any matters that would have triggered disqualification under Rule 104 but occurred before the effective date of the final rules, if adopted. We estimate compliance costs associated with the proposed disqualification disclosure requirements per issuer to be \$1,270 per offering.⁴⁷¹ Despite a potential compliance cost for issuers, this would benefit investors because the issuer would still provide disclosures of relevant matters that would have triggered disqualification, thus allowing investors to make better informed investment decisions.

Issuers that are disqualified from using the startup or the fundraising exemption might experience an increased cost of capital or a reduced availability of capital. In addition, issuers might incur costs related to seeking disqualification waivers from

the Commission and replacing personnel or avoiding the participation of persons who are subject to disqualifying events. Also, most existing offering exemptions that are available to covered investment contract issuers include disqualification provisions as well (e.g., Regulation D and Regulation Crowdfunding).

d. Disclosures

As mentioned in section II, the proposed startup exemption, fundraising exemption, and investment contract safe harbor would require issuers of covered investment contracts to provide certain disclosures. The frequency and the breadth of disclosures would differ across the proposed rules. For example, the disclosures under the fundraising exemption are more extensive than those under the startup exemption and the investment contract safe harbor. The proposed disclosure requirements would be tailored to provide information that is material to investors in covered investment contract offerings so that they can make informed investment decisions.⁴⁷²

Both the benefits and the costs of the various proposed disclosure requirements would be limited to the extent that issuers already provide the required information voluntarily or have such information readily available. For example, as mentioned in section IV.A.3 above, studies have shown that past ICO issuers provided some of the information that the proposed rules would require (e.g., the issuer's primary business purpose, the blockchain application, a timeline for the development of the product or service, and material information about the issuer's management). This would limit the costs to issuers when providing such disclosures, while also limiting the benefit to investors from these proposed disclosures.

When information about an issuer is difficult to obtain or the quality of the information is uncertain, investors are at risk of making poorly informed investment decisions about that issuer. Such information asymmetries may be especially severe for issuers of covered investment contracts because they are more likely to be small and at an early stage of their lifecycle and thus may have significant risk factors such as high information asymmetries, few and intangible assets, high failure rates, and difficulty in accessing capital markets.

Additionally, developers are often not legally bound to their project, operating with limited funding and frequently no formal legal organizational structure (such as corporation) at the start, the latter being permitted under the startup exemption. Crypto creators may have relatively low exit costs because participants in their crypto networks or applications typically have no ownership stakes and limited or no legally enforceable rights. These considerations may give rise to adverse selection and moral hazard concerns. If investors in offerings of covered investment contracts have limited information about issuers or a limited ability to monitor them, they may seek higher compensation for their investment or choose to withdraw from the offering market altogether, both of which would increase the cost of capital to issuers.

Issuers of covered investment contracts would be able to raise a larger amount of capital (up to \$75 million during a 12-month period) under the proposed fundraising exemption. Accordingly, the proposed rules seek to reduce information asymmetries between issuers and potential investors by requiring issuers of covered investment contracts to file specified disclosures with the Commission, which would require financial statements.

These disclosure provisions should improve investor decision-making and could ultimately benefit issuers by improving price efficiency in the market for covered investment contracts. The proposed disclosure requirements would enhance the ability of issuers of covered investment contracts relying on the proposed rules to raise capital, while enabling investors to make informed investment decisions. The ongoing reporting requirements, in particular, would provide a liquidity benefit for secondary sales of covered investment contracts issued under the proposed rules and make the prices of such securities more informationally efficient, should a secondary market develop.

i. Rule 103

Proposed Rule 103 would set forth principles-based disclosure requirements with respect to offerings of covered investment contracts under the proposed startup exemption and the proposed fundraising exemption. Rule 103 would include disclosure requirements organized into the following topics: (1) covered investment contract; (2) offering; (3) subject crypto asset; (4) management, related persons, and conflicts of interest; (5) associated

⁴⁷¹ The \$1,270 estimate is based on the following calculations: (2 burden hours per response × \$635 per hour. See *infra* section V.C.1.a.

⁴⁷² See *supra* section 2.A.4. See also *supra* notes 89 and 90 for a discussion of commenters who suggested that the Commission's existing disclosure requirements for the exempt offering regimes are unfit for application to covered investment contracts.

crypto network/application; plan of development; (6) security; source code; (7) subject crypto asset economics and allocations; (8) governance; (9) subject crypto asset ecosystem; and (10) risk factors. The disclosures required under this proposed rule are tailored to offerings of covered investment contracts and as a result may be less costly for issuers to provide than the disclosures required under some of the other existing exemptions.

The proposed principles-based disclosure requirements for the startup exemption and the fundraising exemption under Regulation Crypto Assets would allow issuers of covered investment contracts to more directly tailor their disclosures to provide the information about their particular circumstances that is material to an investment decision. This ability to tailor disclosures could in turn help reduce an issuer's compliance costs compared to a more prescriptive disclosure requirements regime. The principles-based disclosure requirements would also benefit issuers in the form of lower cost of capital. A number of studies show that increased disclosure and improvements in disclosure quality lead to lower cost of capital for issuers.⁴⁷³ There is also evidence of a positive link between capital-raising activities and disclosure quantity and quality.⁴⁷⁴

The proposed disclosure requirements in Rule 103 could also benefit investors, to the extent that such requirements result in information that is more tailored to the specific circumstances and the needs of investors in covered investment contract offerings. Relatedly, principles-based requirements are less likely to lead to disclosure that is outdated or is less applicable to the particular offering. At the same time, to the extent issuers make incorrect judgments about the materiality of potentially responsive information, the proposed principles-based disclosure approach (as compared to a more prescriptive approach) could result in potentially less precise, incomplete

disclosures from the viewpoint of investors. This limitation could reduce the benefits to investors from the disclosure. Another potential cost associated with the principles-based disclosure approach is that it could reduce comparability across issuers and transactions to the extent that issuers report similar information using different metrics, procedures, or mechanisms.⁴⁷⁵ Retail investors who may not have the resources or ability to obtain information from alternative sources could be more affected than more sophisticated investors as a result.

Some of these potential costs could be mitigated to the extent the Commission's staff reviews certain filings made under the proposed fundraising exemption pursuant to the qualification process. Issuers would also remain subject to the antifraud provisions of the securities laws for omission of information material to an investment decision.⁴⁷⁶ There also may be incentives for issuers to voluntarily disclose additional information if the benefits to issuers of such additional disclosure for investors (e.g., investors requiring a lower discount as compensation for adverse selection, which would reduce issuers' cost of financing) exceed the costs associated with such additional disclosure.

Issuers of covered investment contracts that provide the required disclosures could incur an indirect cost in the form of disclosure of potentially sensitive information to competitors. To the extent that such information could be used by competitors, issuers of covered investment contracts, especially early-stage and high-growth issuers, could potentially lose a competitive or intellectual property advantage. The fact that the disclosure requirements are principles-based could help lessen some of this cost. Further, disclosure costs (both direct and indirect) would be mitigated to the extent that issuers already voluntarily disclose required information (e.g., through whitepapers), and, in the case of the proposed fundraising exemption, by the option to request confidential treatment for certain information, as well as the option to submit a draft offering statement for non-public staff review

(although the offering statements must be publicly filed before sales can occur).

Issuers utilizing the startup exemption would be required to make the information required in proposed Rule 103 available on a publicly accessible website, free of charge, at the website address specified in the notice of reliance at or prior to the time that the notice of reliance is filed.⁴⁷⁷ Additionally, issuers of covered investment contracts that rely on the proposed startup exemption would be required to ensure that the information remains accessible for the entirety of the period the issuer relies on the startup exemption.⁴⁷⁸ Requiring this information for the entirety of the period the issuer relies on the startup exemption would strengthen investor protection by preventing a situation in which an issuer technically complies with Rule 200(d)(1) by providing the information at or prior to filing the notice of reliance but removes that information shortly (or immediately) after filing the notice of reliance.

Giving issuers the flexibility to provide this information on a website of their choice may mitigate some financial and administrative burdens associated with filing on EDGAR. This would also make it easier and less costly for an investor to access the information and make informed investment decisions, compared to a situation where the information is not required to be publicly accessible, or is accessible for a fee. This proposed rule also could generate costs for issuers relying on the exemption. For example, issuers may incur costs in maintaining the website address on which the information will be housed and periodically amending that information to reflect any material changes in the information previously reported. If an issuer already is relying on the other proposed exemption, or otherwise already has this information, such costs would be minimal. Also, this proposed rule could generate costs for investors in such offerings. For example, it may make it more difficult for investors to identify what has changed if an amendment is made to reflect a material change, or to refer to a prior iteration of the disclosure. Additionally, investors may incur search costs if trying to compare disclosures across multiple issuers if they have to collect information on different websites that store and present this information in various formats.

The startup exemption would also require the issuer to amend the information disclosed annually if there

⁴⁷³ See, e.g., Christine Botosan, *Disclosure Level and the Cost of Equity Capital*, 72 *Acct. Rev.* 323 (1997); Christian Leuz & Robert Verrecchia, *The Economic Consequences of Increased Disclosure*, 38 *J. Acct. Rsch.* 91 (2000); Robert Verrecchia, *Essays on Disclosure*, 32 *J. Acct. & Econ.* 97 (2001).

⁴⁷⁴ See, e.g., Paul Healy, et al., *Stock Performance and Intermediation Changes Surrounding Sustained Increases in Disclosure*, 16 *Contemp. Acct. Rsch.* 485 (1999); Mark Lang & Russell Lundholm, *Voluntary Disclosure and Equity Offerings: Reducing Information Asymmetry or Hiding the Stock?*, 17 *Contemp. Acct. Rsch.* 623 (2000); and Nemit Shroff, et al., *Voluntary Disclosure and Information Asymmetry: Evidence from the 2005 Securities Offering Reform*, 51 *J. Acct. Rsch.* 1299 (2013).

⁴⁷⁵ See, e.g., Mark W. Nelson, *Behavioral Evidence on the Effects of Principles and Rules-Based Standards*, 17 *Acct. Horizons* 91 (2003); Katherine Schipper, *Principles-Based Accounting Standards*, 17 *Acct. Horizons* 61 (2003). These articles note potential advantages of rules-based accounting standards, including increased comparability among firms, increased verifiability for auditors, and reduced litigation for firms.

⁴⁷⁶ See, e.g., 17 CFR 240.10b-5(b).

⁴⁷⁷ See proposed 17 CFR 228.200(d)(1).

⁴⁷⁸ See proposed 17 CFR 228.200(d)(2).

are any material changes in the information previously disclosed.⁴⁷⁹ These requirements would benefit investors by providing access to material changes to information previously disclosed by an issuer relying on the startup exemption, which would aid them in their investment decision-making. We estimate compliance costs associated with providing the initial disclosures under Rule 200(d) and the burdens per issuer associated with keeping that information publicly accessible and periodically amending that information to reflect material changes to be \$31,750,⁴⁸⁰ which assumes the issuer does not already have the information otherwise available such as in the form of a whitepaper.

ii. Form NOR

Issuers relying on the startup exemption would be required to file a notice of reliance with the Commission containing the information required by Form NOR, including certain information about the issuer (*e.g.*, name and contact information) and the name of the subject crypto asset, as well as the website address at which the issuer will make the information described in proposed Rule 103 publicly accessible, free of charge, prior to the commencement of any covered transaction.⁴⁸¹ Issuers would also have to file amendments to Form NOR in certain circumstances.⁴⁸² The disclosure requirements in Form NOR would have associated limitations and costs, including the costs of preparation, certification, and dissemination via EDGAR and posting the disclosures on the issuer website. We estimate annual compliance costs per issuer associated with the proposed Form NOR to be \$2,540.⁴⁸³

iii. Form TR

Issuers relying on the proposed startup exemption or the proposed investment contract safe harbor, and some issuers relying on the proposed fundraising exemption, would be required to file a transition report with the Commission containing the information required by Form TR.⁴⁸⁴ Form TR's disclosure requirements would depend on the rule pursuant to

which it was filed and could include, for example, certain information about the issuer, certain information about the covered investment contract, and an analysis as to whether the issuer completed or otherwise permanently ceased all essential managerial efforts that it promised or represented it would engage in under the covered investment contract.⁴⁸⁵ The disclosure requirements in Form TR would have associated limitations and costs, including the costs of preparation, certification, and dissemination via EDGAR. Compliance costs for issuers relying on the proposed investment contract safe harbor would include costs associated with ensuring the accuracy of their certification and analysis supporting such certification. There would be no incremental costs from this requirement for issuers that already filed Form TR under the startup exemption or the fundraising exemption (to the extent that they had filed a single Form TR to satisfy their transition reporting obligations under the relevant exemption as well as the investment contract safe harbor).

The compliance cost per issuer would vary depending on the circumstances under which an issuer is filing Form TR. We estimate compliance per issuer costs associated with the proposed Form TR under the startup exemption to be \$12,700.⁴⁸⁶ We estimate annual compliance costs per issuer associated with the proposed Form TR under the fundraising exemption to be \$13,652.50.⁴⁸⁷ We estimate annual compliance costs per issuer associated with the proposed Form TR under the investment contract safe harbor to be \$19,050.⁴⁸⁸

iv. Offering Statement; Periodic and Current Reporting Requirements

The proposed fundraising exemption would require more extensive disclosures than the other proposed rules in the form of an offering statement, an offering circular, and periodic reports (on an annual, semiannual, and current basis). The disclosure requirements for the proposed fundraising exemption would also be more extensive than those

required under some other existing exemptions from registration,⁴⁸⁹ and offerings under the fundraising exemption must be qualified before sales are made, both of which are expected to enhance investor protection.

The disclosure requirements in the fundraising exemption would benefit investors by providing them with information that would enable them to more accurately value the covered investment contracts at the time of the offering. The proposed periodic disclosures also would allow investors to evaluate how the issuer is performing over time and when the issuer may terminate its ongoing reporting obligations. Additionally, disclosure by one issuer of covered investment contracts could provide important information to investors when evaluating other issuers of covered investment contracts (*e.g.*, about the prospects of those other issuers) to the extent that the issuers are in similar markets or developing similar products. Also, the disclosures proposed under the fundraising exemption would likely have a positive effect on secondary market liquidity for covered investment contracts.⁴⁹⁰

The proposed fundraising exemption would require issuers to prepare an offering statement using Form 1-CRYPTO. Issuers would have two ways to file Part I of proposed Form 1-CRYPTO with the Commission. An issuer could use a fillable web form provided by EDGAR to input Part I of proposed Form 1-CRYPTO disclosures that EDGAR will convert to proposed Form 1-CRYPTO-specific XML, or alternatively, use its own software tool

⁴⁸⁹ For example, Regulation D offerings under Rules 504 and 506(c) and offerings relying on an exemption under Securities Act section 3(a)(11) or section 4(a)(2) do not require one-time or ongoing disclosure and do not undergo qualification by the Commission. However, of those offerings, only offerings under Rule 506(c) have preemption from state law registration or qualification requirements, thus it is possible that other offering types may have disclosure requirements mandated by the states where offers and sales are made. Regulation D offerings under Rule 506(b) require issuers to provide a disclosure document to non-accredited investors with financial statements, but these documents are not filed with the Commission and there are no periodic reporting requirements under Rule 506(b).

⁴⁹⁰ There is a large volume of literature that finds a positive association between increased disclosure and liquidity. *See, e.g.*, Paul Healy, et al., *Stock Performance and Intermediation Changes Surrounding Sustained Increases in Disclosure*, 16 *Contemp. Acct. Rsch.* 485 (1999); Christian Leuz & Robert Verrecchia, *The Economic Consequences of Increased Disclosure*, *J. Acct. Rsch.* 91 (2000); Frank Hefflin, et al., *Disclosure Policy and Market Liquidity: Impact of Depth Quotes and Order Sizes*, 22 *Contemp. Acct. Rsch.* 829 (2005); Stephen Brown & Stephen Hillegeist, *How Disclosure Quality Affects the Level of Information Asymmetry*, 12 *Rev. Acct. Stud.* 433 (2007).

⁴⁷⁹ *See* proposed 17 CFR 228.200(d)(3).

⁴⁸⁰ The \$31,750 estimate is based on the following calculations: 50 burden hours per response × \$635 per hour. *See infra* section V.C.1.c (PRA analysis).

⁴⁸¹ *See* proposed 17 CFR 228.200(e).

⁴⁸² *See* proposed 17 CFR 228.200(c)(3).

⁴⁸³ The \$2,540 estimate is based on the following calculations: 4 burden hours per response × \$635 per hour. *See infra* section V.C.1.b (PRA analysis).

⁴⁸⁴ *See* proposed 17 CFR 228.200(c).

⁴⁸⁵ *See* proposed 17 CFR 228.200(e) (startup exemption); proposed 17 CFR 228.305(c) and (d) (fundraising exemption); proposed 17 CFR 228.400(b) (investment contract safe harbor).

⁴⁸⁶ The \$12,700 estimate is based on the following calculations: 20 burden hours per response × \$635 per hour. *See infra* section V.C.3.a (PRA analysis).

⁴⁸⁷ The \$13,652.50 estimate is based on the following calculations: 21.5 burden hours per response × \$635 per hour. *See infra* section V.C.3.b (PRA analysis).

⁴⁸⁸ The \$19,050 estimate is based on the following calculations: 30 burden hours per response × \$635 per hour. *See infra* section V.C.3.c (PRA analysis).

to file Part I of proposed Form 1-CRYPTO to EDGAR directly in proposed Form 1-CRYPTO-specific XML. Requiring issuers to file Part I of Form 1-CRYPTO on EDGAR in form-specific XML would allow Commission staff to more efficiently process, aggregate, and analyze the reported information about the issuers and offerings prior to qualification of the offering statement, which could increase the efficiency of the Commission's ability to qualify issuer's offering statements.⁴⁹¹ We also expect that filing Part I of Form 1-CRYPTO using form-specific XML will make it easier for markets and investors, as applicable, to access, compile, and analyze the disclosed information, which could facilitate comparisons of issuers or observations regarding the impacts of secondary sales over time.

There are costs associated with filing proposed Form 1-CRYPTO. Requiring issuers to use a form-specific XML for Part I of Form 1-CRYPTO could impose additional compliance costs. Issuers who elect to use the fillable web form described above for their filing are not expected to incur additional software or filing agent costs to prepare the XML submission (beyond the costs of preparing the underlying disclosure). Other issuers may choose to encode their disclosures in XML in accordance with the EDGAR Filer Manual and will submit the XML disclosures to EDGAR directly rather than manually completing fillable web forms to be converted into XML documents. These issuers might incur implementation costs associated with integrating any new or updated XML schemas into their existing data systems; however, it might be beneficial for them because it allows for greater automation (e.g., calculating and prepopulating certain disclosures) in the process of submitting data that is already structured directly to EDGAR. It also removes the need to manually type into fillable web fields.

The fundraising exemption would require that financial statements provided in Form 1-CRYPTO be prepared in accordance with U.S. GAAP. This proposed provision would lead to more standardized financial statements across issuers of covered investment contracts relying on the fundraising exemption, thus improving investors' ability to analyze and compare issuers. This would in turn help decrease the level of information asymmetry between issuers and potential investors, thus lowering the discount that investors require as

compensation for adverse selection and also reducing issuers' cost of financing.⁴⁹² Evidence from past ICO transactions provides support for some of these issuer benefits. For example, ICOs tend to be more successful when their whitepapers are more informative.⁴⁹³ The benefits resulting from the proposed disclosure may be limited to the extent that some of that information is already voluntarily disclosed by issuers.

For Tier 2 offerings under the fundraising exemption, the financial statements included in the offering statement would be required to be audited in accordance with either U.S. GAAS or the standards of the PCAOB—by an auditor that is independent under the independence standards of Rule 2-01 of Regulation S-X—and the report and qualifications of the independent accountant would be required to comply with the requirements of Article 2 of Regulation S-X. Audited financial statements could lower the cost of capital or increase the supply of capital because of potentially higher investor confidence in the quality of financial statements that are audited by an independent public accountant. One important direct cost for issuers relying on the proposed fundraising exemption would be the compliance costs associated with the preparation and distribution of the offering circular, offering statement, and periodic filings. The financial information required under the fundraising exemption would be more extensive than the information required under several existing exemptions, such as Rule 506(c) and section 4(a)(2) of the Securities Act.⁴⁹⁴ These requirements are also much more extensive than what issuers in prior ICOs provided.⁴⁹⁵ On the other hand, these disclosures are similar to those required under larger Regulation Crowdfunding offerings. Thus, when deciding whether to raise capital via the proposed fundraising exemption or some of the existing exemptions, issuers of covered investment contracts would weigh, among other things, the benefits

and costs of these disclosure requirements.

The requirement of audited financial statements could also impose significant costs on issuers of covered investment contracts, and the costs of an audit could discourage the use of Tier 2 offerings in the fundraising exemption. Audit costs could have a fixed component, which would make them costlier for smaller issuers. As mentioned earlier, issuers of covered investment contracts are likely to be small and early-stage. For such issuers, audit costs could be relatively large, especially because of the fixed costs component. Based on data from registered IPOs with proceeds under \$75 million from 2014 through 2024 by issuers that would have been potentially eligible for the fundraising exemption, the average (median) total accounting fees amounted to 1.9 percent (0.9 percent) of gross offering proceeds, where reported separately.⁴⁹⁶ That said, the proposed flexibility for issuers of covered investment contracts to choose between having financial statements audited in accordance with either U.S. GAAS or the standards of the PCAOB, may help contain some of the issuer compliance costs relative to only permitting audits that are in accordance with the standards of the PCAOB.

We estimate compliance costs per issuer associated with Form 1-CRYPTO to be \$455,531.22 for both Tier 1 and Tier 2 offerings (including audit costs).⁴⁹⁷ We estimate compliance costs per issuer associated with Form 1-KC to be \$381,000 for both Tier 1 and Tier 2 offerings.⁴⁹⁸ We estimate compliance costs per issuer associated with Form 1-SC to be \$119,405.40 for both Tier 1 and Tier 2 offerings.⁴⁹⁹ We estimate compliance costs per issuer associated

⁴⁹⁶ This estimate is based on London Stock Exchange Group's Securities Data Company data on IPOs with issue dates in 2014 through 2024, excluding offerings from non-US issuers, blank check companies, and investment companies. Offerings with proceeds below \$1,000 are excluded to minimize measurement error. Accounting fees include the cost of preparing accounting statements, in addition to the cost of an audit. We also note that costs incurred by issuers in registered IPOs may not be representative of costs incurred by issuers in Tier 2 offerings.

⁴⁹⁷ The \$455,531.22 estimate is based on the following calculations: 717.372 burden hours per response × \$635 per hour. See *infra* section V.C.2.a (PRA analysis).

⁴⁹⁸ The \$381,000 estimate is based on the following calculations: 600 burden hours per response × \$635 per hour. See *infra* section V.C.2.b (PRA analysis).

⁴⁹⁹ The \$119,405.40 estimate is based on the following calculations: 188.04 burden hours per response × \$635 per hour. See *infra* section V.C.2.c (PRA analysis).

⁴⁹¹ See *supra* note 512 and accompanying discussion regarding potential cost to issuers waiting for offerings to be qualified.

⁴⁹² See, e.g., Christian Leuz & Peter D. Wysocki, *The Economics of Disclosure and Financial Reporting Regulation: Evidence and Suggestions for Future Research*, 54 J. Acct. Rsch. 525 (Feb. 2016). This article surveys the empirical literature on the economic consequences of disclosure. The authors discuss potential capital-market benefits from disclosure and reporting, such as improved market liquidity and decreased cost of capital.

⁴⁹³ See Evgeny Lyandres, et al., *ICO Success and Post-ICO Performance* (working paper, July 17, 2020), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3287583 (retrieved from SSRN Elsevier database).

⁴⁹⁴ See *supra* section IV.A.1.

⁴⁹⁵ See *supra* section IV.A.3.

with Form 1–UC to be \$3,175 for both Tier 1 and Tier 2 offerings.⁵⁰⁰

e. Unrestricted Covered Investment Contracts

The proposed startup and fundraising exemptions would allow issuers to offer and sell unrestricted covered investment contracts to potential purchasers. This could improve the liquidity of these contracts, and that of the subject crypto assets, and make them more attractive to potential purchasers compared to a scenario where the covered investment contracts were restricted securities. As mentioned above, the ability of issuers to provide freely tradable and liquid underlying crypto assets is key for incentivizing participation in the crypto networks/applications that support the ability of those networks/applications to develop and achieve network effects. The ability, because of the proposed rules, of issuers to offer and sell unrestricted covered investment contracts would likely enhance the tradability and liquidity of the subject crypto assets, thereby attracting more participants and facilitating the scaling of the associated crypto network or associated crypto application to obtain the benefits of network effects. It would also allow issuers to raise capital to fund economic incentives at the early stages of the network/application, which could be important for keeping it secure, useful, and active. The ability of issuers to offer and sell unrestricted covered investment contracts would also lower investor trading costs.

Issuers of covered investment contracts could benefit in two main ways: (1) increased capital raising, and (2) better pricing, in terms of lower discounts to be offered to investors. The ability to purchase unrestricted covered investment contracts could make more investors interested in an offering under the proposed exemptions, as compared to an offering pursuant to which they receive restricted securities, thus allowing an issuer to raise more capital, more quickly and efficiently. Additionally, if investors in an offering were to obtain illiquid securities, then they would likely require a discount to the fair market price of these securities to compensate them for their limited ability to trade in these securities. The ability to purchase unrestricted covered investment contracts under the proposed rules would reduce potential investors' need for such an illiquidity discount at the time of initial purchase

and further lower the issuers' cost of capital raising. In addition, to the extent that this results in active secondary trading, it would promote enhanced price discovery and greater informational efficiency of covered investment contract prices.

Quantifying the benefit for issuers of potentially lower illiquidity discounts on covered investment contracts offerings, as a result of the proposed rules, is difficult. Academic studies have tried to estimate the magnitude of the illiquidity discount using various types of transactions, including private or public companies. One study examined the discount between unrestricted and restricted shares of the same public issuer. It found that such illiquidity (also called "marketability") discount varies between 5.2 percent and 5.6 percent.⁵⁰¹ Two other studies, one using data on acquisitions of similar private and public companies⁵⁰² and the other using data on privately traded companies and publicly traded companies,⁵⁰³ found the illiquidity discount to be around 20 percent to 25 percent. This range of estimates is wide—from approximately five percent to 25 percent. Yet, even under a more conservative approach that assumes the potential illiquidity discount on covered investment contracts would be closer to the five percent lower bound of the estimated range, a reduction or elimination of that discount as a result of the proposed rules' requirements would provide a significant benefit to the issuers of covered investment contracts by allowing them to issue fewer covered investment contracts to raise the desired amount of capital. It is also plausible, however, that the size of the illiquidity discount for covered investment contracts would be larger. The issuers of covered investment contracts are likely to be smaller and younger than the private companies used in the analyses in the referenced studies, which makes the likelihood of a liquid post-offering market for covered investment contracts developing more uncertain. Additionally, because of their unique features, trading in covered investment contracts may be different and newer than that in more traditional securities, which also makes the liquid post-offering market more uncertain. Hence, potential investors in covered

investment contracts may require illiquidity discounts that are larger than 25 percent. If that were the case, the potential benefit of the proposed rules could be much larger.

The magnitude of the potential benefits associated with unrestricted covered investment contracts would depend on the degree to which a liquid secondary market for covered investment contracts develops after an initial offering. If such a market does not develop, or takes time to develop, the magnitude of the benefits associated with unrestricted covered investment contracts may be fairly small.

2. Benefits and Costs of the Proposed Startup Exemption

The startup exemption is intended to provide issuers with a regulatory runway during which they could attempt to fulfill their representations or promises to engage in essential managerial efforts under covered investment contracts. Proposed Rule 200(b)(1) would require the covered transaction to occur during the period beginning after the issuer has filed a notice of reliance and ending on the date that is the earlier of (i) four years after the date of such filing or (ii) the date on which the issuer files a transition report pursuant to proposed Rule 200(e). The four-year maximum period specified by the proposed rule would benefit issuers by providing them with a reasonable amount of time to fulfill their representations or promises to engage in essential managerial efforts under covered investment contracts. Issuers relying on the exemption would be able to perform the tasks needed to develop, test, and launch their projects with requirements that are tailored to covered investment contracts and their issuers for the duration of the exemption. It could also generate costs for issuers for which four years is not enough to fulfill such representations or promises. Such issuers may need to rely on other, potentially more expensive, exemptions to raise capital needed to fulfill such representations or promises.

The four-year maximum period specified by the proposed rule could also benefit investors in covered investment contracts by providing them with a better understanding of the potential "outside date" within which the issuer likely would seek to fulfill its representations or promises under the covered investment contract. For example, this would allow investors who prefer to hold covered investment contracts, or generally prefer to hold securities instead of non-security crypto assets, to sell such covered investment contracts within this four-year period as

⁵⁰¹ See Robert Comment, *Revisiting the Illiquidity Discount for Private Companies: A New (and "Skeptical") Restricted Stock Study*, 24 J. Applied Corp. Fin. 80 (Mar. 2012).

⁵⁰² See John Koeplin, et al., *The Private Company Discount*, 12 J. Applied Corp. Fin. 94 (2000).

⁵⁰³ See Stanley Block, *The Liquidity Discount in Valuing Privately Owned Companies*, 17 J. Applied Fin. 33 (2007).

⁵⁰⁰ The \$3,175 estimate is based on the following calculations: 5 burden hours per response × \$635 per hour. See *infra* section V.C.2.d (PRA analysis).

they may not fit their investment strategies/horizons anymore. If such investors have to liquidate their positions in a short period of time, this could put downward pressure on the value of covered investment contracts and thus may generate losses for investors in those contracts.

Proposed Rule 200(b)(2) would state that the issuer may be an entity, an individual, or a group of individuals or entities. This provision would be beneficial to issuers since it would allow an issuer that is in the early stages of a project, as well as a developer or development team that may not have consulted legal counsel or spent the time and money to form a legal entity through which to conduct their business, to be able to use the exemption and raise capital. Also, proposed Rule 200(b)(2) would require that if the issuer is composed of a group of individuals/entities, each member of the group must satisfy the conditions and provide the required certifications. This requirement would strengthen investor protection by preventing potential evasion of the proposed rules through organizational structuring.

Proposed Rule 200(b)(3) would require that the issuer and its affiliates have not previously relied on the startup exemption for the subject crypto asset, or a substantially similar crypto asset, other than with respect to covered transactions that occurred during the period set forth in Rule 200(b)(1). This requirement would strengthen investor protection by preventing a single issuer from circumventing the offering size limitation by permitting multiple affiliates of an issuer, using the subject crypto asset, or a substantially similar crypto asset, to raise collectively more than \$5 million without providing more disclosures or being subject to additional requirements commensurate with the larger amount of capital being raised. This rule could also impose costs on issuers that have multiple affiliates engaged in developing associated crypto networks or associated crypto applications, to the extent that those applications and networks use the same or a substantially similar subject crypto asset.

We estimate compliance costs per issuer associated with the startup exemption to be \$48,641.⁵⁰⁴ These costs

include burdens associated with several proposed rules that are relevant to the startup exemption, and are described in more detail above.

3. Benefits and Costs of the Proposed Fundraising Exemption

The fundraising exemption would benefit issuers of covered investment contracts by providing a framework to more efficiently raise capital and would increase issuer choice when relying on external financing for capital formation. The proposed fundraising exemption would benefit investors because the conditions of the exemption would ensure that investors are adequately informed and protected. On the other hand, issuer eligibility criteria may prevent certain issuers from using the exemption, thus making them rely on costlier or more burdensome sources of capital. Additionally, the investment limitation may reduce the ability of some investors to invest as much as they would like in potentially beneficial investment opportunities and may limit the attractiveness of the proposed fundraising exemption to prospective issuers, thereby reducing the potential capital formation and competition benefits.

a. Issuer Eligibility Criteria

The eligibility criteria in proposed Rule 300(b) would strengthen investor protection by limiting the set of issuers that can rely on the proposed fundraising exemption.⁵⁰⁵ The proposed fundraising exemption would not be available to: a development stage company that either has no specific business plan or purpose, or has indicated that its business plan is to merge with or acquire an unidentified company or companies;⁵⁰⁶ an investment company registered or required to be registered under the Investment Company Act or a business development company as defined in Investment Company Act section 2(a)(48);⁵⁰⁷ or an issuer that is or has been subject to any order of the Commission entered pursuant to Exchange Act section 12(j) within five years before the filing of the offering statement (provided, however, that this exclusion would not apply to any issuer subject to an order of the Commission entered pursuant to section 12(j) before the date on which Rule 300 becomes

effective, if the rule is ultimately adopted).⁵⁰⁸

Investors, especially less sophisticated investors, may find it difficult and costly to determine the valuation and risk of securities of a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to merge with or acquire an unidentified company or companies, so the exclusion of those companies from the proposed fundraising exemption may reduce investor costs or risks. Similarly, the specialized nature of investment companies and business development companies would warrant different disclosures than what we propose in the fundraising exemption for a proper understanding of an investment in their securities. Excluding issuers of covered investment contracts that were subject to a denial, suspension, or revocation order by the Commission pursuant to Exchange Act section 12(j) within the five years preceding the filing of the offering statement may help incentivize issuers to comply with their obligations under the Exchange Act, including their ongoing reporting obligations, and will prevent issuers with a history of non-compliance from relying on the fundraising exemption after they terminate or suspend their Exchange Act reporting obligations. This would further enhance investor protection.

Additionally, an issuer seeking to raise capital via the fundraising exemption would be required to be an entity organized under, and subject to, the laws of the United States, or any State or territory of the United States or the District of Columbia; provided further that (i) a majority of the issuer's executive officers or directors must be U.S. citizens or residents, (ii) more than 50 percent of the issuer's assets must be located in the United States, and (iii) the issuer's business must be administered principally in the United States. These conditions may facilitate the ability of investors to seek recourse against issuers in the event of fraud or other misconduct and provide domestic investors with more easily accessible investment opportunities. It would also make it easier for investors to collect and analyze information and value issuers' covered investment contracts.

To the extent that some issuers would be ineligible to rely on the proposed exemption to raise capital, they may have to rely on costlier or more burdensome sources of capital or alter their organizational structure in order to qualify for the exemption. We also

⁵⁰⁴ The estimate is calculated as \$35,941 + \$12,700. The \$35,941 estimate is based on the following calculations: 56.60 burden hours per response × \$635 per hour. These include the total estimated paperwork burdens of the "Rule 200 of Regulation Crypto Assets (Form NOR)" information collection attributed to Rules 104(b), 200(c), and 200(d), plus the burdens associated with filing Form ID. See *infra* section V.C.1.d (PRA analysis).

The \$12,700 estimate is the cost associated with the proposed Form TR attributable to Rule 200(e) under the startup exemption and is based on the following calculations: 20 burden hours per response × \$635 per hour. See *infra* section V.C.3 (PRA analysis).

⁵⁰⁵ See *supra* section II.C.2.a.ii.

⁵⁰⁶ See proposed 17 CFR 228.300(b)(2).

⁵⁰⁷ See proposed 17 CFR 228.300(b)(3).

⁵⁰⁸ See proposed 17 CFR 228.300(b)(4).

recognize that excluding certain categories of issuers would affect capital formation by preventing offerings by issuers who otherwise might have utilized the fundraising exemption rather than other methods of capital raising. The negative effect on capital formation for the issuers ineligible under the proposed exemption may be mitigated if such issuers avail themselves of other exemptions.

b. Requirements Regarding Offers and Sales; Investment Limitations

The proposed fundraising exemption would allow sales to be made only after the offering statement has been qualified. Subjecting the offering statement to Commission staff review (pursuant to delegated authority from the Commission⁵⁰⁹) prior to the issuer being permitted to make sales would have investor protection benefits. Certain of the offering conditions of the fundraising exemption would provide benefits to issuers as well, as they would allow issuers to communicate and make offers to potential investors prior to qualification. Additionally, the proposed rules would allow for continuous or delayed offerings in some circumstances, which may offer valuable flexibility to issuers. Lastly, Rule 300(c) would provide that, other than solicitation of interest communications pursuant to Rule 304 (*i.e.*, testing the waters), no offer of securities may be made unless an offering statement has been filed with the Commission. This proposed requirement would protect investors by ensuring that they have access to the appropriate material information in connection with any such offer.

Under the proposed rules, if the purchaser is not an accredited investor as defined in Rule 501(a) of Regulation D,⁵¹⁰ the aggregate purchase price to be paid by the purchaser cannot exceed 10 percent of the greater of the purchaser's annual income or net worth (or in the case of non-natural persons, the greater of revenue or net assets for the most recently completed fiscal year). An issuer may rely on a representation of the purchaser when determining compliance with this investment limitation, provided that the issuer does not know at the time of sale that the representation is untrue. This limitation would apply to both Tier 1 and Tier 2 offerings.

The purchaser limitations could lead to a more dispersed non-accredited investor base or a higher proportion of accredited investors in the investor base

to the extent that the 10 percent threshold impacts investor participation. If non-accredited investors face investment limits, then issuers may need to solicit a greater number of non-accredited investors, or more accredited investors, to raise the capital they need. This could facilitate increased liquidity as there would be more potential sellers for interested purchasers, compared to a scenario without purchaser limitations.

There could be costs associated with investment limits. In particular, the investment limitation could curtail potential gains for non-accredited investors in Tier 1 and Tier 2 offerings. The investment limits may reduce the ability of some investors to invest as much as they would like in potentially beneficial investment opportunities and may limit the attractiveness of the proposed fundraising exemption to prospective issuers, thereby reducing the potential capital formation and competition benefits. The investment limitation could result in some issuers needing to solicit a greater number of investors or to solicit additional accredited investors, which could lead to additional costs for those issuers or limit capital formation if they are unable to attract additional investors.

Rule 300(c) would provide that, other than solicitation of interest communications pursuant to Rule 304 (*i.e.*, testing the waters), no offer of securities may be made unless an offering statement has been filed with the Commission.⁵¹¹ This would result in greater costs for issuers compared to some existing offering exemptions (*e.g.*, Regulation D) which do not require issuers to abstain from making an offer until a certain form is filed with the Commission. With respect to sales, the rule would provide that no sale of securities may be made until the offering statement has been qualified,⁵¹² which could result in issuers missing out on favorable market conditions (*e.g.*, strong investor interest in the issuer or its securities) while waiting for the offering to be qualified.

The ability to rely on investor representations should help mitigate potential costs that issuers could otherwise incur to comply with the investment limitation provisions.

c. Continuous or Delayed Offerings

The proposed fundraising exemption would permit continuous and delayed offerings including selling securityholders, as described in Rule 300(c)(3)(i). Rule 300(c)(3)(i)(F) would

allow issuers to undertake continuous offerings that may continue for a period of more than 30 calendar days from the date of initial qualification (if offered in an amount that, at the time the offering statement is qualified, is reasonably expected to be offered and sold within two years from the initial qualification date). This would benefit issuers by allowing them to offer and sell securities over time, as permitted in continuous offerings, to raise capital. The magnitude of this benefit for issuers is likely large.

Additionally, the ability to conduct continuous or delayed offerings would benefit issuers because they would allow selling securityholders to participate in offerings qualified under the fundraising exemption, subject to the limitations on offering amount in proposed Rule 300(a), thus facilitating liquidity for existing securityholders and new investors in the offering. Also, permitting selling by insiders in offerings under the proposed exemption could facilitate a more widespread distribution of the subject crypto assets, which may help issuers fulfill their representations and promises under the covered investment contract, including, for example, more efficiently meeting decentralization targets.

The ability to conduct continuous or delayed offerings under the fundraising exemption may generate costs for issuers and investors. For example, allowing selling by insiders in such offerings could diminish their incentives to work towards developing and finalizing the functionality of the associated crypto network or associated crypto application, thus creating costs for investors in terms of lower value of covered investment contracts. Some of these costs would be mitigated by the limitations placed on holders of covered investment contracts in Rule 300(a) and the principles-based disclosure requirement regarding management of the issuer, related persons of the issuer, and conflicts of interest and related person transactions involving the issuer in Rule 103(b)(4).

d. Confidential Treatment

Proposed Rule 300(d) would provide that a request for confidential treatment may be made under 17 CFR 230.406 for information required to be filed, and 17 CFR 200.83 for information not required to be filed. This proposed rule would benefit issuers by allowing them to keep potentially sensitive information from being disclosed to their competitors, which may negatively affect their competitive advantages.

⁵⁰⁹ See *supra* note 340.

⁵¹⁰ Proposed 17 CFR 228.300(c)(2)(i)(C).

⁵¹¹ Proposed 17 CFR 228.300(c)(1).

⁵¹² Proposed 17 CFR 228.300(c)(2)(i)(A).

e. Testing the Waters Provision

The proposed rules would allow the issuers relying on the fundraising exemption to make non-binding solicitations of interest, indications of interest, and similar communications (“testing the waters”) prior to qualification of the offering statement. Allowing these communications would enable issuers of covered investment contracts to determine market interest in their securities before incurring the costs of preparing and filing an offering statement. If, after testing the waters, the issuer of covered investment contracts is not confident that it would attract sufficient investor interest, this issuer could consider alternate methods of raising capital and thereby avoid the costs of an unsubscribed or under-subscribed offering. Allowing testing the waters at any time prior to qualification of the offering statement, rather than only prior to filing of the offering statement with the Commission, may increase the likelihood that the issuer will raise the desired amount of capital. This option may be useful for smaller issuers of covered investment contracts, especially early-stage issuers, first-time issuers, and other issuers with a high degree of information asymmetry, for which an unsuccessful offering could result in being unable to raise the needed capital and incurring additional expenses.

Expanding the permissible use of testing the waters communications could also increase the type and extent of information available to investors, which could lead to more efficient prices for the offered covered investment contracts. The proposed rules would permit testing the waters for an expanded period, from the moment an issuer decides to approach investors to the offering qualification. Further, requiring issuers using testing the waters solicitations after the offering statement is publicly filed to provide the offering statement with the testing the waters materials (or provide information about where it can be accessed), and to update it and redistribute updates in the event of material changes, would allow investors to make better informed investment decisions. For example, investors could glean important information regarding the progress of the offering before and after the offering statement is publicly filed that may affect their decision of whether and how much to invest in the offering. This feature of the exempt framework has proved useful for Regulation A issuers. For example, on average 37 percent of qualified Regulation A offerings from 2015

through 2024 used testing the waters communications. There was a greater reliance (approximately 47 percent) on the provision for larger qualified offerings (*i.e.*, those with over \$1 million of proceeds).⁵¹³

We estimate compliance costs per issuer associated with the fundraising exemption to be \$973,145.12.⁵¹⁴ These costs include burdens associated with several proposed rules that are relevant to the fundraising exemption and are described in more detail above.

4. Benefits and Costs of the Proposed Investment Contract Safe Harbor

Under proposed Rule 400, a covered investment contract would be deemed to have ceased to exist, and the crypto asset that was subject to the covered investment contract would be deemed not to constitute or represent or to be subject to that investment contract for purposes of Securities Act section 2(a)(1)⁵¹⁵ and Exchange Act section 3(a)(10).⁵¹⁶ If certain conditions are satisfied, Rule 400 is intended to codify the Commission’s view articulated in the 2026 Interpretation on when a covered investment contract ceases to exist. In addition, we are providing further clarity in this release on what types of actions would not constitute essential managerial efforts,⁵¹⁷ which will provide additional certainty to issuers of covered investment contracts who are trying to satisfy the conditions set forth in proposed Rule 400(a). The investment contract safe harbor would be available to any issuer that satisfies its conditions. Thus, the safe harbor would be available to issuers that have utilized the startup exemption or the fundraising exemption, once they have satisfied the safe harbor’s conditions. The safe harbor also would be available to issuers that have not utilized these proposed exemptions.

By codifying the Commission’s view articulated in the 2026 Interpretation, the investment contract safe harbor could provide greater certainty to both issuers and investors as to when a

crypto asset no longer is subject to an investment contract. This would make it easier for investors to identify when covered investment contracts would cease to exist and to make better investment decisions regarding covered investment contracts in their portfolio. Another potential benefit of the safe harbor could be informing the market and investors that the issuer believes the crypto asset is no longer subject to an investment contract. There also could be related investor protection benefits associated with requiring the issuer to include its conclusions/analysis in a Commission filing. These benefits will only be realized to the extent an issuer takes advantage of the safe harbor rather than relying on the 2026 Interpretation.

For issuers that already have filed a Form TR under the startup exemption or the fundraising exemption, there would be no incremental costs from this requirement. For issuers that have not utilized these proposed exemptions, we estimate compliance costs per issuer associated with filing proposed Form TR under the investment contract safe harbor to be \$19,431.⁵¹⁸

5. Benefits and Costs of the Proposed Preemption of State Registration and Qualification Requirements

Proposed Rule 500 would set forth a new definition of “qualified purchaser.” The proposed definition would provide that a “qualified purchaser” includes any person to whom securities are offered or sold pursuant to an offering under Regulation Crypto Assets or an offering pursuant to a transaction by any person other than an issuer, underwriter, or dealer with respect to a covered investment contract; provided that: (1) the issuer has satisfied the requirements of an exemption under Regulation Crypto Assets with respect to such covered investment contract; and (2) the issuer remains subject to, and is current with respect to, such exemption’s disclosure and filing requirements and/or periodic reporting obligations, as applicable. Thus, the proposed rule would preempt State securities laws registration and qualification requirements with respect to the initial sales of covered investment contracts under Regulation Crypto Assets and certain resales of covered investment contracts.

The proposed preemption of State securities law registration and qualification requirements for primary

⁵¹³ See Angela Huang, *Analysis of the Regulation A Market: A Decade of Regulation A* (May 2025), available at <https://sec.gov/files/dera-reg-2505.pdf>.

⁵¹⁴ The \$973,145.12 estimate is the sum of \$959,111.62 + \$14,033.50. The \$959,111.62 estimate is based on the following calculations: 1,510.412 burden hours per response × \$635 per hour for information collections attributable to Form 1-CRYPTO, Form 1-KC, Form 1-SC, Form 1-UC. See *infra* section V.C.2 (PRA analysis). The \$14,033.50 estimate is based on the following calculations: 22.1 burden hours per response × \$635 per hour for information collections attributable to Rules 305(c) and 305(d) and the burdens associated with Form ID. See *infra* section V.C.3.c (PRA analysis).

⁵¹⁵ 15 U.S.C. 77b(a)(1).

⁵¹⁶ 15 U.S.C. 78c(a)(10).

⁵¹⁷ See *supra* section II.A.4.b.i.

⁵¹⁸ The \$19,431 estimate is based on the following calculations: 30.6 burden hours per response × \$635 per hour for the information collection attributable to Rule 400(b) and the burdens associated with Form ID. See *infra* section V.B.1.d.iii (PRA analysis).

offerings would eliminate the burden of responding to multiple reviews for the same offering, thus leading to a more streamlined offering process. There are several U.S. jurisdictions, comprising the 50 states, the District of Columbia, and the U.S. territories.⁵¹⁹ Each jurisdiction may have its own requirements, which typically include: (i) filing State administrative forms and other paperwork necessary for compliance with State registration requirements; (ii) adhering to disclosure standards; and (iii) in some states, requirements based upon the merits of the offering or issuer (which may conflict with each other).⁵²⁰ We do not have updated data to estimate costs of complying with Blue Sky laws, however, in a previous rulemaking the Commission received an estimate that an issuer seeking State registration in 50 states would incur \$80,000 to \$100,000 in legal fees.⁵²¹ Also, State filing requirements are not tailored to crypto asset projects, so it may be costly or impossible for issuers to attempt to comply with each State's rules.

As with preemption of State registration and qualification requirements for primary offerings under Regulation D and Regulation Crowdfunding, preemption of State registration and qualification requirements for primary offerings under the proposed offering exemptions would likely reduce covered investment contract issuers' time and compliance costs, thus making it cheaper to raise capital via the startup exemption as well as the fundraising exemption. A 2012 GAO report found that compliance with State securities registration and qualification requirements was one of the factors that appeared to have influenced the infrequent use of the original Regulation A by small businesses, before the Commission preempted State registration and qualification requirements for purchasers in Tier 2 Regulation A offerings in 2015.⁵²² Similarly, a

whitepaper showed that Regulation D issuers seeking to raise up to \$1 million and up to \$5 million overwhelmingly rely on Rule 506(b) (pursuant to which State registration and qualification is preempted) even though such amounts could be raised (without such preemption) under Rule 504 and (since rescinded) Rule 505 of Regulation D.⁵²³ In particular, with respect to covered investment contracts, we anticipate that issuers would likely rely on the proposed exemptions to conduct offerings across multiple states to facilitate the development of decentralized networks across jurisdictions.⁵²⁴ Complying with Blue Sky laws across 54 U.S. jurisdictions could increase costs significantly and could deter issuers from otherwise using the proposed exempt offerings.⁵²⁵

In addition, unlike Regulation D and Regulation Crowdfunding, the proposed exemptions would preempt State registration and qualification for secondary trading. Absent preemption for secondary trading, issuers of covered investment contracts would need to comply with State law registration and qualification requirements applicable to resales in every jurisdiction in which such resales occur, which could result in significant compliance costs and potentially reduce the number of jurisdictions in which secondary trading occurs.⁵²⁶ As one commenter explained, without preemption, secondary trading is "subject to a patchwork of manual exemption regimes that vary state-by-state" resulting in "a fragmented and opaque system that places unnecessary burdens on issuers, investors, broker-dealers, and trading platforms."⁵²⁷ Moreover, existing State law requirements for secondary trading may be outdated and ill-suited for issuers of

covered investment contracts.⁵²⁸ Preempting State registration and qualification requirements for secondary trading would help facilitate the unrestricted sale and purchase of covered investment contracts across jurisdictions. This in turn would facilitate the success of the associated crypto network or application, which often depends on the extent to which the crypto asset is widely held and used.⁵²⁹

Preemption of secondary sales may also lower offering costs because investors may be less likely to demand liquidity discounts. For covered investment contract issuers that decide to rely on any of the proposed exemptions and at the same time use other exemptions without preemption (such as Securities Act section 4(a)(2), Securities Act section 3(a)(11), or Rule 504 of Regulation D) to raise capital, the proposed State securities law preemption would lower the cost of those offerings as well, because secondary market transactions involving the covered investment contracts sold pursuant to those existing exemptions also would be preempted by the proposed rule if the issuer has also satisfied the requirements of an exemption under Regulation Crypto Assets, and the issuer remains subject to and current with respect to such exemption's disclosure and filing requirements and/or periodic reporting obligations. In addition, to the extent that the proposed preemption of State securities registration and qualification requirements for certain resales results in active secondary trading, it might promote enhanced price discovery and greater informational efficiency of covered investment contract prices.⁵³⁰

The proposed preemption of State securities registration and qualification requirements could also benefit investors in covered investment contracts because the issuers' cost savings from not having to register or qualify their offerings with State regulators ultimately may be utilized to complete the issuers' essential managerial efforts. Further, by extending the preemption of State registration and qualification requirements to certain resales of covered investment contracts, the proposed rule also would benefit investors in covered investment contracts through potentially enhanced liquidity. To the extent that easier resales may draw additional investors, this may increase interest in primary

The GAO Report also cites other factors that may have discouraged issuer use of the Regulation A exemption, including a comparatively low \$5 million offering limitation, a slow and costly filing process associated with Commission qualification, and the availability of other exemptions under the Federal securities laws.

⁵¹⁹ *Uniform Securities Acts*, N. Am. Sec. Adm'rs Assoc., available at <https://nasaa.org/industry-resources/uniform-securities-acts/>.

⁵²⁰ See, e.g., Stuart R. Cohn, Securities Counseling for Small and Emerging Companies, Merit Review § 12:8 (2025–6) (describing merit review as "the authority of state administrators to deny, suspend or revoke an offering because the administrator believes that the offering has substantive weaknesses in structure, financial strength or fairness to investors"). Not every state has the traditional "unfair, unjust or inequitable" merit review standard, or its equivalent. Nor do states apply standards with equal rigor. *Id.*

⁵²¹ 2015 Regulation A Release at 21886.

⁵²² See U.S. Gov't Accountability Off., *Factors That May Affect Trends in Regulation A Offerings*, GAO–12–839 (July 2012), available at <http://www.gao.gov/assets/600/592113.pdf> (the "GAO Report").

⁵²³ See Scott Bauguess et al., *Capital Raising in the U.S.: An Analysis of the Market for Unregistered Securities Offerings, 2009–2017* at 2 (SEC, DERA White Paper, Aug. 2018), available at https://sec.gov/files/dera-white-paper_regulation-d_082018.pdf.

⁵²⁴ See *supra* section II.E.1.

⁵²⁵ See 2015 Regulation A Release at 21886.

⁵²⁶ Thompson Reuters, *Blue Sky Laws: Registration of Securities Transactions Exempt from Registration Under State Securities Regulations*, 50 State Regulatory Surveys (July 2025). The majority of states have some form of exemption from State registration and qualification requirements for secondary trading. Some states have a Manual Exemption, others have other types of exemptions for secondary trading, and some states do not have any exemption for secondary trading. *Id.*

⁵²⁷ Letter from GUARDD.

⁵²⁸ See letter from CrowdCheck Law.

⁵²⁹ See *supra* section I.

⁵³⁰ See *supra* section IV.B.1.e.

offerings of covered investment contracts where the issuer satisfied the requirements of an exemption under the proposed rules, and remains subject to, and is current with, such exemption's disclosure and filing requirements and/or periodic reporting obligations. Also, the preemption of State registration and qualification requirements to resales would benefit investors because they would not have to comply with or look for an exemption from State registration/qualification requirements for resales, thus potentially lowering compliance costs for them. Finally, investors may be harmed if issuers exclude their home State due to the costs of compliance in that particular State.

We recognize that the proposed preemption of State registration and qualification requirements may remove an additional layer of investor protection provided by their review process. These may include additional investor protections arising from the resources of State regulators that may aid in detecting fraud and facilitating issuer compliance. In addition, merit-based review of offerings undertaken by some States may, in some cases, provide a level of investor protection different from the disclosure-based review undertaken by Commission staff.⁵³¹ States will, however, retain jurisdiction to bring antifraud enforcement actions.⁵³² Covered investment contract issuers may face a higher cost of capital if investors perceive increased investment risk as a result of preemption. These potential costs, however, could be mitigated by certain proposed investor protection requirements, including requirements for public disclosure (including ongoing, periodic reporting); investment limits; offering limits; a maximum, four-year offering duration under the startup exemption; issuer eligibility requirements; and disqualification provisions.

C. Effects on Efficiency, Competition, and Capital Formation

1. Effects on Efficiency

The proposed rules would likely lead to improvements in efficiency as they would facilitate a distribution of crypto assets in compliance with the Federal securities laws. To the extent such

distribution constitutes an offer or sale of a covered investment contract, the proposed rules would provide tailored exemptions that address the key shortcomings of existing offering exemptions vis-a-vis covered investment contracts and include investor protection features. The proposed exemptions would enhance efficiency by enabling issuers of covered investment contracts to rely on and fund economic incentives that are essential for the development and functioning of their associated crypto networks or associated crypto applications. The proposed rules would allow issuers to more efficiently and quickly develop, and incentivize the development of, the functionalities of their associated crypto networks or associated crypto applications. Additionally, the proposed rules would also enable networks to take root that otherwise would not have been able to, further enhancing efficiency.

Also, issuers of covered investment contracts may be able to optimize their financing strategy, resulting in a lower cost of capital or more timely access to financing. The proposed rules are intended to facilitate the offering process and entry into capital markets for issuers that find existing exemptions to be too costly or inadequate for their funding needs, or otherwise not fit for purpose. To the extent that those issuers raise capital at lower costs than they otherwise could, the proposed rules would generate efficiency gains for them.

In addition, if issuers' covered investment contracts represent valuable projects not found elsewhere in the capital markets, adding them to the investment choices, particularly for non-accredited investors, may result in more efficient capital allocation in investor portfolios, and more efficient matching between investors and companies seeking capital. This will allow investors with various risk preferences to invest in the offerings best suited to their risk tolerance, thus potentially improving allocative efficiency.

Requiring ongoing disclosures under the fundraising exemption, and requiring the issuers relying on the startup exemption to make certain information publicly accessible, free of charge and to periodically amend that information to reflect material changes, would provide investors with important information, allowing them to identify investment opportunities best suited for their level of risk tolerance and re-evaluate the issuer's prospects over time, resulting in better informed investment decisions and improved

allocative efficiency of capital. By requiring issuers to file these disclosures on EDGAR and/or on a publicly available website, the proposed rules could make it easier for investors to collect and compare information across issuers, both within and outside of the market for covered investment contracts.

The proposed disclosure requirements also could improve informational efficiency in the market, making it easier for investors to identify a broader and more diverse range of covered investment contract offerings and allocate capital more efficiently. The net effect could be to enhance both capital formation and allocative efficiency. Additionally, the required disclosures would provide investors with a useful benchmark to evaluate other crypto asset issuers both within and outside of the covered investment contract market.⁵³³ Also, disclosure by covered investment contract issuers relying on the proposed rules could inform financial markets more generally by providing information about new trends and products in the crypto asset industry, thus creating externalities that benefit other types of investors and issuers.

In addition, to the extent that the proposed rules result in active trading, it might promote enhanced price discovery and greater informational efficiency of covered investment contract prices.

2. Effects on Competition

If the proposed rules improve access to, or lower the cost of, capital for issuers of covered investment contracts and strengthen their ability to develop and launch their crypto projects, the proposed rules may enhance competition among issuers for developing product market applications of their crypto assets, thus spurring innovation and entrepreneurship. To the extent that more issuers of covered investment contracts use the proposed rules for capital raising, the proposed rules may also promote competition among eligible issuers in the market for investor capital. The proposed rules may also promote competition between smaller and larger issuers of covered investment contracts by lowering capital-raising costs for smaller issuers.

To the extent that more investors decide to invest in covered investment

⁵³¹ But see, e.g., Susanna Kim Ripken, *Paternalism and Securities Regulation*, 21 Stanford J. of L., Bus. & Fin. 1, 41 (2015) ("Merit regulation, as adopted by the states, blocks investors from purchasing securities deemed too risky by state administrators. Such paternalistic interference with investors' access to certain securities is unnecessary and inhibits capital markets.").

⁵³² See 15 U.S.C. 77r(c)(1).

⁵³³ See Christian Leuz & Peter Wysocki, *Economic Consequences of Financial Reporting and Disclosure Regulation: A Review and Suggestions for Future Research* (working paper Mar. 13, 2008), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1105398 (retrieved from SSRN Elsevier database).

contracts as a result of a greater number of covered investment contract offerings under the proposed rules, competition among these investors could increase, potentially generating cost savings for issuers relying on the startup and fundraising exemptions. The magnitude of the effect would depend on the number of investors that would be attracted to invest in covered investment contracts that may be offered under the proposed rules, as well as the number of issuers relying on the proposed rules.

3. Effects on Capital Formation

The proposed rules would introduce new exemptions that would facilitate capital formation by issuers of covered investment contracts because they are tailored to accommodate covered investment contracts. For example, the exemptions available under the proposed rules are intended to reduce certain burdens identified by commenters and others with respect to covered investment contract offerings under existing exemptions. The proposed rules also would set forth exemptions with various offering amount limits and tailored disclosure requirements. Thus, the availability of the new exemptions under the proposed rules could attract new issuers of covered investment contracts to the capital markets.

Additionally, the availability of the proposed exemptions could result in issuers of covered investment contracts switching from existing exemptions to the proposed exemptions. These issuers may be able to raise more capital under the proposed exemptions as compared to what they could raise under the existing exemptions. The proposed rules, therefore, would likely increase capital formation. By facilitating capital raising by issuers of covered investment contracts, the proposed rules would further enable these issuers to, among other things, finance the development of their crypto projects and the delivery of their products and services to potential users, as well as pursue projects that would have been forgone due to a lack of capital.

The impact of the proposed rules on an issuer's ability to raise capital will depend on whether new investor capital is attracted to the crypto asset markets and on whether investors reallocate existing capital among various types of offerings. Investor demand for covered investment contracts would depend on the expected risk, return, and liquidity of the offered securities and, in particular, on how these characteristics compare to what investors can obtain from securities in other exempt offerings

and in registered offerings. Investor demand also would depend on whether the disclosure requirements in the proposed rules are sufficient to enable investors to evaluate the characteristics of offerings involving covered investment contracts.

Increased secondary market liquidity resulting from some of the features of the proposed rules (e.g., the ability of issuers to sell unrestricted securities) could make covered investment contracts more attractive to prospective investors and encourage them to invest in such securities, thus promoting capital formation. As previously explained in section IV.B.1, there also may be significant benefits for capital formation from the ongoing reporting requirements of the fundraising exemption which could generate sufficient information for secondary markets to provide the intended liquidity benefits.

If, on the other hand, some issuers that are currently relying on existing exemptions decide that the proposed rules are advantageous ways for them to raise capital (e.g., with respect to cost and/or access to potential investors), they could structure some or all of their offerings to involve covered investment contracts and thus take advantage of the proposed rules. This could lead to issuers switching from some existing offering exemptions to the proposed startup and fundraising exemptions included in the proposed rules. Such switches could still enhance capital formation since they could allow issuers to raise more capital, or achieve a lower cost of capital, than they could under the existing exemptions they were using. It is also possible that such issuers would continue to use some of the existing exemptions (e.g., to fund their non-crypto asset businesses) and decide to use the exemptions under the proposed rules to raise additional capital at potentially lower cost and/or from a different pool of investors. This could lead to an increase in capital formation.

D. Reasonable Alternatives

1. General Rules

a. Use More Prescriptive Disclosure Requirements

Proposed Rule 103 would set forth principles-based disclosure requirements with respect to offerings of covered investment contracts. We could have proposed more prescriptive disclosure requirements instead. One benefit of a more prescriptive disclosure approach for investors is that it could result in potentially more precise and complete disclosures for investors, since

such an approach usually relies on bright lines to determine whether and what type of disclosure is required. Another potential benefit associated with the prescriptive disclosure approach is that it could improve comparability across issuers and transactions because issuers would be required to report similar information using the same metrics, procedures, or mechanisms. This could be especially beneficial to retail investors who may not have the resources or ability to evaluate information based on different metrics or on alternative sources, which could be the case under the proposed principles-based disclosure. A more prescriptive approach could also benefit issuers by potentially reducing the cost to provide the required disclosures. Specifically, an issuer could look to the bright line requirements when determining whether disclosure is necessary and may not need to spend the time and resources involved in applying judgment as to the materiality of particular information in the context of the issuer's overall business and financial circumstances.

However, a more prescriptive disclosure regime would also have costs. In particular, it would provide issuers of covered investment contracts with less flexibility to more directly tailor their disclosure to provide the information that is more likely to be material to an investment decision than the principles-based disclosure we propose. Additionally, a prescriptive approach may result in disclosure of immaterial information that is not useful to investors in covered investment contract offerings as compared to a principles-based approach.

b. Restricted Securities

The proposed startup and fundraising exemptions would allow issuers to offer and sell unrestricted covered investment contracts. Alternatively, we could have proposed that covered investment contracts offered and sold under these exemptions would be restricted securities. One benefit from this alternative would be potentially stronger investor protection: categorizing securities as restricted securities is intended to protect investors from situations where the reseller may be participating in an unregistered distribution on behalf of the issuer and the subsequent investors would not have the protections of a registered offering. Such an alternative, however, could present some significant costs for issuers and investors. First, restrictions on resale would make it more difficult for investors as well as

potential users of the crypto asset to obtain the subject crypto asset, thus slowing down or limiting potential network effects, which are key for the completion of an issuer's associated crypto network and associated crypto application. Second, it would significantly decrease the liquidity of these securities and make them less attractive to potential investors. Purchasing restricted covered investment contracts could lead to fewer investors interested in an offering under this alternative, as compared to an offering pursuant to which they receive unrestricted securities. Third, if investors in an offering were to obtain illiquid securities, then they would likely require a discount to the fair price of these securities to compensate them for their limited ability to trade in these securities. Such an illiquidity discount at the time of initial purchase would increase the issuers' cost of capital raising, thus making it more costly and time-consuming to raise the needed amount of capital.

c. Related Person Holdings

Proposed Rule 103(b)(4) would require the issuer to disclose, among other things, whether related persons are subject to any transfer or resale restriction(s) with respect to the covered investment contract or subject crypto asset and, if so, to provide a description of the material terms of such restriction(s). Alternatively, we could have proposed, as a condition to an issuer relying on the startup exemption or the fundraising exemption, that the issuer implement policies and procedures reasonably designed to ensure that a minimum period (e.g., one year) elapses between the date on which a related person acquires a subject crypto asset from the issuer, or from an affiliate of the issuer, and any resale of the subject crypto asset by such related person.

Such an alternative could benefit potential investors by strengthening investor protection. There are typically two primary concerns associated with sales by insiders. One is in connection with the information asymmetry between an insider and outside investors. In particular, a selling insider is likely to have an informational advantage over outside investors.⁵³⁴ The other concern is the alignment of incentives. With respect to insiders, it is often argued that the incentives of company management are better aligned with other shareholders when managers

hold a significant equity interest in the company.⁵³⁵ Thus, insiders retaining a stake in the covered investment contracts can signal an alignment of incentives with outside investors.⁵³⁶ This alignment serves as a commitment mechanism that indicates to investors that insiders are committed to the success of the company. With respect to ICO offerings, prior economic studies find that ICOs are more successful—have lower failure rates and/or higher future employment—when the insiders have a lockup/vesting period for the sale of their tokens.⁵³⁷ A divestiture of the ownership stake by an insider may, therefore, exacerbate agency conflicts, which suggests that large insider sales can be detrimental to current and future investors.

We recognize, however, that there are benefits to be realized from permitting insiders, such as company founders and employees, flexibility regarding resales of covered investment contracts. Because most insiders typically consider available exit options before participating in a new venture, not restricting secondary sales increases their incentives to make the original investment, which may promote innovation and business formation.⁵³⁸ Not restricting related person sales could also facilitate efficient reallocation of capital and talents of entrepreneurs to new ventures.⁵³⁹ Additionally, an exit of a large insider could potentially result in a broader base of investors.

Thus, the proposed disclosure requirement regarding related person resale or transfer restrictions is intended to address concerns associated with sales by insiders by giving investors the information they need to determine whether there are risks associated with the issuer's related persons and, if so,

whether the issuer has taken appropriate steps to mitigate those risks. Instead of requiring a holding period or imposing transfer restrictions, the proposed approach would allow issuers the flexibility to decide whether to adopt any policies and procedures to address the potential risks associated with sales by related persons. This could reduce compliance costs.

d. Disqualification Provisions

Under the proposed Rule 104, the disqualification provisions in Rule 262 would not apply with respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before the date on which Rule 104 becomes effective, if the rule ultimately is adopted. Rule 104 would require, however, the issuer to include in an offering circular or otherwise furnish to each purchaser, a reasonable time prior to sale, a description in writing of any matters that would have triggered disqualification under Rule 104 but occurred before the date on which Rule 104 becomes effective.

As an alternative, we could have specified that pre-existing events are subject to the disqualification rules. This would strengthen investor protection because it would expand the list of disqualifiable events. At the same time, it would increase the compliance costs for issuers.

As another alternative, we could have narrowed the disqualification provisions. For example, rather than disqualifying an issuer if it or one of the enumerated affiliated persons had been convicted of certain misdemeanors within the preceding 10 years (or five years, with respect to issuers, their predecessors, and affiliated issuers), we could instead limit the lookback period for such conviction to the period during which any resulting penalties apply. This could diminish compliance with costs for issuers but negatively impact investor protection.

Overall, we believe that preserving consistency with the disqualification criteria of Rule 262, as we do in the proposed rules, can potentially yield compliance cost savings for issuers that would rely on the proposed rules while still maintaining appropriate investor protections. Additionally, the proposed requirement that issuers include in an offering circular or otherwise furnish to each purchaser, a description in writing of any matters that would have triggered disqualification but occurred before the date on which Rule 104 becomes effective would provide important information for investors regarding issuers' prior misconduct.

⁵³⁵ See Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure*, 3 J. Fin. Econ. 305 (Oct. 1976).

⁵³⁶ See John E. Core, et al., *Corporate Governance, Chief Executive Officer Compensation, and Firm Performance*, 51 J. Fin. Econ. 371 (Mar. 1999); Hamid Mehran, *Executive Compensation Structure, Ownership, and Firm Performance*, 38 J. Fin. Econ. 163 (June 1995).

⁵³⁷ See Howell, et al., *supra* note 401; Davydiuk Study *supra* note 430.

⁵³⁸ See Douglas J. Cumming & Jeffrey G. MacIntosh, *Venture-Capital Exits in Canada and the United States*, 53 U. Toro. L. J. 101 (2003).

⁵³⁹ See Junfu Zhang, *The Advantage of Experienced Start-Up Founders in Venture Capital Acquisition: Evidence from Serial Entrepreneurs*, 36 Small Bus. Econ. 187 (2011). See also Paul Gompers, et al., *Skill vs. Luck in Entrepreneurship and Venture Capital: Evidence from Serial Entrepreneurs*, (Nat'l Bureau of Econ. Rsch., Working Paper No. 12592, Oct. 2006), available at https://nber.org/system/files/working_papers/w12592/w12592.pdf.

⁵³⁴ See David Easley & Maureen O'Hara, *Information and the Cost of Capital*, 59 J. Fin. 1553 (Aug. 2004).

2. Startup Exemption

a. Time Period

The proposed startup exemption would be available to issuers for a period of four years. As an alternative, we could have proposed that the exemption be available without any time period attached. Such an alternative could benefit issuers by allowing them more time during which to use covered investment contracts to raise capital and finalize the development of their associated crypto networks and associated crypto applications. Eliminating the time requirement, however, may dissuade investors from participating in an offering because issuers may have less of an incentive to develop their associated crypto networks and applications because they could rely on the exemption for an unlimited amount of time.

As another alternative, we could have included a shorter period (*e.g.*, two years or three years) for issuers to rely on the proposed startup exemption. This approach could incentivize issuers to expedite the development of their associated crypto networks and associated crypto applications. However, it may also introduce significant costs to issuers by forcing them to incur significant expenses (*e.g.*, raising capital in short time periods, providing incentives for potential users to join the crypto network) to complete their associated crypto networks and associated crypto applications prematurely to meet the requirements of the proposed exemption.

As another alternative, we could have included a longer period (*e.g.*, five years) for issuers to rely on the proposed startup exemption. This alternative would allow issuers more time during which to use covered investment contracts to raise capital and finalize the development of their associated crypto networks and associated crypto applications. A potential cost of this alternative, however, may be decreased interest because issuers could take more time to develop their associated crypto networks and associated crypto applications.

b. Offering Limits

The proposed startup exemption would allow issuers to raise up to \$5 million for the duration of the four-year period by issuing covered investment contracts without registration under the Securities Act. As an alternative to the proposed offering limit, we could have made the offering limit larger, such as \$10 million. This would be commensurate with what is provided

for by other exempt offerings geared toward smaller issuers, such as Rule 504 of Regulation D. A larger offering limit could make capital raising under the startup exemption more cost effective and attractive to issuers, resulting in potential favorable effects on capital formation and competition. The increase in the maximum offering size could also make the startup exemption attractive to a broader range of issuers, including larger issuers. This could provide investors with a broader range of investment opportunities in the market for covered investment contracts and potentially result in a more efficient allocation of investor capital. A potential cost of such an alternative may be erosion of investor protection if issuers were allowed to raise significantly more capital without providing additional disclosures like in the proposed fundraising exemption. As mentioned above, the startup exemption would provide issuers with temporary relief from Securities Act registration requirements—during which time they may work towards fulfilling the essential managerial efforts they represented or promised investors they would engage in under the covered investment contract—while, at the same time, ensuring that investors remain sufficiently protected and informed. Issuers seeking to raise larger amounts of capital may avail themselves of the fundraising exemption.

As another alternative, we could have proposed a smaller offering limit, such as \$1 million. A potential benefit of such an alternative may be enhancement of investor protection to the extent that issuers would be allowed to raise less capital if they do not provide additional disclosures like in the proposed fundraising exemption. A smaller offering limit could make capital raising under the startup exemption more costly to issuers, resulting in negative effects on capital formation and competition. The lower maximum offering size could also make the startup exemption less attractive to a broader range of issuers, including larger issuers.

c. No Capital Raising

As an alternative, we could have proposed the startup exemption without the possibility of raising capital. Such an alternative would be beneficial to issuers because it would allow issuers relying on the exemption to perform the tasks needed to develop, test, and launch their projects with increased certainty about the application of the registration requirements of section 5 of the Securities Act to their projects and with requirements that are tailored to

covered investment contracts and their issuers. Issuers that need capital to develop, test, and launch their projects would be able to rely on the proposed fundraising exemption or existing offering exemptions. Additionally, issuers could rely on such an alternative to engage in offerings of covered investment contracts in exchange for, in recognition of, or as incentive for past or future use of an associated crypto network or associated crypto application, or as a reward or incentive for conducting activities primarily related to operating, governing, or securing an associated crypto network or associated crypto application. Such an alternative, however, would generate costs for issuers because it would not allow them to raise, when needed, a modest amount of capital (\$5 million) at a lower cost compared to raising the same amount by relying on the proposed fundraising exemption or existing offering exemptions.

3. Fundraising Exemption

a. Levels of Periodic Reporting for Tier 1 Offerings Versus Tier 2 Offerings

Under the proposed fundraising exemption, issuers who have qualified Tier 1 offerings would be subject to ongoing reporting requirements. Alternatively, we could have proposed ongoing reporting only for issuers who raise capital via Tier 2 offerings (as in Regulation A). Such an alternative would have decreased compliance costs as well as other costs associated with providing ongoing disclosures for Tier 1 issuers. That would be especially beneficial to smaller issuers, which are more likely to rely on Tier 1 offerings for capital raising. We believe, however, that requiring ongoing and periodic reporting for all issuers under the proposed fundraising exemption is appropriate given that an issuer's ongoing efforts to develop its associated crypto network or associated crypto application are directly relevant to the value of the covered investment contract and the subject crypto asset. Further, and unlike the rationale for excepting Tier 1 issuers under Regulation A from ongoing reporting, we do not anticipate that Tier 1 issuers using the proposed rule will be conducting offerings that are more local in nature than Tier 2 offerings, and we do anticipate that there may be secondary markets for the securities issued in Tier 1 offerings. Lastly, the proposed preemption of State registration and qualification requirements would apply to Tier 1 offerings as well, which supports providing investors with ongoing disclosures. One of the benefits of

ongoing disclosure is that it provides relevant information to investors that they in turn use when deciding to trade in secondary markets. We do not believe that requiring ongoing reporting for Tier 1 issuers would impose undue costs, as these issuers would benefit from tailored disclosure.

b. Offering Limits

Rule 300(a) would permit Tier 2 offerings of up to \$75 million in a 12-month period without registration under the Securities Act. Alternatively, we could have set a lower or higher offering limit for Tier 2 offerings. For example, we could have proposed a \$50 million offering limit. A lower offering limit of \$50 million may offer enhanced investor protection benefits—it would increase the overall amount of securities being offered to the general public that are subject to initial and ongoing disclosure requirements that are more extensive than the requirements for some existing offering exemptions. A potential cost of this alternative would be the inability of some crypto asset issuers to raise enough capital needed for the development of their associated crypto networks or associated crypto applications. We believe a higher offering limit is appropriate with respect to offerings of covered investment contracts. Limiting the fundraising exemption to offerings of covered investment contracts coupled with the other issuer eligibility criteria discussed above sufficiently mitigates investor risks.

Alternatively, we could have proposed a higher offering limit (*e.g.*, \$150 million). Such an alternative would benefit issuers of covered investment contracts since it would allow them to raise significant amounts of capital at lower cost compared to some other offering exemptions. They could use this capital for the development of their subject crypto asset, associated crypto networks, and associated crypto applications. Such an alternative, however, may have implications for investor protections given that the proposed disclosure is similar to that in Regulation A, which allows issuers to raise up to \$75 million.

4. Investment Contract Safe Harbor

a. Time Limit

The proposed investment contract safe harbor does not impose a time limit on when an issuer must complete or otherwise permanently cease all essential managerial efforts that it represented or promised to be eligible for the safe harbor. As an alternative, the Commission could propose a time limit

from the date of issuance, such as that used in the proposed startup exemption. A benefit of such a time period is that it could incentivize issuers to complete the essential managerial efforts that they represented or promised they would engage in before the expiration of that period. Such an alternative would also create significant costs for issuers. For example, it could force them to rush to complete their essential managerial efforts to be able to use the safe harbor and achieve separation of the covered investment contract and the subject crypto asset, incurring significant costs in the process. There could also be costs to investors if the deadline creates incentives for issuers to rush their efforts or take on more risk in attempting to complete them.

b. Network Decentralization and Functionality Requirements

The proposed investment contract safe harbor would require that the issuer of the covered investment contract has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under the covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset. As an alternative, we could have proposed, as a condition in Rule 400(a), a requirement that the subject crypto asset has sufficient functionality and the associated crypto network or associated crypto application has become sufficiently decentralized (according to specified criteria regarding functionality and decentralization) in order for the issuer to rely on the safe harbor. The essential managerial efforts of issuers often are focused on efforts to create a mature crypto asset and application. Accordingly, Form TR could require the issuer to: (1) provide a statement that the crypto asset has achieved the required functionality and that the associated crypto network or associated crypto application has achieved the required decentralization; and (2) provide an analysis demonstrating how such functionality and decentralization was achieved. Such requirements might benefit issuers by providing them with criteria that might be less costly to demonstrate than those in Form TR, while still providing a similar benefit of apprising investors, the Commission, and other members of the public as to the status of a subject crypto asset under the Federal securities laws as well as the basis on which the issuer reached its conclusion. Such an alternative, however, could result in higher costs for issuers of covered

investment contracts relative to those under the proposed investment contract safe harbor. Because the disclosure requirements would be different than those in Form TR, issuers availing themselves of the startup exemption or fundraising exemption would incur the additional costs of documenting their satisfaction of these other conditions. In addition, even though it could be relatively less costly for some issuers to document their satisfaction of this alternative as compared to the proposed investment contract safe harbor, it could also be relatively more costly for others without a corresponding increase in relative benefits to issuers or investors. For example, it could be difficult for issuers to determine when a subject crypto asset has sufficient utility or control of the associated blockchain network or when the application is sufficiently dispersed such that it no longer falls within the purview of the Federal securities laws. Issuers may have to incur costs to achieve certainty that they meet the requirements of the safe harbor—for example, they may need to retain the services of legal and technical professionals to verify that they meet the conditions of the safe harbor.

5. Preemption of State Registration

The proposed rules would preempt State securities laws registration and qualification requirements applicable to the initial sales and resales of covered investment contracts under Regulation Crypto Assets, and certain other resales of covered investment contracts. Instead, we could have proposed that the initial sales and resales of covered investment contracts not be exempt from State securities laws registration and qualification requirements. State registration and qualification requirements may offer an additional layer of investor protection provided by the State review process. In addition, merit-based reviews of offerings undertaken by some States may, in some cases, limit participation by investors in certain offerings. Investors in States with merit review may have access to fewer opportunities than their counterparts in other States. This disparity would be evident in offerings of covered investment contracts which generally are not localized offerings. If investors are willing to accept lower returns because of a perceived decrease in investment risk resulting from state review, covered investment contract issuers may face a lower cost of capital. Such an alternative, however, may introduce significant costs for issuers. For example, it could increase the burden of responding to multiple

reviews for the same offering, thus leading to a more complicated and costly offering process. This would likely increase covered investment contract issuers' time and compliance costs, thus making it more costly to raise capital via the proposed exemptions. Absence of State preemption would also limit the liquidity of covered investment contracts in the secondary market, making it more difficult for issuers to widely distribute the covered investment contract to investors and users, thus limiting potential valuable network effects. Also, another cost of this alternative would be the limited ability of covered investment contract issuers to broaden their search for investors across a larger number of States and thus have access to a larger pool of investors, compared to a situation without preemption.

As another alternative, we could have proposed preemption of State securities laws registration and qualification requirements only for the initial sales or only the resales of covered investment contracts under Regulation Crypto Assets. This alternative could enhance investor protection because, as mentioned above, State registration and qualification requirements, as well as merit-based reviews of offerings undertaken by some States, may offer an additional layer of investor protection provided by their review process. That layer of protection comes with costs in the form of reduced opportunities for investors in States with merit review. It also could have lowered costs for issuers and investors compared to a scenario in which both the initial sales and resales of covered investment contracts are not exempt from State securities laws registration and qualification requirements. Such an alternative, however, would generate costs for issuers and investors compared to a scenario without preemption. As mentioned above, absence of State preemption for initial sales would likely increase covered investment contract issuers' time and compliance costs, thus making it more costly to raise capital via the proposed exemptions. Absence of State preemption for resales could also limit the liquidity of covered investment contracts in the secondary market, making it more difficult for issuers to widely distribute the covered investment contract to investors and users, thus limiting potential valuable network effects.

E. Request for Comment

145. What types of companies (e.g., in terms of size, industry, age, etc.) would most likely rely on Regulation Crypto Assets? Would they use it for capital

raising, or would they rely mainly on the investment contract safe harbor?

146. How likely are the startup exemption or the fundraising exemption to attract companies that are considering offerings relying on Regulation D, Regulation A, Regulation Crowdfunding, or other offering exemptions? What would be the costs and benefits from relying on the startup exemption or the fundraising exemption versus existing exemptions? Please provide estimates where possible.

147. What would be the costs and benefits for an issuer of using the startup exemption? Please provide estimates where possible.

148. What would be the costs and benefits for an issuer of using the fundraising exemption? Please provide estimates where possible.

149. What would be the costs and benefits for an issuer of using the investment contract safe harbor? Please provide estimates where possible.

150. Would the proposed disclosure requirements help ensure that investors have a reasonable understanding of the risks and costs of investing in covered investment contracts? If not, what additional requirements would further mitigate the associated risks? How would the costs and benefits compare to other exempt offering methods? Please provide estimates where possible.

151. How would the proposed preemption of State registration and qualification requirements affect the costs and benefits of offerings done under the startup exemption and the fundraising exemption? Please provide estimates where possible, including any information of costs associated with complying with State Blue Sky laws that would be preempted under the proposed rules. Would the proposed preemption affect investor protection and capital formation in the market for covered investment contracts?

152. What is the economic effect of the proposed investment limitations? What types of issuers and investors are most likely to be affected by this restriction? Would this restriction enhance investor protection or undermine it by limiting investor choice?

153. How would investors who purchase covered investment contracts under the proposed rules exit their investment? What is the likelihood that there would be a ready market for covered investment contracts issued in reliance on the proposed rules? What entities or investors are likely to supply the liquidity, and what discounts, if any, are investors likely to face when exiting their investments?

154. The Commission is interested in receiving comments, views, estimates and data concerning the following:

- a. Expected size of the market for covered investment contracts (e.g., number of offerings, number of issuers, size of offerings, number of investors, etc., as well as information comparing these estimates to the current baseline);
- b. Overall economic impact of the proposed rules; and
- c. Any other aspect of the economic analysis.
- d. What would be the economic impact of the policy alternatives discussed in the proposed rules?

V. Paperwork Reduction Act

A. Background

Certain provisions of the proposed rules contain "collection of information" requirements within the meaning of the PRA.⁵⁴⁰ We are submitting the proposal to OMB for review in accordance with the PRA.⁵⁴¹ The hours and costs associated with preparing and filing these collections constitute reporting and cost burdens imposed by each collection of information. The titles for the collections of information are:

- "Rule 200 of Regulation Crypto Assets (Form NOR)" (a proposed new collection of information);
- "Form 1-CRYPTO" (a proposed new collection of information);
- "Form 1-KC" (a proposed new collection of information);
- "Form 1-SC" (a proposed new collection of information);
- "Form 1-UC" (a proposed new collection of information);
- "Form TR" (a proposed new collection of information); and
- "Form ID" (OMB Control Number 3235-0328).

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. We are applying for OMB control numbers for the proposed new collections of information in accordance with 44 U.S.C. 3507(j) and 5 CFR 1320.13, and OMB has not yet assigned a control number to each new collection. Responses to these collections of information would be mandatory.

B. Estimate of Issuers

The number, type, and size of the issuers that would conduct offerings of covered investment contracts under Regulation Crypto Assets is uncertain, but data regarding current market

⁵⁴⁰ See *supra* note 471.

⁵⁴¹ 44 U.S.C. 3507(d); 5 CFR 1320.11.

practices may help identify the number and characteristics of those potential issuers.⁵⁴² While it is not possible to precisely predict the number of future offerings made in reliance on Regulation Crypto Assets, for purposes of this analysis, we estimate that there would be 130 offerings per year.⁵⁴³ Notwithstanding the fact that each of the proposed exemptions in Regulation Crypto Assets would be non-exclusive,⁵⁴⁴ for purposes of this PRA analysis, we assume that each of those 130 offerings would be conducted pursuant to either the startup exemption or the fundraising exemption as discussed in more detail in sections V.B.1 and V.B.2 below. We also discuss in section V.B.3 below the estimated number of issuers that would rely on the investment contract safe harbor annually.

1. Startup Exemption

We estimate that 99 of the total 130 offerings estimated to be conducted annually under Regulation Crypto Assets would be conducted under the startup exemption (by 99 different issuers). We base this estimate on the 99 offerings involving crypto assets in the Regulation D and Regulation Crowdfunding markets that raised \$5 million or less in 2024. We assume that each issuer would conduct one offering per year under the startup exemption. The burdens associated with the startup exemption would be reflected in the “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection. Burdens associated with the startup exemption also would be reflected in the “Form TR” information collection.

2. Fundraising Exemption

We estimate that 31 of the total 130 offerings estimated to be conducted annually under Regulation Crypto Assets would be conducted under the fundraising exemption (by 31 different issuers). We base this estimate on the 31 offerings involving crypto assets in the Regulation D, Regulation A, and Regulation Crowdfunding markets that raised more than \$5 million but no more than \$75 million in 2024. We assume that each issuer would conduct one offering per year under the fundraising exemption.

⁵⁴² See section IV above for a discussion of the data regarding current market practices.

⁵⁴³ We base this estimate on the sum of the 99 offerings involving crypto assets in the Regulation D and Regulation Crowdfunding markets that raised \$5 million or less in 2024 and the 31 offerings involving crypto assets in the Regulation D, Regulation A, and Regulation Crowdfunding markets that raised more than \$5 million but no more than \$75 million in 2024.

⁵⁴⁴ See proposed 17 CFR 228.101(a).

The burdens associated with the fundraising exemption would be reflected in the “Form 1-CRYPTO,” “Form 1-KC,” “Form 1-SC,” and “Form 1-UC,” information collections. Burdens associated with the fundraising exemption also would be reflected in the “Form TR” information collection.

3. Investment Contract Safe Harbor

We also estimate that 475 issuers would rely on the investment contract safe harbor annually.⁵⁴⁵ We assume that each issuer would rely on the investment contract safe harbor once per year. For purposes of this PRA analysis, we estimate the number of issuers that would rely on the investment contract safe harbor annually by assuming that 15 percent of the estimated 3,165 crypto projects that were launched in 2024 would seek to rely on the investment contract safe harbor, once adopted. The burdens associated with the investment contract safe harbor would be reflected in the “Form TR” information collection.

C. Estimate of Issuer Burdens

Below we estimate the incremental and aggregate increase in paperwork burden as a result of the proposed rules. These estimates represent the average burden for all respondents, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual respondents and from year to year based on a number of factors, including the nature of their business.

1. Startup Exemption

As noted in section V.B.1 above, issuers’ burdens associated with the startup exemption would be reflected in two different information collections: “Rule 200 of Regulation Crypto Assets (Form NOR)” and “Form TR.” This section discusses the burden estimates for the “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection. The burden estimates for the “Form TR” information collection are discussed in section V.C.3 below.

The “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection would reflect burdens associated with proposed Rules 104(b), 200(c), and 200(d). We discuss our burden estimates for each of those rules below. Based on the sum of the burden estimates for each of those rules as well as the 99 estimated number of annual responses, we estimate a total annual

⁵⁴⁵ This reflects our estimate of those issuers that would rely on the investment contract safe harbor without also offering covered investment contracts under the startup exemption or the fundraising exemption.

burden of 3,960 hours and \$1,005,840 for the “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection.

a. Rule 104(b)

Rule 104(b) would require an issuer to include in an offering circular or otherwise furnish to each purchaser, a reasonable time prior to sale, a description in writing of any matters that would have triggered disqualification under Rule 104 but occurred before the date on which Rule 104 becomes effective.⁵⁴⁶ Issuers relying on the startup exemption would be required to comply with this requirement.⁵⁴⁷ This requirement is substantially similar to the requirement in Rule 506(e) of Regulation D.⁵⁴⁸ In the adopting release for Rule 506(e), the Commission estimated that all issuers relying on an exemption in Rule 506 would expend one internal burden hour to comply with the rule and that approximately one percent those issuers would expend another 10 internal burden hours and require three hours of outside professional services in order to comply with the rule (*i.e.*, because those issuers would, under Rule 506(e), be required to prepare a disclosure statement describing matters that would have triggered disqualification under Rule 506(d)(1) of Regulation D had they occurred on or after the effective date of the rule).⁵⁴⁹

For purposes of this PRA analysis, we assume that Rule 104(b) would require each issuer relying on the startup exemption to expend 1.5 internal burden hours and require 0.5 hours of outside professional services (at a rate of \$635 per hour⁵⁵⁰) in order to comply

⁵⁴⁶ See proposed 17 CFR 228.104(b).

⁵⁴⁷ See proposed 17 CFR 228.200(b)(6).

⁵⁴⁸ See 17 CFR 230.506(e).

⁵⁴⁹ *Disqualification of Felons and Other “Bad Actors” from Rule 506 Offerings*, Release No. 33–9414 (July 10, 2013) [78 FR 44729, 44751 (July 24, 2013)].

⁵⁵⁰ The \$635 per hour rate reflects our current estimate of the blended hourly rate for lawyers (\$744), accountants and auditors (\$348), financial managers (\$731), and information technology managers (\$608). We expect that the types of professionals, the rates that those professionals would charge, and the proportion of services provided to issuers by each type of professional (relative to other types of professionals) would vary among issuers and would differ depending on the Regulation Crypto Assets information collection to which an issuer is responding. Nonetheless, for purposes of this PRA analysis, we believe the \$635 per hour rate is a reasonable estimate of the hourly cost of professionals that would provide services to an issuer responding to an information collection under Regulation Crypto Assets. To calculate the occupational hourly rates used in this release, the Commission uses occupational mean hourly wage data from the Occupational Employment and Wage Statistics (OEWS) program of the Bureau of Labor Statistics (BLS) for “Securities, Commodity

with the rule. This estimate is intended to incorporate the one internal burden hour that the Commission assumed every issuer relying on an exemption in Rule 506 to expend in connection with Rule 506(e), as well as another 0.5 internal burden hours and 0.5 hours of outside professional services to account for any issuers that would have to provide disclosures under Rule 104(b). Although this effectively assumes that a larger percentage of issuers relying on the startup exemption would have to provide such disclosure (as compared to the Commission's estimate with respect

to Rule 506(e)), we believe it is appropriate to take a more conservative approach that potentially overestimates the burdens associated with Rule 104(b) than an alternative approach that could underestimate such burdens, in part, because we expect that many of the issuers complying with the rule may be early-stage issuers that are less familiar with the Federal securities laws.

Based on the 99 estimated number of annual responses to the "Rule 200 of Regulation Crypto Assets (Form NOR)" information collection, we estimate a total annual burden of 148.5 hours (1.5

internal burden hours per response $\times$ 99 responses annually) and \$31,432.50 (0.5 hours of outside professional services per response $\times$ \$635 per hour $\times$ 99 responses annually) associated with Rule 104(b), which would be attributed to the "Rule 200 of Regulation Crypto Assets (Form NOR)" information collection.

The below table summarizes the estimated paperwork burdens associated with Rule 104(b) attributable to the "Rule 200 of Regulation Crypto Assets (Form NOR)" collection of information.

PRA Table 1. Calculation of the Burden Estimates for "Rule 200 of Regulation Crypto Assets (Form NOR)" Attributable to Rule 104(b).

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) $\times$ (B)]	Company Hours (D) [(C) $\times$ 0.75]	Professional Hours (E) [(C) $\times$ 0.25]	Professional Costs (F) [(E) $\times$ \$635]
Rule 104(b)	99	2	198	148.5	49.5	\$31,432.50

b. Rule 200(c)

Rule 200(c) would require the issuer to file (and, in certain circumstances, amend a previously filed) Form NOR with the Commission in order to rely on the startup exemption.⁵⁵¹ Form NOR, in turn, would require the issuer to provide certain information regarding the issuer and the subject crypto asset, where to locate disclosures required to be made under Rule 200(d) (as discussed in section V.C.1.c below), and certain certifications regarding the information provided in the Form NOR as well as the issuer's intentions regarding the offering.⁵⁵²

The information that would be required to be included in a Form NOR is relatively limited, with even fewer

disclosure requirements than Form D. Further, the circumstances under which an issuer would be required to amend a Form NOR generally are consistent with the amendment obligations with respect to a Form D. We believe it is appropriate, therefore, to assume that the burden associated with Rule 200(c) will be the same as the burden associated with Form D, which we estimate to be a total of four hours per response annually.⁵⁵³ Consistent with our estimates for Form D, we further estimate that 25 percent of those four hours (one hour) will be performed internally by the issuer and that 75 percent of those four hours (three hours) will be performed externally by outside professionals (at a rate of \$635 per hour).

Based on the 99 estimated number of annual responses to the "Rule 200 of Regulation Crypto Assets (Form NOR)" information collection, we estimate a total annual burden of 99 hours (one internal burden hour per response $\times$ 99 responses annually) and \$188,595 (three hours of outside professional services per response $\times$ \$635 per hour $\times$ 99 responses annually) associated with Rule 200(c), which would be attributed to the "Rule 200 of Regulation Crypto Assets (Form NOR)" information collection.

The below table summarizes the estimated paperwork burdens associated with Rule 200(c) attributable to the "Rule 200 of Regulation Crypto Assets (Form NOR)" collection of information.

Contracts, and Other Financial Investments and Related Activities" (NAICS 523). See *Occupational Employment and Wage Statistics*, U.S. Bureau of Lab. Stats., <https://bls.gov/oes/>; see also *Standard Occupational Classification*, U.S. Bureau of Lab. Stats., <https://bls.gov/soc/> (describing occupational classification system used by BLS); Exec. Off. of the President, Off. of Mgmt. & Budget, *North American Industry Classification System (2022)*, available at https://census.gov/naics/reference_files_tools/2022_NAICS_Manual.pdf (describing the industry classification system used by BLS and other agencies). The mean hourly wage for each occupation is adjusted for changes in the seasonally adjusted employment cost index for private wages

and salaries between the data reference period and when the data are released by BLS. See *Employment Cost Index*, U.S. Bureau of Lab. Stats., <https://bls.gov/eci/>. The adjusted mean hourly wage is then multiplied by a factor that accounts for nonwage costs borne by employers, such as bonuses, benefits, and overhead. This factor is calculated as an average over the 10 most recently available years of data of the ratio of the Bureau of Economic Analysis's annual gross output data for NAICS 523 to total annual wages across all occupations for NAICS 523 in the OEWS data. See *Gross Output by Industry*, U.S. Bureau of Econ. Analysis, <https://bea.gov/data/industries/gross-output-by-industry>; *Occupational Employment and*

Wage Statistics, U.S. Bureau of Lab. Stats., <https://bls.gov/oes/>. The final product is the occupational hourly rate. See generally Updated Methodology for Calculating Occupational Hourly Rates (Dec. 19, 2025), available at <https://sec.gov/files/method-occupational-hourly-rates.pdf>.

⁵⁵¹ See proposed 17 CFR 200.200(c).

⁵⁵² See proposed 17 CFR 239.605.

⁵⁵³ These four hours reflect both the initial burdens associated with filing a Form NOR as well as the subsequent burdens associated with any amendments the issuer would be required to make to such Form NOR.

PRA Table 2. Calculation of the Burden Estimates for “Rule 200 of Regulation**Crypto Assets (Form NOR)” Attributable to Rule 200(c).**

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.25]	Professional Hours (E) [(C) x 0.75]	Professional Costs (F) [(E) x \$635]
Rule 200(c)	99	4	396	99	297	\$188,595

c. Rule 200(d)

Rule 200(d) would require an issuer relying on the startup exemption to make the information described in Rule 103 publicly accessible, free of charge, at the website address specified in the notice of reliance at or prior to the time that the notice of reliance is filed with the Commission in accordance with Rule 200(c)(1).⁵⁵⁴ Rule 200(d) also would require an issuer to keep that information publicly accessible and free of charge at the website address specified in the notice of reliance and periodically amend that information to reflect material changes.⁵⁵⁵

Because of the principles-based nature of the disclosure requirements set forth in proposed Rule 103, the burdens associated with Rule 200(d) may differ significantly from one issuer to another. Depending on their particular facts and circumstances, some issuers may be required to make extensive disclosures, while other issuers may be required to make relatively limited disclosures.

In order to derive the estimate for Rule 200(d), we note that, in adopting Regulation Crowdfunding, the Commission “estimate[d] that the average total burden to prepare and file the Form C, including any amendment to disclose any material change, will be approximately 100 hours.”⁵⁵⁶ The Commission further noted that, at that

time, “the average burden per response for preparing and filing a Form 1–A [was estimated] to be approximately 750 hours.”⁵⁵⁷

We recognize that there are several differences between the proposed disclosure requirements under Rule 200(d) (the substance of which would be set forth in Rule 103) and the information required to be provided by Form C and Form 1–A. Among other things, the proposed disclosure requirements are intended to elicit information that is unique to covered investment contracts and crypto assets. The proposed disclosure requirements also do not require a discussion of an issuer’s financial condition or any financial statements or information, which could comprise a significant portion of the burden estimates for Form C and Form 1–A. Further, Rule 200(d) requires that the information be made publicly accessible and free of charge on a website of the issuer’s choosing rather than filed on EDGAR. These differences suggest that an issuer may incur relatively lower burdens under Rule 200(d) than it would in connection with filing a Form C or Form 1–A.

In light of these differences between the requirements of Rule 200(d) and Forms C and 1–A, we estimate that Rule 200(d) would require each issuer relying on the startup exemption to expend 50 total burden hours in order to comply

with the rule (*i.e.*, half of the Commission’s initial burden estimate for Form C).⁵⁵⁸ That estimate reflects both the burdens associated with providing the initial disclosures under Rule 200(d), as well as the burdens associated with keeping that information publicly accessible and periodically amending that information to reflect material changes. In addition, we assume that 75 percent of those 50 total burden hours (37.5 hours) will be performed internally by the issuer and 25 percent of those 50 total burden hours (12.5 hours) will be performed externally by outside professionals (at a rate of \$635 per hour).

Based on the 99 estimated number of annual responses to the “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection, we estimate a total annual burden of 3,712.5 hours (37.5 internal burden hours per response x 99 responses annually) and \$785,812.50 (12.5 hours of outside professional services per response x \$635 per hour x 99 responses annually) associated with Rule 200(d), which would be attributed to the “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection. The below table summarizes the paperwork burdens associated with Rule 200(d) attributed to the “Rule 200 of Regulation Crypto Assets (Form NOR)” collection of information.

⁵⁵⁴ See proposed 17 CFR 228.200(d).

⁵⁵⁵ *Id.*

⁵⁵⁶ Crowdfunding Adopting Release at 71524.

⁵⁵⁷ *Id.* at 71523, n.1633. Our current total annual burden estimates for Form C and Form 1–A are 101 hours and 717.372 hours, respectively.

⁵⁵⁸ We base our estimated burden for Rule 200(d) on Form C rather than Form 1–A in part because

the offering limit under the startup exemption (\$5 million) corresponds to the offering limit under Regulation Crowdfunding (\$5 million) than Regulation A (\$75 million).

PRA Table 3. Calculation of the Burden Estimates for “Rule 200 of Regulation**Crypto Assets (Form NOR)” Attributable to Rule 200(d).**

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Rule 200(d)	99	50	4,950	3,712.5	1,237.5	\$785,812.50

d. Total “Rule 200 of Regulation Crypto Assets (Form NOR)” Information Collection

The below table summarizes the total estimated paperwork burdens of the

“Rule 200 of Regulation Crypto Assets (Form NOR)” information collection attributed to Rules 104(b), 200(c), and 200(d).

PRA Table 4. Calculation of the Total Burden Estimates for “Rule 200 of**Regulation Crypto Assets (Form NOR).”**

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75 or 0.25]	Professional Hours (E) [(C) x 0.25 or 0.75]	Professional Costs (F) [(E) x \$635]
Rule 104(b)	99	2	198	148.5	49.5	\$31,432.50
Rule 200(c)	99	4	396	99	297	\$188,595
Rule 200(d)	99	50	4,950	3,712.5	1,237.5	\$785,812.50
Rule 200 of Regulation Crypto Assets (Form NOR)^a	99			3,960		\$1,005,840

^a We present only the total estimated number of annual responses, internal burden hours, and professional costs in this row because these are the three values that would be reflected in the OMB inventory in connection with the proposed new “Rule 200 of Regulation Crypto Assets (Form NOR)” information collection.

2. Fundraising Exemption

As noted in section V.B.2 above, issuers’ burdens associated with the fundraising exemption would be reflected in five different information collections: “Form 1–CRYPTO,” “Form 1–KC,” “Form 1–SC,” “Form 1–UC,” and “Form TR.” This section discusses the burden estimates for all those information collections except for Form TR, which is discussed in section V.C.3 below.

As discussed in section II.C.2.a.i above, the fundraising exemption is modeled on Regulation A. Similarly, each of the forms that an issuer is required to file under the fundraising

exemption is modeled on the corresponding form that is required to be filed under Regulation A. Nonetheless, there are several differences between the fundraising exemption, Regulation A, and the two sets of forms. For example, as with the startup exemption, the vast majority of the non-financial information requirements under the fundraising exemption (*i.e.*, the disclosure requirements set forth in Rule 103) are intended to elicit information that is unique to covered investment contracts and crypto assets.

In addition, the Part I information requirements under Form 1–CRYPTO

and Form 1–KC are more streamlined and simplified than the Part I information requirements under Form 1–A and Form 1–K. Further, although the proposed financial statements requirements are substantially similar to the corresponding requirements under Form 1–A, the discussion of financial condition required under Forms 1–CRYPTO, 1–KC, and 1–SC is based on the corresponding requirement in Regulation Crowdfunding rather than the discussion of financial condition required under Regulation A. These differences may suggest that an issuer may incur relatively lower burdens

under the fundraising exemption than it would under Regulation A.

Notwithstanding these differences, it is difficult to determine with certainty whether an issuer’s burdens would be significantly lower under the fundraising exemption than under Regulation A. We do not expect the burdens would be higher than under Regulation A. Accordingly, we estimate that the fundraising exemption would require the same burdens as Regulation A. Thus, for each of the proposed forms that an issuer would be required to file under the proposed fundraising exemption, our burden estimate is the same as our current burden estimate for

the corresponding form required to be filed under Regulation A. We discuss each form in turn below.

a. Form 1–CRYPTO

Offering statements filed under Regulation Crypto Assets would use new Form 1–CRYPTO. Consistent with the current burden estimate for Form 1–A, we estimate that Form 1–CRYPTO would require approximately 717.372 annual burden hours per filing.⁵⁵⁹ We further estimate that 75 percent of those 717.372 total burden hours (538.029 hours) will be performed internally by the issuer and 25 percent of those 717.372 total burden hours (179.343 hours) will be performed externally by

outside professionals (at a rate of \$635 per hour).

Based on the 31 estimated number of offerings annually under the fundraising exemption, we estimate a total annual burden of 16,678.899 hours (538.029 internal burden hours per response × 31 responses annually) and \$3,530,366.955 (179.343 hours of outside professional services per response × \$635 per hour × 31 responses annually) associated with the “Form 1–CRYPTO” information collection.

The below table summarizes the estimated paperwork burdens attributable to the “Form 1–CRYPTO” information collection.

PRA Table 5. Calculation of the Total Burden Estimates for “Form 1-CRYPTO.”

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Form 1-CRYPTO	31	717.372	22,238.532	16,678.899	5,559.633	\$3,530,366.955

b. Form 1–KC

Form 1–KC would be used for annual reports under Rule 305(a)(1) of Regulation Crypto Assets. Consistent with the current burden estimate for Form 1–K, we estimate that Form 1–KC would require approximately 600 annual burden hours per filing. We further estimate that 75 percent of those

600 total burden hours (450 hours) will be performed internally by the issuer and 25 percent of those 600 total burden hours (150 hours) will be performed externally by outside professionals (at a rate of \$635 per hour).

Based on the 31 estimated number of offerings annually under the fundraising exemption,⁵⁶⁰ we estimate a total annual burden of 13,950 hours (450

internal burden hours per response × 31 responses annually) and \$2,952,750 (150 hours of outside professional services per response × \$635 per hour × 31 responses annually) associated with the “Form 1–KC” information collection.

The below table summarizes paperwork burdens attributable to the “Form 1–KC” information collection.

PRA Table 6. Calculation of the Total Burden Estimates for “Form 1-KC.”

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Form 1-KC	31	600	18,600	13,950	4,650	\$2,952,750

c. Form 1–SC

Form 1–SC would be used for semiannual reports under Rule 305(a)(3) of Regulation Crypto Assets. Consistent with the current burden estimate for

Form 1–SA, we estimate that Form 1–SC would require approximately 188.04 annual burden hours per filing. We further estimate that 85 percent of those 188.04 total burden hours (159.834

hours) will be performed internally by the issuer and 15 percent of those 188.04 total burden hours (28.206 hours) will be performed externally by

⁵⁵⁹ For accuracy of the calculations in this section, we did not round the preliminary figures to the nearest whole number. However, we did round the final calculations of the change in burden

estimates of new responses resulting from the proposed rules. See *supra* note 568.

⁵⁶⁰ Although Form 1–K is only required to be filed by issuers conducting Tier 2 offerings under

Regulation A, Form 1–KC would be required to be filed by issuers conducting either Tier 1 or Tier 2 offerings under the fundraising exemption.

outside professionals (at a rate of \$635 per hour).

Based on the 31 estimated number of offerings annually under the fundraising exemption,⁵⁶¹ we estimate a total annual burden of 4,954.854 hours

(159.834 internal burden hours per response $\times$ 31 responses annually) and \$555,235.11 (28.206 hours of outside professional services per response $\times$ \$635 per hour $\times$ 31 responses annually)

associated with the “Form 1–SC” information collection.

The below table summarizes the paperwork burdens attributable to the “Form 1–SC” information collection.

PRA Table 7. Calculation of the Total Burden Estimates for “Form 1-SC.”

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) $\times$ (B)]	Company Hours (D) [(C) $\times$ 0.85]	Professional Hours (E) [(C) $\times$ 0.15]	Professional Costs (F) [(E) $\times$ \$635]
Form 1-SC	31	188.04	5,829.24	4,954.854	874.386	\$555,235.11

d. Form 1–UC

Form 1–UC would be used for current reports under Rule 305(a)(4) of Regulation Crypto Assets. Consistent with the current burden estimate for Form 1–U, we estimate that Form 1–UC would require approximately five annual burden hours per filing. We further estimate that 85 percent of those five total burden hours (4.25 hours) will

be performed internally by the issuer and 15 percent of those five total burden hours (0.75 hours) will be performed externally by outside professionals (at a rate of \$635 per hour).

Based on the estimated 31 offerings annually under the fundraising exemption,⁵⁶² we estimate a total annual burden of 131.75 hours (4.25 internal burden hours per response $\times$ 31

responses annually) and \$14,763.75 (0.75 hours of outside professional services per response $\times$ \$635 per hour $\times$ 31 responses annually) associated with the “Form 1–UC” information collection.

The below table summarizes the estimated paperwork burdens attributable to the “Form 1–UC” information collection.

PRA Table 8. Calculation of the Total Burden Estimates for “Form 1-UC.”

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) $\times$ (B)]	Company Hours (D) [(C) $\times$ 0.85]	Professional Hours (E) [(C) $\times$ 0.15]	Professional Costs (F) [(E) $\times$ \$635]
Form 1-UC	31	5	155	131.75	23.25	\$14,763.75

3. Form TR

As noted in section V.B above, an issuer may file a transition report on Form TR pursuant to the startup exemption (under proposed Rule 200(e)), the fundraising exemption (under proposed Rule 305(c) and (d)), or the investment contract safe harbor (under Rule 400(b)).

The “Form TR” information collection would reflect burdens associated with proposed Rules 200(e), 305(c) and (d), and 400(b). We discuss

our burden estimates for each of those rules below. Based on the sum of the burden estimates for each of those rules as well as the estimated number of annual responses, we estimate a total annual burden of 11,179.65 hours and \$2,365,375 for the “Form TR” information collection.

a. Rule 200(e)

Rule 200(e) would require an issuer relying on the startup exemption to file a transition report containing the

information required by Form TR no later than four years after the date on which the issuer filed a notice of reliance in accordance with Rule 200(c)(1).⁵⁶³ Form TR, in turn, would require an issuer making a filing pursuant to Rule 200(e) to disclose certain fundamental information (e.g., its name, jurisdiction of incorporation or formation, and contact information) as well certain other information that would depend on whether the issuer

⁵⁶¹ Although Form 1–SA is only required to be filed by issuers conducting Tier 2 offerings under Regulation A, Form 1–SC would be required to be filed by issuers conducting either Tier 1 or Tier 2 offerings under the fundraising exemption.

⁵⁶² Although Form 1–U is only required to be filed by issuers conducting Tier 2 offerings under Regulation A, Form 1–UC would be required to be filed by issuers conducting either Tier 1 or Tier 2 offerings under the fundraising exemption.

⁵⁶³ See proposed 17 CFR 228.200(e).

had, as of the time of the filing, satisfied the condition in Rule 400(a).⁵⁶⁴

Because the Form TR disclosure requirements would differ depending on whether an issuer has satisfied the condition in Rule 400(a), the burdens associated with Rule 200(e) also would differ from one issuer to another. Depending on their particular facts and circumstances, some issuers may be required to make extensive disclosures, while other issuers may be required to make relatively limited disclosures (*e.g.*, if they had not satisfied the condition in Rule 400(a) and the crypto asset had not separated from the issuer’s representations or promises). For

purposes of this PRA analysis, we assume that each issuer filing a Form TR pursuant to Rule 200(e) would incur 20 total burden hours, with 75 percent of those 20 total burden hours (15 hours) being performed internally by the issuer and 25 percent of those 20 total burden hours (5 hours) being performed externally by outside professionals (at a rate of \$635 per hour).

We assume that 25 percent of the issuers relying on the startup exemption would make a Form TR filing pursuant to Rule 200(e) each year. As such, based on the estimated 99 annual responses to the “Rule 200 of Regulation Crypto Assets (Form NOR)” information

collection, we assume there would be 24.75 Form TR filings pursuant to Rule 200(e). Further, we estimate a total annual burden of 371.25 hours (15 internal burden hours per response × 24.75 responses annually) and \$78,581.25 (five hours of outside professional services per response × \$635 per hour × 24.75 responses annually) associated with Rule 200(e), which would be attributed to the “Form TR” information collection.

The below table summarizes the estimated paperwork burdens associated with Rule 200(e) for issuers relying on the startup exemption.

PRA Table 9. Calculation of the Burden Estimates for “Form TR” Attributable to Rule 200(e).

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Rule 200(e)	24.75	20	495	371.25	123.75	\$78,581.25

b. Rules 305(c) and (d)

Rule 305(c) and (d) would set forth transition reporting provisions that would apply equally to issuers in Tier 1 and Tier 2 offerings and set forth pathways to suspend or terminate ongoing reporting obligations under the fundraising exemption.⁵⁶⁵

Under Rule 305(c)(1), the duty to file reports under Rule 305(a) with respect to a class of securities held of record (as defined in 17 CFR 240.12g5–1) by less than 300 persons would be suspended for such class of securities immediately upon filing with the Commission a transition report on Form TR if the issuer of such class has filed all reports required to be filed under Rule 305 before the date of such Form TR filing for the shorter of: (i) the period since the

issuer became subject to such reporting obligation; or (ii) its most recent three fiscal years and the portion of the current year preceding the date of filing Form TR. This proposed rule substantially mirrors Rule 257(d) of Regulation A.

The information that an issuer seeking to suspend its duty to report under Rule 305(c) would be required to provide under Form TR is substantially identical to the information required by Form 1–Z for an issuer seeking to suspend its duty to report under Rule 257(d). Thus, consistent with the current burden estimate for Form 1–Z, we estimate that a Form TR filed pursuant to Rule 305(c) would require approximately 1.5 annual burden hours per filing. We further estimate that 100 percent of those 1.5

total burden hours will be performed internally by the issuer. We assume that ten percent of the issuers relying on the fundraising exemption would make a Form TR filing pursuant to Rule 305(c) each year. As such, based on the estimated 31 issuers relying on the fundraising exemption annually, we assume there would be 3.1 Form TR filings pursuant to Rule 305(c) and a total annual burden of 4.65 hours (1.5 burden hours per response × 3.1 responses annually) associated with Rule 305(c), which would be attributed to the “Form TR” information collection.

The below table summarizes the estimated paperwork burdens attributable to Rule 305(c) for issuers relying on the fundraising exemption.

⁵⁶⁴ See proposed 17 CFR 239.604. If the issuer had satisfied the condition in Rule 400(a), then Form TR would require the issuer to provide the following: (1) a brief description of the crypto asset and associated crypto network or associated crypto application sufficient for a reasonable investor to identify the crypto asset and associated crypto network or associated crypto application to which the Form TR relates; (2) a certification that the issuer is not engaging in, and is not planning to and has not promised or represented that it will engage

in, essential managerial efforts that primarily determine the value of the crypto asset; and (3) an analysis supporting that certification. If the issuer had not satisfied the condition in Rule 400(a), then Form TR would require the issuer to provide the following: (1) a brief description of the covered investment contract sufficient for a reasonable investor to identify the covered investment contract to which this Form TR relates; (2) a description of the current status of the covered investment contract, the subject crypto asset, and the associated

crypto network or associated crypto application and the issuer’s plans with respect to such covered investment contract, subject crypto asset, and associated crypto network or associated crypto application; and (3) if the issuer indicated that the crypto asset had separated from the issuer’s representations or promises subject crypto asset and ceased to exist, an analysis supporting that determination.

⁵⁶⁵ See proposed 17 CFR 228.305(c) and (d).

PRA Table 10. Calculation of the Burden Estimates for “Form TR” Attributed to**Rule 305(c).**

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 1.00]	Professional Hours (E)	Professional Costs (F)
Rule 305(c)	3.1	1.5	4.65	4.65	0	\$0

Under Rule 305(d)(2), if an issuer satisfies the condition in Rule 400(a) (*i.e.*, the investment contract safe harbor) or the covered investment contract otherwise separates from the subject crypto asset and ceases to exist during the period in which the issuer is required to file reports under Rule 305(a), the issuer’s obligation to file reports under Rule 305(a) will terminate immediately upon filing with the Commission a transition report on Form TR.

Form TR’s information requirements for an issuer filing under Rule 305(d) are the same as those for an issuer filing under Rule 200(e). Thus, consistent

with the burden estimates for Rule 200(e), we assume that each issuer filing a Form TR pursuant to Rule 305(d) would incur 20 total burden hours, with 75 percent of those 20 total burden hours (15 hours) being performed internally by the issuer and 25 percent of those 20 total burden hours (5 hours) being performed externally by outside professionals (at a rate of \$635 per hour).

As noted in section V.B.2 above, we estimate that issuers would conduct 31 offerings annually under the fundraising exemption. For purposes of this PRA analysis, we assume that 25 percent of those issuers would terminate their duty

to report under Rule 305(d) annually. Thus, we estimate a total of 7.75 Form TR filings pursuant to Rule 305(d) annually, with an annual burden of 116.25 hours (15 internal burden hours per response x 7.75 responses annually) and an annual cost burden of \$24,606.25 (five hours of outside professional services per response x \$635 per hour x 7.75 responses annually), each of which would be attributed to the “Form TR” information collection.

The below table summarizes the estimated paperwork burdens attributable to Rule 305(d) for issuers relying on the fundraising exemption.

PRA Table 11. Calculation of the Burden Estimates for “Form TR” Attributed to**Rule 305(d).**

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Rule 305(d)	7.75	20	155	116.25	38.75	\$24,606.25

c. Rule 400(b)

Rule 400 would provide that a covered investment contract will be deemed to have ceased to exist, and the crypto asset that was subject to the covered investment contract will be deemed not to constitute or represent or to be subject to that investment contract for purposes of section 2(a)(1) of the Securities Act and section 3(a)(10) of the Exchange Act, if the conditions set forth in Rule 400(a) and (b) are satisfied. Rule 400(a) would require that the issuer of the covered investment contract has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would

engage in under the covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset. Rule 400(b) would require the issuer of the covered investment contract to file a transition report on Form TR. Form TR, in turn, would require the issuer to disclose certain fundamental information (*e.g.*, its name, jurisdiction of incorporation or formation, and contact information) as well as the same information that an issuer would be required to disclose if it were filing a Form TR under Rule 200(e) or 305(d) and it had satisfied the condition in Rule 400(a).

As noted in sections V.C.3.a and b above, we estimate that issuers filing a Form TR pursuant to Rule 200(e) or Rule 305(d) would incur 20 total burden hours per filing. The burden hours for those filings, however, may be more variable than the burden hours for an issuer filing a Form TR pursuant to Rule 400(b) because the Form TR disclosure requirements for an issuer filing pursuant to Rule 200(e) or 305(d) would differ depending on whether the issuer has satisfied the condition in Rule 400(a). By contrast, because all issuers filing a Form TR pursuant to Rule 400(b) must have satisfied the condition in Rule 400(a) in order to fit within the investment contract safe harbor, we

assume that issuers filing a Form TR pursuant to Rule 400(b) will, on average, incur more burden hours than an issuer filing a Form TR pursuant to Rule 200(e) or 305(d). Thus, for purposes of this PRA analysis, we assume that each issuer filing a Form TR pursuant to Rule 400(b) would incur 30 total burden hours, with 75 percent of those 30 total burden hours (22.5 hours) being performed internally by the issuer and 25 percent of those 30 total burden

hours (7.5 hours) being performed externally by outside professionals (at a rate of \$635 per hour).
We assume that each of the 475 issuers that we estimate would rely on the investment contract safe harbor annually would file a Form TR pursuant to Rule 400(b). Thus, we estimate a total of 475 Form TR filings pursuant to Rule 400(b) annually, with an annual burden of 10,687.5 hours (22.5 internal burden hours per response × 475 responses

annually) and an annual cost burden of \$2,262,187.50 (7.5 hours of outside professional services per response × \$635 per hour × 475 responses annually), each of which would be attributed to the “Form TR” information collection.
The below table summarizes the estimated paperwork burdens associated with Rule 400(b).

PRA Table 12. Calculation of the Burden Estimates for “Form TR” Attributable to

Rule 400(b).

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75]	Professional Hours (E) [(C) x 0.25]	Professional Costs (F) [(E) x \$635]
Rule 400(b)	475	30	14,250	10,687.5	3,562.5	\$2,262,187.50

The below table summarizes the total estimated paperwork burdens of the “Form TR” information collection

attributable to Rules 200(e), 305(c), 305(d), and 400(b).

PRA Table 13. Calculation of the Total Burden Estimates for “Form TR.”

Collection of Information	Estimated Number of Annual Responses (A)	Burden Hour per Response (B)	Total Annual Burden Hours (C) [(A) x (B)]	Company Hours (D) [(C) x 0.75 or 1.00]	Professional Hours (E) [(C) x 0.25 or 0.00]	Professional Costs (F) [(E) x \$635]
Rule 200(e)	24.75	20	495	371.25	123.75	\$78,581.25
Rule 305(c)	3.1	1.5	4.65	4.65	0	\$0
Rule 305(d)	7.75	20	155	116.25	38.75	\$24,606.25
Rule 400(b)	475	30	14,250	10,687.5	3,562.5	\$2,262,187.5
Form TR^a	510.6			11,179.65		\$2,365,375

^a We present only the total estimated number of annual responses, internal burden hours, and professional costs in this row because these are the three values that would be reflected in the OMB inventory in connection with the proposed new “Form TR” information collection.

4. Form ID

Under the proposed rules, an issuer would be required to file specified disclosures with us on EDGAR. We anticipate that many issuers relying on Regulation Crypto Assets for the first time would not previously have filed an electronic submission with us and, therefore, would need to complete and submit Form ID, the application for access to file on EDGAR. The proposed

rules would not change the form itself, but we anticipate that the number of Form ID filings would increase due to new issuers seeking to rely on Regulation Crypto Assets.
For purposes of this PRA analysis, we assume that all the issuers that would seek to offer and sell securities in reliance on the startup exemption (99 issuers) and the fundraising exemption (31 issuers) would not have filed an

electronic submission with us previously and, therefore, would be required to file a Form ID.⁵⁶⁶ In total,

⁵⁶⁶ Conversely, we assume that all of the issuers that would rely on the investment contract safe harbor would have filed an electronic submission with us previously and, therefore, would not be required to submit a Form ID. That is, we assume that such issuers either would have relied on an existing exemption (if they offered or sold covered investment contracts before the proposed rules are adopted) or they would rely on either the startup

this would correspond to 130 additional Form ID filings and a total annual burden of 78 hours for the “Form ID” information collection (130 filings $\times$ 0.6 hours/filing).⁵⁶⁷

Additionally, for purposes of this PRA analysis, we assume that each issuer filing a Form ID would incur 0.6 total burden hours, with 100 percent of those hours being handled internally by the

issuer. The below table summarizes the estimated incremental paperwork burdens associated with Form ID.

PRA Table 14. Calculation of the Incremental Burden Estimates for “Form ID.”

Collection of Information	Estimated Number of New Annual Responses (A)	Burden Hour per Response (B)	Incremental Change in Annual Burden Hours (C) [(A) $\times$ (B)]	Incremental Change in Company Hours (D) [(C) $\times$ 1.00]	Incremental Change in Professional Hours (E)	Incremental Change in Professional Costs (F)
Form ID	130	0.60	78	78	0	\$0

The table below illustrates the estimated annual compliance burden of new information collections as a result

of the proposed rules’ estimated effect on the paperwork burden per response.

PRA Table 15. Calculation of the Change in Burden Estimates of New Responses

Resulting from the Proposed Rules.⁵⁶⁸

New Collection of Information	Requested New Annual Responses (A)	Requested New Burden Hours (B)	Requested New Cost Burden (C)
Rule 200 of Regulation Crypto Assets (From NOR)	99	3,960	\$1,005,840
Form 1-CRYPTO	31	16,679	\$3,530,367
Form 1-KC	31	13,950	\$2,952,750
Form 1-SC	31	4,955	\$555,235
Form 1-UC	31	132	\$14,764
Form TR	511	11,180	\$2,365,375

The table below illustrates the estimated change in annual compliance

burdens of existing information collections as a result of the proposed

rules’ estimated effect on the paperwork burden per response.

exemption or the fundraising exemption before satisfying the investment contract safe harbor. *See supra* note 456 (noting that our economic analysis assumes that market participants are compliant with existing applicable Commission rules). For those issuers that have relied on an existing exemption to offer and sell covered investment contracts, we recognize that some existing exemptions on which they may rely do not require an electronic submission and, therefore, those

issuers may not have been required to submit a Form ID. *See, e.g.*, 17 CFR 230.147. Therefore, to the extent those issuers would rely on the investment contract safe harbor, they would also be required to submit a Form ID. Because we cannot estimate the number of such issuers with precision, however, we have not accounted for them in the burden estimate for Form ID.

⁵⁶⁷ We do not estimate any cost burden associated with the additional Form ID submissions because

we assume that 100 percent of the burden associated with a Form ID submission is performed internally by the issuer.

⁵⁶⁸ For purposes of the PRA, each of the requested new annual responses (column A) and the requested new burden hours (column B) are rounded to the nearest whole number and the requested new cost burden (column C) is rounded to the nearest dollar.

PRA Table 16. Calculation of the Change in Burden Estimates of Current

Responses Resulting from the Proposed Rules.

	Current Burden			Program Change			Requested Change in Burden		
Form	Current Annual Responses (A)	Current Burden Hours (B)	Current Cost Burden (C)	Change in Number of Responses (D)	Change in Company Hours (E)	Change in Professional Costs (F)	Annual Responses (G) [(A) + (D)]	Burden Hours (H) [(B) + (E)]	Cost Burden (I)
Form ID	82,483	49,490	\$0	130	78	\$0	82,613	49,568	\$0

D. Collections of Information are Mandatory

The collections of information required under Regulation Crypto Assets would be mandatory for all issuers.

E. Confidentiality

The collections of information required under Regulation Crypto Assets would not be confidential, although issuers may request confidential treatment for certain information filed or materials submitted in conjunction with the filings.⁵⁶⁹ A Form 1-CRYPTO that is non-publicly submitted by an issuer and later abandoned before being publicly filed with the Commission, however, remains non-public, absent a request for such information under the Freedom of Information Act.⁵⁷⁰

F. Retention Period of Recordkeeping Requirements

Issuers would not be subject to recordkeeping requirements under Regulation Crypto Assets.

G. Request for Comment

We invite comment on all of the above estimates. In particular, we request comment on the assumptions and estimates described above with respect to how issuers would comply with the proposed information collection requests. Pursuant to 44 U.S.C. 3506(c)(2)(B), we request comment in order to: (1) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) evaluate the accuracy of our estimate of the burden of the proposed collections of information; (3) determine

whether there are ways to enhance the quality, utility, and clarity of the information to be collected; (4) evaluate whether there are ways to minimize the burden of the proposed collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and (5) evaluate whether the proposed rules would have any effects on any other collections of information not previously identified in this section.

Any member of the public may direct to us any comments about the accuracy of these burden estimates and any suggestions for reducing these burdens. Persons submitting comments on the collection of information requirements should direct them to the OMB Desk Officer for the Securities and Exchange Commission, *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov*, and should send a copy to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, using any of the methods in the **ADDRESSES** section, with reference to File No. S7-2026-27. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7-2026-27, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

VI. Present Values and Annualized Values of Monetized Benefits and Costs

In addition to discussing the benefits, costs, and reasonable alternatives in the economic analysis in section IV, consistent with the requirements of Executive Order 12866, and estimating burdens under the PRA in section V, the

Commission reports estimated total monetized benefits and costs for all affected entities in two ways specified in OMB Circular A-4.⁵⁷¹ These additional analyses include only benefits and costs that are monetized in the economic analysis and thus do not encompass all of the proposed rules' benefits and costs. The two presentations are intended to address the fact that the various benefits and costs of the proposed rules would not accrue at the same point in time; rather, benefits and costs that accrue sooner are generally more valuable than those that occur later in time.⁵⁷²

We report below (1) the present values of expected benefits and costs that are monetized in our economic analysis over a 10-year time horizon, starting in 2026, as well as (2) the annualized values over the same time horizon that are derived from the present values. This 10-year time horizon represents the period over which the principal benefits and costs that are monetized in the economic analysis are expected to accrue.⁵⁷³ The

⁵⁷¹ See Exec. Order No. 12866 (Sept. 30, 1993), 58 FR 51735, 51741 (Oct. 4, 1993) (requiring agencies to provide an analysis of benefits, costs, and regulatory alternatives to OIRA for significant regulatory actions); OMB, Circular A-4, at 31-34, 45 (Sept. 17, 2003) (providing guidance to agencies regarding compliance with Executive Order 12866); see also Exec. Order No. 14215 (Feb. 18, 2025), 90 FR 10447, 10448 (Feb. 24, 2025) (requiring independent agencies to comply with Exec. Order No. 12866). In addition, Executive Order 14192 requires agencies to provide their best approximation of the total costs or savings associated with each new regulation or repealed regulation consistent with the analyses required by Executive Order 12866. See Exec. Order No. 14192 (Jan. 31, 2025), 90 FR 9065, 9066 (Feb. 6, 2025).

⁵⁷² See Circular A-4, at 32.

⁵⁷³ See Circular A-4, at 31 (stating that "[t]he ending point should be far enough in the future to encompass all the significant benefits and costs likely to result from the rule"). For the purposes of this analysis, we assume the effective date of the proposed rule, as well as the start year for the analysis's 10-year time horizon, is the present year. The analysis uses calendar years and also accounts for the compliance periods included in the release (see note b in Table 8).

⁵⁶⁹ See 17 CFR 200.83; 17 CFR 230.406.

⁵⁷⁰ 5 U.S.C. 552. The Commission's regulations that implement the Freedom of Information Act are at 17 CFR 200.80 *et seq.*

present values and annualized values account for the timing of benefits and costs through discounting, which is a procedure that accounts for the time value of money.⁵⁷⁴ The present values and annualized values are computed for total monetized benefits and costs, combining one-time and recurring monetized benefits and costs, across all affected entities over the time horizon.

Table 8 reports the present values of monetized benefits and costs using annual real discount rates of three percent and seven percent over a 10-

year time horizon, starting in 2026.⁵⁷⁵ It is important to note that the compliance costs for each exemption of the proposed rules are incurred only if issuers choose to avail themselves of the exemption. The proposed rules provide issuers of covered investment contracts with additional capital raising options to choose from. Issuers of covered investment contracts would have no obligation to rely upon provisions of the proposed rules. Therefore, they likely will only choose to rely upon provisions

of the proposed rules to raise capital when doing so is more beneficial to them than the next best alternative. The analysis in Table 8 assumes a certain number of offerings under each exemption each year, based on the estimates provided in section V.⁵⁷⁶ The monetized costs and benefits are based on the total number of annual offerings estimated and would increase or decrease depending on whether more issuers or fewer issuers make offerings under Regulation Crypto Assets.

Table 8: Present Value of Monetized Benefits and Costs over 10 years from 2026 to 2035 (2025 Dollars)^a

Estimated Effects ^b	3% real discount rate	7% real discount rate
Benefits	n/a	n/a
Costs	\$370,241,903	\$310,712,064

Notes:

^a This Table includes only benefits and costs that are monetized. As discussed in the economic analysis in section IV, there are other benefits and costs that we are not able to monetize. The analysis presented in this Table assumes a fixed number of offerings under each exemption each year, based on the estimates provided above in section V.B.

^b For each discount rate, the present value calculations are based on the assumption that all one-time monetized costs accrue in the year in which affect entities choose to rely upon provisions of the proposed rules. The analysis presented in this Table assumes a fixed number of offerings under each exemption each year, based on the estimates provided above in section V.B. We assume that under the startup exemption there would be 99 issuers per year, each incurring 56 burden hours (*see supra* PRA Table 4), which translates into a total annual cost of \$3,520,440 (99 * 56 * \$635). We assume that under the fundraising exemption there would be 31 issuers per year, each incurring 1,510.412 burden hours (*see supra* PRA Tables 5, 6, 7, and 8), which translates into a total annual cost of \$29,732,460 (31 * 1,510.412 * \$635). We assume that for Form TR there would be 511 issuers per year, each incurring on average 71.5 burden hours (*see supra* PRA Table 13), which translates into a total annual cost of \$9,464,453 (14,904.65 * \$635). We assume that for Form ID there would be 130 issuers per year, each incurring 0.6 burden hours (*see supra* PRA Table 14), which translates into a total annual cost of \$49,530 (130 * 0.6 * \$635). Thus, our estimate of the annual cost for the proposed rules is \$42,766,883 (\$3,520,440 + \$29,732,460 + \$9,464,453 + \$49,530). The monetized costs and benefits are based on the total number of annual offerings estimated and would increase or decrease depending on whether more issuers or fewer issuers make offerings under Regulation Crypto Assets. We assume that monetized benefits and costs occur in a steady stream, and we use a mid-year discount rate.

Table 9 reports annualized monetized benefits and costs using real discount rates of three percent and seven percent over a 10-year horizon.⁵⁷⁷ The lump sum present values of monetized benefits and costs reported in Table 8

are converted in Table 9 into a constant stream of annualized benefits and costs over a 10-year time horizon, starting in 2026.⁵⁷⁸ Annualized benefits and costs may differ from the recurring monetized annual benefits and costs discussed

earlier in this economic analysis because they incorporate the timing of benefits and costs, through discounting,

⁵⁷⁴ See *id.* at 32 (“The Rationale for Discounting”) & 45 (“Treatment of Benefits and Costs over Time”); see also OIRA, Regulatory Impact Analysis: A Primer, at 11 (Aug. 15, 2011), available at <https://reginfo.gov/public/jsp/Utilities/circular-a-4-regulatory-impact-analysis-a-primer.pdf> (“To provide an accurate assessment of benefits and costs that occur at different points in time or over different time horizons, an agency should use discounting. Agencies should provide benefit and cost estimates using both 3 percent and 7 percent annual discount rates expressed as a present value as well as annualized.”); Harvey S. Rosen & Ted

Gayer, Public Finance 151 (8th ed. 2008) (defining present value as “the value today of a given amount of money to be paid or received in the future”).

⁵⁷⁵ This approach is consistent with OMB Circular A–4. See Circular A–4, at 31–34 (stating that, “[f]or regulatory analysis, [agencies] should provide estimates of net benefits using both 3 percent and 7 percent” discount rates and discussing why those rates are reasonable default rates).

⁵⁷⁶ For an explanation of the basis for the estimate of the number of annual offerings used in this analysis, see *supra* section V.B.

⁵⁷⁷ This approach is consistent with the recommended treatment of benefits and costs over time in Circular A–4. See Circular A–4, at 45 (“You should present annualized benefits and costs using real discount rates of 3 and 7 percent.”).

⁵⁷⁸ For each discount rate, the annualized monetized benefits (costs, respectively) in Table 9 represent the constant annual stream of benefits (costs, respectively) whose present value over the 10-year horizon equates the corresponding present value in Table 8. See note b, Table 9 for additional calculation details.

and combine one-time and recurring benefits and costs.⁵⁷⁹

Table 9: Annualized Monetized Benefits and Costs over 10 years from 2026 to 2035

(2025 Dollars)^a

Estimated Effects ^b	3% real discount rate	7% real discount rate
Benefits	n/a	n/a
Costs	\$42,766,883	\$42,766,883

Notes:

- ^a This Table includes only benefits and costs that are monetized. As discussed in the economic analysis in section IV, there are other benefits and costs that we are not able to monetize. The analysis presented in this Table assumes a fixed number of offerings under each exemption each year, based on the estimates provided above in section V.B.
- ^b For each discount rate, the annualized values are calculated by dividing the corresponding present values in Table 8 by the sum of discount factors over the time horizon. The discount factor in year *t* of the time horizon is equal to $1/(1 + \textit{discount rate})^{(t-0.5)}$.

In sum, Tables 8 and 9 report in two alternative ways expected total benefits and costs, across all affected entities, which are monetized in our economic analysis, using real discount rates of three percent and seven percent over a 10-year time horizon.

VII. Congressional Review Act

For purposes of Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act),⁵⁸⁰ the Commission must seek OMB’s determination as to whether a final regulation constitutes a “major rule.” Under the Congressional Review Act, a rule is considered “major” when, if adopted, it results or is likely to result in: (1) an annual effect on the U.S. economy of \$100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or (3) significant adverse effect on competition, investment, or innovation.⁵⁸¹

To help inform OMB’s determination as to whether any final rule that results from the proposal would be a “major rule,” we solicit comment and data on: (1) the potential effect of the proposed rules on the U.S. economy on an annual basis; (2) any potential increase in costs or prices for consumers or individual industries; and (3) any potential adverse effect on competition, investment, or innovation. Commenters are requested to provide empirical data and other

factual support for their views, to the extent possible, to inform OMB’s determination regarding whether any final rule following this proposal is likely to be a “major rule” for the purposes of the Congressional Review Act.

VIII. Initial Regulatory Flexibility Act Analysis

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (“RFA”)⁵⁸² requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Analysis (“IRFA”) that will describe the impact of the proposed rules on small entities.⁵⁸³ We have prepared, and made available for public comment, the following IRFA, in accordance with the RFA. This IRFA relates to proposed Regulation Crypto Assets, which is described in section II above.

A. Reasons for, and Objectives of, the Proposed Action

The proposed rules are intended to create a tailored offering regime for covered investment contracts to facilitate capital formation and accommodate innovation within the crypto asset markets while ensuring that investors are adequately protected and provided with the information they need to make informed investment decisions. The proposed rules would be set forth in a new regulation titled

“Regulation Crypto Assets” and would include two exemptions from the registration requirements of section 5 of the Securities Act:

- The startup exemption, which would permit offerings of up to \$5 million during a four-year period; and
- The fundraising exemption, which would permit offerings of up to \$75 million during each 12-month period.

Under both exemptions, issuers would be required to make certain principles-based narrative disclosures available to their investors. In addition, issuers using the fundraising exemption would be required to provide financial statements and be subject to ongoing reporting requirements. The proposed rules also would include a conditional safe harbor from the term “investment contract” in the definitions of “security” in the Securities Act and the Exchange Act. If the conditions of that proposed safe harbor are satisfied, a crypto asset would be deemed not to be subject to an investment contract for purposes of those definitions of “security.” The reasons for, and objectives of, the proposed rules are discussed in more detail in section II above.

B. Legal Basis

The rules contained in this release are being proposed under the authority set forth in the Securities Act, particularly sections 3(b), 18, 19(a), and 28 thereof, and the Exchange Act, particularly

⁵⁷⁹ The annualized benefits and costs present these values over the 10-year time horizon, starting in the present year.

⁵⁸⁰ See 5 U.S.C. chapter 8.

⁵⁸¹ See 5 U.S.C. 804(2) (defining “major rule”).

⁵⁸² 5 U.S.C. 601 *et seq.*

⁵⁸³ 5 U.S.C. 603(a).

sections 3(b), 12, 13, 15, 23(a), and 36 thereof.

C. Small Entities Subject to the Proposed Rules

The proposed rules would affect some issuers that are small entities. The RFA defines “small entity” to mean “small business,” “small organization,” or “small governmental jurisdiction.”⁵⁸⁴ For purposes of the RFA, under 17 CFR 230.157 and 17 CFR 240.0–10(a), an issuer, other than an investment company, is a “small business” or “small organization” if it had total assets of \$5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities not exceeding \$5 million.

It is difficult to predict the number of small businesses that would use proposed Regulation Crypto Assets that would qualify as a “small entity” due to the lack of reliable data or information that would allow us to estimate the number of issuers that would be able to rely on the proposed rules or that are likely to use them in the future. Nevertheless, we believe that the proposed rules will be used by many issuers that are considered small entities because the proposed rules would create an offering and disclosure framework specifically tailored to covered investment contracts, which would allow issuers to avoid undue costs. Particularly, the startup exemption, through its offering limit and tailored disclosure requirements, is designed to allow small entities in early stages of development that may not find it practical to do a traditional public offering to raise capital at a lower cost compared to some of the existing exemptions. Moreover, because the startup exemption would be available to entities, individuals, or a group of individuals or entities, it would be especially useful for smaller or early-stage issuers that may not have formed a legal entity.

As discussed above, we analyzed data available on the potential number of issuers that made crypto asset-related offerings under Regulation D, Regulation A, or Regulation Crowdfunding.⁵⁸⁵ Based on this analysis, and for the reasons discussed above, we believe that at least 89 small entities will conduct offerings under the proposed rules per year.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

If adopted, the proposed rules would require the filing of new forms along with tailored disclosures (and, for one of the new forms, the use of XML), which would add to the compliance costs for issuers under the new offering regime for covered investment contracts. In addition, compliance with the proposed rules may require the use of professional skills, such as lawyers, accountants and auditors, financial managers, and information technology managers.⁵⁸⁶ The proposed rules are discussed in detail in section II above. The economic impact, including the estimated compliance costs and paperwork burdens, of the proposed rules are discussed in detail in section IV and section V above.

The proposed rules would apply to small entities to the same extent as other entities, irrespective of size. We expect that the nature of any benefits and costs associated with the proposed rules to be generally similar for large and small entities. We also anticipate that the economic benefits and costs of the proposed rules likely could vary widely among all entities, including small entities, primarily based on whether they conduct offerings of covered investment contracts and how frequently they do so.

As noted in section IV.A.1 above, we acknowledge that the proposed rules’ compliance costs may be proportionally higher for smaller issuers than for larger issuers. We are unable to quantify or estimate with any degree of certainty the costs that a particular issuer may incur under the proposed rules. As noted in section V.C above, however, the estimated burdens associated with the proposed rules represent the average burden for all issuers, both large and small, and we recognize that those burdens likely will vary among individual issuers and from year to year based on a number of factors, including the nature of their business.

E. Duplicative, Overlapping, or Conflicting Federal Rules

We do not believe the proposed rules would duplicate, overlap, or conflict with other existing Federal rules.

F. Significant Alternatives

The RFA directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed rules, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating, or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.⁵⁸⁷

The proposed rules are intended to create a tailored offering regime for covered investment contracts to facilitate capital formation and accommodate innovation within the crypto asset markets while ensuring that investors are adequately protected and provided with the information they need to make informed investment decisions. The disclosure, some of which would be provided in a machine-readable format, should permit investors to more quickly and efficiently evaluate information relating to offerings of covered investment contracts, on a more timely basis.

While we acknowledge that small entities are more likely to be affected by the costs of additional disclosure, we note that smaller entities may benefit significantly from the Commission’s proposed exemptions because they would provide those entities with greater access to capital.⁵⁸⁸ In addition, we note that the proposed exemptions could also promote competition between small and larger issuers of covered investment contracts because smaller issuers may be able to raise capital more easily given the likely decreased costs.⁵⁸⁹

Moreover, because small entities are more likely to have relatively high information asymmetries, we believe that investors in small entities will have a particular need for the information required by the proposed rules in a timely manner, and we have determined small entities should not be exempt from all or part of these requirements or be permitted delayed compliance. We note, however, that various aspects of the proposed rules are intended to minimize issuers’ compliance costs. For example, we have proposed principles-based disclosure requirements in Rule 103, applicable to both the startup exemption and the fundraising exemption, which may reduce compliance costs relative to a more prescriptive disclosure requirement. In addition, proposed Rule 200(d)(1) would require the issuer to make the

⁵⁸⁴ 5 U.S.C. 601(6).

⁵⁸⁵ See *supra* section IV.A.

⁵⁸⁶ See *supra* note 550.

⁵⁸⁷ See *supra* section IV.D.

⁵⁸⁸ See *supra* section IV.A.

⁵⁸⁹ See *supra* section IV.C.

information described in Rule 103 publicly accessible, free of charge, at the website address specified in the notice of reliance at or prior to the time that the notice of reliance is filed with the Commission. This proposed requirement is consistent with our understanding of current practice in many ICOs (in which the project's whitepaper is posted on the developer's public website) and is intended to be compatible with this existing practice in order to limit issuers' compliance costs, especially in view of the fact that many of these issuers are smaller and may not be familiar with EDGAR. These aspects of the proposed rules that are intended to reduce issuers' compliance costs may be particularly beneficial to small entities and, therefore, balance the objectives of the proposed rules with the needs of small entities for additional flexibilities that will mitigate compliance costs.

We have used design rather than performance standards in connection with the proposed rules because we are seeking specific information relating to an issuer's offering of covered investment contracts with the goal of enabling investors to better analyze those offerings. Thus, the objectives of the proposed rules are unlikely to be met using a performance standard.

G. Request for Comment

We encourage the submission of comments with respect to any aspect of this IRFA. In particular, we request comments regarding:

- The number of small entities that may be affected by the proposed rules;
- The existence or nature of the potential impact of the proposed rules on small entities discussed in the analysis;
- How the proposed rules could further lower the burden on small entities; and
- How to quantify the impact of the proposed rules.

Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed rules are adopted, and will be placed in the same public file as comments on the proposed rules themselves.

Statutory Authority

The rules and forms contained in this document are being proposed under the authority set forth in the Securities Act, particularly, sections 3(b), 18, 19(a), and 28 thereof, 15 U.S.C. 77a *et seq.*, and the Exchange Act, particularly, sections

3(b), 12, 13, 23(a) and 36 thereof, 15 U.S.C. 78a *et seq.*

List of Subjects

17 CFR Part 200 and 201

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

17 CFR Parts 228, 230, and 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 232

Administrative practice and procedure, Electronic filing, Investment companies, Reporting and recordkeeping requirements, Securities.

Text of the Proposed Amendments

For the reasons stated in the preamble, the Commission is proposing to amend Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

- 1. The authority citation for part 200 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, and 557; 11 U.S.C. 901 and 1109(a); 15 U.S.C. 77c, 77e, 77f, 77g, 77h, 77j, 77o, 77q, 77s, 77u, 77z-3, 77ggg(a), 77hhh, 77sss, 77uuu, 78b, 78c(b), 78d, 78d-1, 78d-2, 78e, 78f, 78g, 78h, 78i, 78k, 78k-1, 78l, 78m, 78n, 78o, 78o-4, 78q, 78q-1, 78t-1, 78u, 78w, 78ll(d), 78mm, 78eee, 80a-8, 80a-20, 80a-24, 80a-29, 80a-37, 80a-41, 80a-44(a), 80a-44(b), 80b-3, 80b-4, 80b-5, 80b-9, 80b-10(a), 80b-11, 7202, and 7211 *et seq.*; 29 U.S.C. 794; 44 U.S.C. 3506 and 3507; Reorganization Plan No. 10 of 1950 (15 U.S.C. 78d); sec. 8G, Pub. L. 95-452, 92 Stat. 1101 (5 U.S.C. App.); sec. 913, Pub. L. 111-203, 124 Stat. 1376, 1827; sec. 3(a), Pub. L. 114-185, 130 Stat. 538; E.O. 11222, 30 FR 6469, 3 CFR, 1964-1965 Comp., p. 36; E.O. 12356, 47 FR 14874, 3 CFR, 1982 Comp., p. 166; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Information Security Oversight Office Directive No. 1, 47 FR 27836; and 5 CFR 735.104 and 5 CFR parts 2634 and 2635, unless otherwise noted.

- 2. Amend § 200.30-1 by adding paragraph (n) to read as follows:

§ 200.30-1 Delegation of authority to Director of Division of Corporation Finance.

* * * * *

(n) With respect to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) and Regulation Crypto Assets (17 CFR part 228):

(1) To authorize the granting of applications under § 228.104 of this chapter upon a showing of good cause that it is not necessary under the circumstances that an exemption under Regulation Crypto Assets be denied;

(2) To determine the date and time of qualification for offering statements and amendments to offering statements pursuant to § 228.302(e) of this chapter;

(3) To consent to the withdrawal of an offering statement or to declare an offering statement abandoned pursuant to § 228.307 of this chapter; and

(4) To deny a transition report filing pursuant to § 228.307 of this chapter.

PART 201—RULES OF PRACTICE

Subpart D—Rules of Practice

- 3. The authority citation for Part 201, Subpart D, continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77h-1, 77j, 77s, 77u, 77sss, 78c(b), 78d-1, 78d-2, 78l, 78m, 78n, 78o(d), 78o-3, 78o-10(b)(6), 78s, 78u-2, 78u-3, 78v, 78w, 80a-8, 80a-9, 80a-37, 80a-38, 80a-39, 80a-40, 80a-41, 80a-44, 80b-3, 80b-9, 80b-11, 80b-12, 7202, 7215, and 7217.

- 4. Amend § 201.431 by revising paragraph (e)(3) to read as follows:

§ 201.431 Commission consideration of actions made pursuant to delegated authority.

* * * * *

(e) * * *

(3) To determine the effectiveness of a registration statement, or a post-effective amendment thereto, or the qualification of an offering statement, or a post-qualification amendment hereto, as authorized by 17 CFR 200.30-1(a)(1), 200.30-1(a)(5), 200.30-1(b)(2), 200.30-1(f)(1), 200.30-1(f)(6), and 200.30-1(n)(2), or 17 CFR 200.30-5(b), 200.30-5(c)(3), 200.30-5(c)(4), and 200.30-5(c)(6).

* * * * *

- 5. Add part 228 to read as follows:

PART 228—REGULATION CRYPTO ASSETS

Authority: 15 U.S.C. 77c, 77r(b)(3), 77s, 77z-3, 78c(b), 78w, and 78mm.

Subpart A—General

§ 228.100 Definitions of terms used in Regulation Crypto Assets.

As used in this Regulation Crypto Assets (17 CFR Part 228) and in Form 1-CRYPTO, Form 1-KC, Form 1-SC, Form 1-UC, Form TR, and Form NOR (§§ 239.600 through 605 of this chapter), all terms have the same meanings as in Rule 405 (§ 230.405 of this chapter), except that all references to *registrant* in those definitions shall refer to the issuer of the securities to be offered and sold under Regulation Crypto Assets. In addition, the following definitions apply unless the context otherwise requires:

Aggregate offering price and aggregate sales. “Aggregate offering price” means the sum of all cash and other consideration to be received for the covered investment contracts being offered. “Aggregate sales” means the gross proceeds for all securities sold pursuant to other offering statements under Regulation Crypto Assets within the 12 months before the start of, and during, the current offering of securities. Where a mixture of cash and non-cash consideration is to be received, the aggregate offering price must be based on the price at which the covered investment contracts are offered for cash. Any portion of the aggregate offering price or aggregate sales attributable to cash received in a foreign currency must be translated into United States currency at a currency exchange rate in effect on, or at a reasonable time before, the date of the sale of the covered investment contracts. If covered investment contracts are not offered for cash, the aggregate offering price or aggregate sales must be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by an accepted standard. Valuations of non-cash consideration must be reasonable at the time made.

Associated crypto application. “Associated crypto application” means, with respect to a crypto asset, the smart contract or similar executable software program that is deployed to an associated crypto network and within which such crypto asset may be used for the transmission or storage of value or for which the crypto asset facilitates access or participation.

Associated crypto network. “Associated crypto network” means, with respect to a crypto asset, the blockchain or similar distributed ledger technology network on which such crypto asset is generated, minted, or mined.

Business day. “Business day” means any day except Saturdays, Sundays, or Federal holidays.

Covered investment contract. “Covered investment contract” means a contract, transaction, or scheme involving a crypto asset that constitutes an investment contract; *provided* that the investment contract must meet the following requirements: (1) a crypto asset is subject to the investment contract; (2) such crypto asset is not a security; and (3) no asset other than such crypto asset (including any security or non-security asset) is subject to the investment contract.

Covered transaction. “Covered transaction” means an offer, sale, or

other distribution of a covered investment contract in reliance on the startup exemption, including, but not limited to:

(1) Any public or private offering, including a distribution, of a covered investment contract in one or a series of capital raising transactions; or

(2) Any public or private offering, including a distribution and transactions referred to as “airdrops,” of a covered investment contract in one or a series of transactions in exchange for, in recognition of, as or incentive for past or future use of an associated crypto network or associated crypto application, or as a reward or incentive for conducting activities primarily related to operating, governing, or securing an associated crypto network or associated crypto application.

Crypto asset. “Crypto asset” means any digital representation of value that is recorded on a cryptographically-secured distributed ledger.

Final offering circular. “Final offering circular” means:

(1) If the issuer is not relying on Rule 302(b) (§ 228.302(b)), the more recent of:

(i) The current offering circular contained in a qualified offering statement; and

(ii) Any offering circular filed pursuant to Rule 302(f) (§ 228.302(f)).

(2) If the issuer is relying on Rule 302(b) (§ 228.302(b)), the more recent of:

(i) The offering circular filed pursuant to Rule 302(f)(1) or (3) (§ 228.302(f)(1) or (3)); and

(ii) Any subsequent offering circular filed pursuant to Rule 302(f) (§ 228.302(f)).

Related person. “Related person” means, with respect to an issuer: founders, promoters, employees, affiliates, and any person that is a director, officer, trustee, consultant, contractor, or advisor to the issuer, in each case together with any immediate family members.

Subject crypto asset. “Subject crypto asset” means a crypto asset that is subject to a covered investment contract.

§ 228.101 General provisions.

(a) **Non-exclusive.** Attempted compliance with any exemption or safe harbor in this Regulation Crypto Assets does not act as an exclusive election; an issuer also may claim the availability of any other applicable exemption or safe harbor for which it meets the requirements.

(b) **Integration.** To determine whether offers and sales should be integrated, see § 230.152.

(c) **Electronic filing.** Documents filed or otherwise provided to the Commission pursuant to this Regulation Crypto Assets must be submitted in electronic format by means of EDGAR in accordance with the electronic filing rules set forth in Regulation S-T (part 232 of this chapter).

(d) **Insignificant deviations.**

(1) A failure to comply with a term, condition, or requirement of this Regulation Crypto Assets will not result in the loss of any exemption under this Regulation Crypto Assets from the requirements of section 5 of the Securities Act for any offer or sale to a particular individual or entity, if the person relying on the exemption establishes that:

(i) The failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity;

(ii) The failure to comply was insignificant with respect to the offering as a whole; and

(iii) A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of this Regulation Crypto Assets.

(2) A transaction made in reliance upon an exemption under Regulation Crypto Assets must comply with all applicable terms, conditions, and requirements of the regulation. Where an exemption is established only through reliance upon paragraph (1) of this section, the failure to comply is nonetheless actionable by the Commission under section 20 of the Securities Act.

(3) Paragraph (d)(1) of this section will not preclude the Commission from bringing an enforcement action seeking any appropriate relief or a proceeding under § 228.306 for an issuer's failure to comply with all applicable terms, conditions, and requirements of this Regulation Crypto Assets.

(e) **Number of units and price per unit.**

(1) For purposes of determining the number of units of covered investment contracts as required by any rule or form in Regulation Crypto Assets, one unit of a covered investment contract is equivalent to one unit of the subject crypto asset.

(2) For purposes of determining the price per unit of a covered investment contract as required by any rule or form in Regulation Crypto Assets, such price should be determined by reference to the price per unit of the subject crypto asset.

Note to paragraph (e). For example, if an issuer sells a covered investment contract to

an investor for \$100, and the covered investment contract contemplates that the issuer will distribute 10 units of the subject crypto asset to the investor, then at the time of the sale of the covered investment contract, the investor is deemed to have purchased 10 units of the covered investment contract at a price of \$10 per unit of covered investment contract.

§ 228.102 Inflation adjustment for offering limits.

The Commission periodically, but not less than once every five years, must adjust the offering amount limitations in § 228.200 and subpart C of this Regulation Crypto Assets to reflect any changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

§ 228.103 Disclosure requirements.

(a) *General disclosure principles.* Information provided under Regulation Crypto Assets should be tailored to the issuer, the subject crypto asset, and the associated crypto network or associated crypto application and should be presented in clear, concise, and understandable language, without overly relying on technical terminology or jargon. Each issuer should consider its own facts and circumstances when preparing this information. Information provided should address the current stage of development of the issuer, the subject crypto asset, and the associated crypto network or associated crypto application and should clearly delineate any forward-looking or future plans of development. Information provided should be consistent with the issuer's public statements in its established public communication channels (such as its website or official social media accounts) and promotional materials (such as whitepapers) relating to material aspects of the issuer, the subject crypto asset, and the associated crypto network or associated crypto application. Issuers should note that disclosure is not required to be provided where a particular disclosure requirement is not applicable, or responsive information is unknown or not reasonably available.

(b) *Disclosure to be provided.* An issuer that is relying on § 228.200 or subpart C of this Regulation Crypto Assets must disclose the following information in accordance with the requirements set forth in those exemptions:

(1) *Covered investment contract.* A description of the material terms of the covered investment contract, including the issuer's representations or promises to engage in essential managerial efforts under the covered investment contract

and its progress with respect to such representations or promises, a purchaser's obligations under the covered investment contract, any conditions to the covered investment contract, and any other material terms.

(2) *Offering.* A description of the material terms of the offering, including:

(i) The number of units of covered investment contracts to be offered, the purchase price per unit (or how the purchase price per unit will be determined), the duration of the offering period, and any qualifications for or restrictions on purchasers in the offering;

(ii) Any material agreements in furtherance of the distribution of covered investment contracts in the offering;

(iii) The estimated net offering sale proceeds and expenses to be paid with the offering proceeds;

(iv) The intended use of proceeds from any sales in the offering; and

(v) The website address at which any whitepapers or other offering materials that the issuer prepared and distributed, either publicly or to prospective purchasers in connection with the offering, are publicly accessible, free of charge.

(3) *Subject crypto asset.* A description of the material aspects of the subject crypto asset.

(4) *Management, related persons, and conflicts of interest.* A description of:

(i) The material aspects of the issuer's management and related persons;

(ii) The material aspects of any conflicts of interest or related person transactions involving the issuer; and

(iii) Whether related persons are subject to any transfer or resale restriction(s) with respect to the covered investment contract or subject crypto asset and, if so, the material terms of such restriction(s).

(5) *Associated crypto network/application; plan of development.* A description of the material aspects of the associated crypto network or associated crypto application and the issuer's plan of development with respect to the associated crypto network or associated crypto application, including the issuer's progress with respect to its plan of development.

(6) *Security; source code.* A description of the material aspects of the security of the subject crypto asset and the associated crypto network or associated crypto application and, to the extent the issuer has made it publicly available, the website address at which the code underlying the associated crypto network or associated crypto application (also referred to as "source code") is accessible.

(7) *Subject crypto asset economics and allocations.* A description of the material aspects of the subject crypto asset's economics and allocations, including the subject crypto asset's supply, pricing, lockups, distribution methods, holdings by related persons, and release schedules, the associated crypto network or associated crypto application's mechanisms for generating and destroying subject crypto assets, and methods to verify the subject crypto asset's transaction history.

(8) *Governance.* A description of the material aspects of the subject crypto asset's and associated crypto network's or associated crypto application's governance mechanisms, smart contract governance mechanisms, and permissions.

(9) *Subject crypto asset ecosystem.* A description of the material aspects of the subject crypto asset's current and anticipated ecosystem (*i.e.*, the system or network of contributors or participants that support and interact with the subject crypto asset and associated crypto network or associated crypto application), "onchain" and "offchain," including information regarding the technology infrastructure, types of participants, and other parties and systems using the subject crypto asset and the associated crypto network or associated crypto application.

(10) *Risk factors.* A description, in short, concise statements, of the material factors that make an investment in the offering speculative or risky, including risks related to the covered investment contract, the issuer, the subject crypto asset, and the associated crypto network or associated crypto application. This description must avoid generalized statements and include only factors specific to the covered investment contract, the issuer, the subject crypto asset, and the associated crypto network or associated crypto application.

§ 228.104 Disqualification.

(a) *Disqualification events.* No exemption under Regulation Crypto Assets is available for a sale of securities if the issuer or any type of person listed in § 230.262(a) of this chapter would be subject to disqualification under § 230.262 of this chapter; *provided, however*, that such disqualification shall not apply with respect to any conviction, order, judgment, decree, suspension, expulsion, or bar that occurred or was issued before [INSERT EFFECTIVE DATE OF FINAL RULE, IF ADOPTED].

Instruction to paragraph (a). References to "§§ 230.251 through 230.263" or "Regulation A" in

§ 230.262(a) should, for purposes of this paragraph, be read as references to “§§ 228.100 through 228.500” or “Regulation Crypto Assets,” as appropriate.

(b) *Disclosure of prior “bad actor” events.* The issuer must include in the offering circular, or otherwise furnish to each purchaser, a reasonable time prior to sale, a description in writing of any matters that would have triggered disqualification under paragraph (a) of this section but occurred before [INSERT EFFECTIVE DATE OF FINAL RULE, IF ADOPTED]. The failure to provide such information will not prevent an issuer from relying on an exemption in this Regulation Crypto Assets if the issuer establishes that it did not know and, in the exercise of reasonable care, could not have known of the existence of the undisclosed matter or matters.

Instruction to paragraph (b). An issuer will not be able to establish that it has exercised reasonable care unless it has made, in light of the circumstances, factual inquiry into whether any disqualifications exist. The nature and scope of the required factual inquiry will vary based on the facts and circumstances concerning, among other things, the issuer and the other offering participants.

Subpart B—Startup Exemption

§ 228.200 Startup exemption.

(a) *Exemption.* A covered transaction is exempt from the registration requirements of section 5 of the Securities Act if the conditions in paragraph (b) of this section are satisfied.

(b) *Conditions.*

(1) *Four-year duration.* The covered transaction must occur during the period beginning after the issuer has filed a notice of reliance in accordance with paragraph (c)(1) of this section and ending on the date that is the earlier of:

(i) Four years after the date of such filing; and

(ii) The date on which the issuer files a transition report pursuant to paragraph (e) of this section.

(2) *Issuer eligibility.* The issuer may be an entity, an individual, or a group of individuals or entities. If the issuer is a group of individuals or entities, each member of the group (or an authorized person of such member) must sign the notice of reliance and transition report (as discussed in paragraphs (c) and (e) of this section, respectively) and provide the certifications thereunder, and each member of the group individually, and the group collectively,

must satisfy each condition in this paragraph (b).

(3) *One-time use.* The issuer and its affiliates must not have previously relied on the exemption in this section with respect to the same subject crypto asset, or a substantially similar crypto asset, other than with respect to covered transactions that occurred during the period set forth in paragraph (b)(1) of this section.

(4) *Offering limit.* The sum of the aggregate offering price in the covered transaction plus the gross proceeds from all covered transactions before the start of and during the current covered transaction must not exceed \$5,000,000.

(5) *Disclosure and filing requirements.* The issuer must satisfy the disclosure and filing requirements set forth in paragraphs (c), (d), and (e) of this section.

(6) *General conditions.* The issuer must satisfy the applicable requirements set forth in subpart A of this Regulation Crypto Assets.

(c) *Notice of reliance.*

(1) The issuer must file with the Commission a notice of reliance containing the information required by Form NOR (§ 239.605) prior to the commencement of any covered transaction.

(2) The issuer may file an amendment to a previously filed notice of reliance on Form NOR at any time.

(3) During the period described in paragraph (b)(1) of this section, the issuer must file an amendment to a previously filed notice of reliance on Form NOR:

(i) To correct a material mistake of fact or error in the previously filed notice of reliance, as soon as practicable after discovery of the mistake or error; or

(ii) To reflect a material change in the information provided in the previously filed notice of reliance, as soon as practicable after the change.

(d) *Disclosure requirements.*

(1) The issuer must make the information described in § 228.103 publicly accessible, free of charge, at the website address specified in the notice of reliance at or prior to the time that the notice of reliance is filed with the Commission in accordance with paragraph (c)(1) of this section.

(2) The issuer must ensure that the information disclosed under paragraph (d)(1) of this section remains publicly accessible, free of charge, at the website address specified in the notice of reliance for the duration of the period described in paragraph (b)(1) of this section.

(3) During the period described in paragraph (b)(1) of this section, the

issuer must amend the information disclosed under paragraph (d)(1) of this section within 30 calendar days after the end of each calendar year if, as of the end of the calendar year, there are any material changes in the information previously disclosed.

(e) *Transition report.* The issuer must file with the Commission a transition report containing the information required by Form TR (§ 239.604) no later than four years after the date on which the issuer filed a notice of reliance in accordance with paragraph (c)(1) of this section.

Subpart C—Fundraising Exemption

§ 228.300 Scope of exemption.

(a) *Tier 1 and Tier 2.* A public offer or sale of covered investment contracts (for the purposes of this subpart, “securities” or “eligible securities”) under this subpart is exempt from the registration requirements of section 5 of the Securities Act.

(1) *Tier 1.* Offerings under this subpart in which the sum of the aggregate offering price and aggregate sales by the issuer and its affiliates does not exceed \$20,000,000, including not more than \$6,000,000 offered by all selling securityholders that are affiliates of the issuer (“Tier 1 offerings”).

(2) *Tier 2.* Offerings under this subpart in which the sum of the aggregate offering price and aggregate sales by the issuer and its affiliates does not exceed \$75,000,000, including not more than \$22,500,000 offered by all selling securityholders that are affiliates of the issuer (“Tier 2 offerings”).

(3) *Additional limitation on secondary sales in first year.* The portion of the aggregate offering price attributable to the securities of selling securityholders shall not exceed 30 percent of the aggregate offering price of a particular offering in:

(i) The issuer’s first offering under this section; or

(ii) Any subsequent offering under this section that is qualified within one year of the qualification date of the issuer’s first offering.

(b) *Issuer.* The issuer of the securities:

(1) Is an entity organized under, and subject to, the laws of the United States, or any State or territory of the United States or the District of Columbia; *provided* further that (i) a majority of the issuer’s executive officers or directors must be U.S. citizens or residents, (ii) more than 50 percent of the issuer’s assets must be located in the United States, and (iii) the issuer’s business must be administered principally in the United States;

(2) Is not a development stage company that either has no specific business plan or purpose, or has indicated that its business plan is to merge with or acquire an unidentified company or companies;

(3) Is not an investment company registered or required to be registered under the Investment Company Act of 1940 ("Investment Company Act") (15 U.S.C. 80a–1 *et seq.*) or a business development company as defined in section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48));

(4) Is not, and has not been, subject to any order of the Commission entered pursuant to section 12(j) (15 U.S.C. 78l(j)) of the Exchange Act within five years before the filing of the offering statement; *provided, however*, that this exclusion will not apply to any issuer subject to any order of the Commission entered pursuant to section 12(j) (15 U.S.C. 78l(j)) of the Exchange Act before [INSERT EFFECTIVE DATE OF FINAL RULE, IF ADOPTED].

(5) Has filed with the Commission all reports required to be filed, if any, pursuant to § 228.305 or pursuant to section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o) during the two years before the filing of the offering statement (or for such shorter period that the issuer was required to file such reports); and

(6) Has satisfied the applicable requirements set forth in subpart A of this Regulation Crypto Assets.

(c) *Offering conditions—*

(1) *Offers.*

(i) Except as allowed by § 228.304, no offer of securities may be made unless an offering statement has been filed with the Commission.

(ii) After the offering statement has been filed, but before it is qualified:

(A) Oral offers may be made;

(B) Written offers pursuant to § 228.303 may be made; and

(C) Solicitations of interest and other communications pursuant to § 228.304 may be made.

(iii) Offers may be made after the offering statement has been qualified, but any written offers must be accompanied with or preceded by the most recent offering circular filed with the Commission for such offering.

(2) *Sales.*

(i) No sale of securities may be made:

(A) Until the offering statement has been qualified;

(B) By issuers that are not currently subject to the reporting requirements of § 228.305(a), until a Preliminary Offering Circular is delivered at least 48 hours before the sale to any person that before qualification of the offering statement had indicated an interest in

purchasing securities in the offering, including those persons that responded to an issuer's solicitation of interest materials; and

(C) Unless the purchaser is either an accredited investor (as defined in § 230.501 of this chapter) or the aggregate purchase price to be paid by the purchaser for the securities is no more than 10 percent of the greater of that purchaser's:

(1) Annual income or net worth if a natural person (with annual income and net worth for such natural person purchaser determined as provided in § 230.501 of this chapter); or

(2) Revenue or net assets for such purchaser's most recently completed fiscal year end if a non-natural person.

(D) The issuer may rely on a representation of the purchaser when determining compliance with the 10 percent investment limitation in paragraph (c)(2)(i)(C), provided that the issuer does not know at the time of sale that any such representation is untrue.

(ii) In a transaction that represents a sale by the issuer or an underwriter, or a sale by a dealer within 90 calendar days after qualification of the offering statement, each underwriter or dealer selling in such transaction must deliver to each purchaser from it, not later than two business days following the completion of such sale, a copy of the Final Offering Circular, subject to the following provisions:

(A) If the sale was by the issuer and was not effected by or through an underwriter or dealer, the issuer is responsible for delivering the Final Offering Circular as if the issuer were an underwriter;

(B) For continuous or delayed offerings under paragraph (c)(3) of this section, the 90-calendar day period for dealers shall commence on the day of the first bona fide offering of securities under such offering statement;

(C) If the security is listed on a registered national securities exchange, no offering circular need be delivered by a dealer more than 25 calendar days after the later of the qualification date of the offering statement or the first date on which the security was bona fide offered to the public;

(D) No offering circular need be delivered by a dealer if the issuer is subject, immediately prior to the time of the filing of the offering statement, to the reporting requirements of § 228.305(a); and

(E) The Final Offering Circular delivery requirements set forth in paragraph (c)(2)(ii) of this section may be satisfied by delivering a notice to the effect that the sale was made pursuant to a qualified offering statement that

includes the uniform resource locator ("URL"), which, in the case of an electronic-only offering, must be an active hyperlink, where the Final Offering Circular, or the offering statement of which such Final Offering Circular is part, may be obtained on EDGAR and contact information sufficient to notify a purchaser where a request for a Final Offering Circular can be sent and received in response.

(3) *Continuous or delayed offerings.*

(i) Continuous or delayed offerings may be made under this Regulation Crypto Assets, so long as the offering statement pertains only to:

(A) Securities that are to be offered or sold solely by or on behalf of a person or persons other than the issuer, a subsidiary of the issuer, or a person of which the issuer is a subsidiary;

(B) Securities that are to be offered and sold pursuant to an employee benefit plan of the issuer;

(C) Securities that are to be issued upon the exercise of outstanding options, warrants, or rights;

(D) Securities that are to be issued upon conversion of other outstanding securities;

(E) Securities that are pledged as collateral; or

(F) Securities the offering of which will be commenced within two business days after the qualification date, will be made on a continuous basis, may continue for a period in excess of 30 calendar days from the date of initial qualification, and will be offered in an amount that, at the time the offering statement is qualified, is reasonably expected to be offered and sold within two years from the initial qualification date. These securities may be offered and sold only if not more than three years have elapsed since the initial qualification date of the offering statement under which they are being offered and sold; provided, however, that if a new offering statement has been filed pursuant to this paragraph (c)(3)(i)(F), securities covered by the prior offering statement may continue to be offered and sold until the earlier of the qualification date of the new offering statement or 180 calendar days after the third anniversary of the initial qualification date of the prior offering statement. Before the end of such three-year period, an issuer may file a new offering statement covering the securities. The new offering statement must include all the information that would be required at that time in an offering statement relating to all offerings that it covers. Before the qualification date of the new offering statement, the issuer may include as part of such new offering statement any

unsold securities covered by the earlier offering statement by identifying on the cover page of the new offering circular, or the latest amendment, the amount of such unsold securities being included. The offering of securities on the earlier offering statement will be deemed terminated as of the date of qualification of the new offering statement. Securities may be sold pursuant to this paragraph (c)(3)(i)(F) only if the issuer is current in its annual and semiannual filings under § 228.305(a), at the time of such sale.

(ii) At the market offerings, by or on behalf of the issuer or otherwise, are not permitted under this exemption. As used in this paragraph (c)(3)(ii), the term at the market offering means an offering of securities at other than a fixed price.

(d) *Confidential treatment.* A request for confidential treatment may be made under § 230.406 of this chapter for information required to be filed, and § 200.83 of this chapter for information not required to be filed.

§ 228.301 Offering statement.

(a) *Documents to be included.* The offering statement consists of the contents required by Form 1-CRYPTO (§ 239.600) and any other material information necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(b) *Filing fees.* No fee is payable to the Commission upon either the submission or filing of an offering statement on Form 1-CRYPTO, or any amendment to an offering statement.

(c) *Signatures.* The issuer, its principal executive officer, principal financial officer, principal accounting officer, and a majority of the members of its board of directors or other governing body, must sign the offering statement in the manner prescribed by Form 1-CRYPTO. If a signature is by a person on behalf of any other person, evidence of authority to sign must be filed, except where an executive officer signs for the issuer.

(d) *Non-public submission.* An issuer may submit a draft offering statement to the Commission for non-public review by the staff of the Commission before public filing, provided that the offering statement shall not be qualified less than 15 calendar days after the public filing with the Commission of:

(1) The initial non-public submission; and

(2) All non-public amendments.

(e) *Qualification.* An offering statement and any amendment thereto can be qualified only at such date and time as the Commission may determine.

(f) *Amendments.*

(1) General rules for amendments:

(i) Amendments to an offering statement must be signed and filed with the Commission in the same manner as the initial filing. Amendments to an offering statement must be filed under cover of Form 1-CRYPTO and must be numbered consecutively in the order in which filed.

(ii) Every amendment that includes amended audited financial statements must include the consent of the certifying accountant to the use of such accountant's certification in connection with the amended financial statements in the offering statement or offering circular and to being named as having audited such financial statements.

(iii) Amendments solely relating to Part III of Form 1-CRYPTO must comply with the requirements of paragraph (f)(1)(i) of this section, except that such amendments may be limited to Part I of Form 1-CRYPTO, an explanatory note, and all the information required by Part III of Form 1-CRYPTO.

(2) Post-qualification amendments must be filed in the following circumstances for ongoing offerings:

(i) At least every 12 months after the qualification date to include the financial statements that would be required by Form 1-CRYPTO as of such date; or

(ii) To reflect any facts or events arising after the qualification date of the offering statement (or the most recent post-qualification amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the offering statement.

§ 228.302 Offering circular.

(a) *Contents.* An offering circular must include the information required by Form 1-CRYPTO for offering circulars.

(b) *Information that may be omitted.* Notwithstanding paragraph (a) of this section, a qualified offering circular may omit information with respect to the public offering price, underwriting syndicate (including any material relationships between the issuer or selling securityholders and the unnamed underwriters, brokers, or dealers), underwriting discounts or commissions, discounts or commissions to dealers, amount of proceeds, and other items dependent upon the offering price, delivery dates, and terms of the securities dependent upon the offering date; *provided* that the following conditions are met:

(1) The securities to be qualified are offered for cash.

(2) The outside front cover page of the offering circular includes a bona fide estimate of the range of the maximum

offering price and the maximum number of units of eligible securities to be offered, subject to the following conditions:

(i) The range must not exceed \$2 for offerings where the upper end of the range is \$10 or less or 20 percent if the upper end of the price range is over \$10; and

(ii) The upper end of the range must be used in determining the aggregate offering price under § 228.300(a).

(3) The offering statement does not relate to securities to be offered by competitive bidding.

(4) The volume of securities (the number of units of eligible securities) to be offered may not be omitted in reliance on this paragraph (b).

Note to paragraph (b). A decrease in the volume of securities offered or a change in the bona fide estimate of the offering price range from that indicated in the offering circular filed as part of a qualified offering statement may be disclosed in the offering circular filed with the Commission pursuant to § 228.302(f), so long as the decrease in the volume of securities offered or change in the price range would not materially change the disclosure contained in the offering statement at qualification. Notwithstanding the foregoing, any decrease in the volume of securities offered and any deviation from the low or high end of the price range may be reflected in the offering circular supplement filed with the Commission pursuant to § 228.302(f)(1) or (3) if, in the aggregate, the decrease in volume and/or change in price represent no more than a 20 percent change from the maximum aggregate offering price calculable using the information in the qualified offering statement. In no circumstances may this paragraph be used to offer securities where the maximum aggregate offering price would result in the offering exceeding the limit set forth in § 228.300(a) or if the change would result in a Tier 1 offering becoming a Tier 2 offering. An offering circular supplement may not be used to increase the volume of securities being offered. Additional securities may only be offered pursuant to a new offering statement or post-qualification amendment qualified by the Commission.

(c) *Filing of omitted information.* The information omitted from the offering circular in reliance upon paragraph (b) of this section must be contained in an offering circular filed with the Commission pursuant to paragraph (g) of this section; except that if such offering circular is not so filed by the later of 15 business days after the qualification date of the offering statement or 15 business days after the qualification of a post-qualification amendment thereto that contains an offering circular, the information omitted in reliance upon paragraph (b) of this section must be contained in a qualified post-qualification amendment to the offering statement.

(d) *Date*. An offering circular must be dated approximately as of the date it was filed with the Commission.

(e) *Cover page legend*. The cover page of every offering circular must display the following statement highlighted by prominent type or in another manner:

The United States Securities and Exchange Commission does not pass upon the merits of or give its approval to any securities offered or the terms of the offering, nor does it pass upon the accuracy or completeness of any offering circular or other solicitation materials. These securities are offered pursuant to an exemption from registration with the Commission; however, the Commission has not made an independent determination that the securities offered are exempt from registration.

(f) *Offering circular supplements*.

(1) An offering circular that discloses information previously omitted from the offering circular in reliance upon § 228.302(b) must be filed with the Commission no later than two business days following the earlier of the date of determination of the offering price or the date such offering circular is first used after qualification in connection with a public offering or sale.

(2) An offering circular that reflects information other than that covered in paragraph (f)(1) of this section that constitutes a substantive change from or addition to the information set forth in the last offering circular filed with the Commission must be filed with the Commission no later than five business days after the date it is first used after qualification in connection with a public offering or sale. If an offering circular filed pursuant to this paragraph (f)(2) consists of an offering circular supplement attached to an offering circular that previously had been filed or was not required to be filed pursuant to paragraph (f) of this section because it did not contain substantive changes from an offering circular that previously was filed, only the offering circular supplement need be filed under paragraph (f) of this section, provided that the cover page of the offering circular supplement identifies the date(s) of the related offering circular and any offering circular supplements thereto that together constitute the offering circular with respect to the securities currently being offered or sold.

(3) An offering circular that discloses information, facts or events covered in both paragraphs (f)(1) and (2) of this section must be filed with the Commission no later than two business days following the earlier of the date of the determination of the offering price

or the date it is first used after qualification in connection with a public offering or sale.

(4) An offering circular required to be filed pursuant to paragraph (f) of this section that is not filed within the time frames specified in paragraphs (f)(1) through (3) of this section, as applicable, must be filed pursuant to this paragraph (f)(4) as soon as practicable after the discovery of such failure to file.

(5) Each offering circular filed under this section must contain in the upper right corner of the cover page the paragraphs of paragraphs (f)(1) through (4) of this section under which the filing is made, and the file number of the offering statement to which the offering circular relates.

§ 228.303 Preliminary offering circular.

After the filing of an offering statement, but before its qualification, written offers of securities may be made if they meet the following requirements:

(a) *Outside front cover page*. The outside front cover page of the material bears the caption Preliminary Offering Circular, the date of issuance, and the following legend, which must be highlighted by prominent type or in another manner:

An offering statement pursuant to Regulation Crypto Assets relating to these securities has been filed with the Securities and Exchange Commission. Information contained in this Preliminary Offering Circular is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted before the offering statement filed with the Commission is qualified. This Preliminary Offering Circular shall not constitute an offer to sell or the solicitation of an offer to buy, nor may there be any sales of these securities in any state in which such offer, solicitation, or sale would be unlawful. We may elect to satisfy our obligation to deliver a Final Offering Circular by sending you a notice within two business days after the completion of our sale to you that contains the URL where the Final Offering Circular or the offering statement in which such Final Offering Circular was filed may be obtained.

(b) *Other contents*. The Preliminary Offering Circular contains substantially the information required to be in an offering circular by Form 1-CRYPTO (§ 239.600), except that certain information may be omitted under § 228.302(b) subject to the conditions set forth in such rule.

(c) *Filing*. The Preliminary Offering Circular is filed as a part of the offering statement.

§ 228.304 Solicitations of interest and other communications.

(a) *Solicitation of interest*. At any time before the qualification of an offering statement, including before the non-public submission or public filing of such offering statement, an issuer or any person authorized to act on behalf of the issuer may communicate orally or in writing to determine whether there is any interest in a contemplated securities offering. Such communications are deemed to be an offer of a security for sale for purposes of the antifraud provisions of the Federal securities laws. No solicitation or acceptance of money or other consideration, nor of any commitment, binding or otherwise, from any person is permitted until qualification of the offering statement.

(b) *Conditions*. The communications must:

(1) State that no money or other consideration is being solicited, and if sent in response, will not be accepted;

(2) State that no offer to buy the securities can be accepted and no part of the purchase price can be received until the offering statement is qualified, and any such offer may be withdrawn or revoked, without obligation or commitment of any kind, at any time before notice of its acceptance given after the qualification date;

(3) State that a person's indication of interest involves no obligation or commitment of any kind; and

(4) After the public filing of the offering statement:

(i) State from whom a copy of the most recent version of the Preliminary Offering Circular may be obtained, including a phone number and address of such person;

(ii) Provide the URL where such Preliminary Offering Circular, or the offering statement in which such Preliminary Offering Circular was filed, may be obtained; or

(iii) Include a complete copy of the Preliminary Offering Circular.

(c) *Indications of interest*. Any written communication under this rule may include a means by which a person may indicate to the issuer that such person is interested in a potential offering. This issuer may require the name, address, telephone number, and/or email address in any response form included pursuant to this paragraph (c).

(d) *Revised solicitations of interest*. If solicitation of interest materials are used after the public filing of the offering statement and such solicitation of interest materials contain information that is inaccurate or inadequate in any material respect, revised solicitation of interest materials must be redistributed in a substantially similar manner as

such materials were originally distributed. Notwithstanding the foregoing in this paragraph (d), if the only information that is inaccurate or inadequate is contained in a Preliminary Offering Circular provided with the solicitation of interest materials pursuant to paragraphs (b)(4)(i) or (ii) of this section, no such redistribution is required in the following circumstances:

(1) in the case of paragraph (b)(4)(i) of this section, the revised Preliminary Offering Circular will be provided to any persons making new inquiries and will be recirculated to any persons making any previous inquiries; or

(2) in the case of paragraph (b)(4)(ii) of this section, the URL continues to link directly to the most recent Preliminary Offering Circular or to the offering statement in which such revised Preliminary Offering Circular was filed.

§ 228.305 Periodic and current reporting; transition report.

(a) *Periodic and current reporting.* Each issuer that has filed an offering statement that has been qualified under this Regulation Crypto Assets must file with the Commission the following periodic and current reports:

(1) *Annual reports.* An annual report on Form 1-KC (§ 239.601) for the fiscal year in which the offering statement became qualified and for any fiscal year thereafter, unless the issuer's obligation to file such annual report is suspended or terminated, as applicable, under paragraph (c) or (d) of this section. Annual reports must be filed within the period specified in Form 1-KC.

(2) *Special financial report.*

(i) A special financial report on Form 1-KC or Form 1-SC (§ 239.602) if the offering statement did not contain the following:

(A) Financial statements (which are required to be audited for Tier 2) for the issuer's most recent fiscal year (or for the life of the issuer if less than a full fiscal year) preceding the fiscal year in which the issuer's offering statement became qualified; or

(B) unaudited financial statements covering the first six months of the issuer's current fiscal year if the offering statement was qualified during the last six months of that fiscal year.

(ii) The special financial report described in paragraph (a)(2)(i)(A) of this section must be filed under cover of Form 1-KC within 120 calendar days after the qualification date of the offering statement and must include audited financial statements for such fiscal year or other period specified in that paragraph, as the case may be. The special financial report described in

paragraph (a)(2)(i)(B) of this section must be filed under cover of Form 1-SC within 90 calendar days after the qualification date of the offering statement and must include the semiannual financial statements for the first six months of the issuer's fiscal year, which may be unaudited.

(iii) A special financial report must be signed in accordance with the requirements of the form on which it is filed.

(3) *Semiannual report.* A semiannual report on Form 1-SC (§ 239.602) within the period specified in Form 1-SC. Semiannual reports must cover the first six months of each fiscal year of the issuer, commencing with the first six months of the fiscal year immediately following the most recent fiscal year for which financial statements were included in the offering statement, or, if the offering statement included financial statements for the first six months of the fiscal year following the most recent full fiscal year, for the first six months of the following fiscal year.

(4) *Current reports.* Current reports on Form 1-UC (§ 239.603) with respect to the matters and within the period specified in that form, unless substantially the same information has been previously reported to the Commission by the issuer under cover of Form 1-KC or Form 1-SC.

(5) *Reporting by successor issuers.* Where in connection with a succession by merger, consolidation, exchange of securities, acquisition of assets, or otherwise, securities of any issuer that is not required to file reports pursuant to paragraph (a) of this section are issued to the holders of any class of securities of another issuer that is required to file such reports, the duty to file reports pursuant to paragraph (a) of this section is deemed to have been assumed by the issuer of the class of securities so issued. The successor issuer must, after the consummation of the succession, file reports in accordance with paragraph (a) of this section, unless that issuer is exempt from filing such reports or the duty to file such reports is terminated or suspended under paragraph (c) or (d) of this section.

(6) *Exchange Act reporting requirements.* The duty to file reports under this rule shall be deemed to have been met if the issuer is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o) and, as of each Form 1-KC and Form 1-SC due date, has filed all reports required to be filed by section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 15 U.S.C. 78o) during the 12 months (or such shorter

period that the registrant was required to file such reports) preceding such due date.

(7) *Exemption for subsidiary issuers of guaranteed securities and subsidiary guarantors.* Any issuer of a guaranteed security, or guarantor of a security, that is permitted to omit financial statements by Item (b)(6)(i) of Part F/S of Form 1-CRYPTO (referenced in § 239.600), Item 12(d)(1) of Part II of Form 1-KC (referenced in § 239.601), and Item 5(e)(1) of Form 1-SC (referenced in § 239.602), is exempt from the requirements of this paragraph (a).

(b) *Amendments.* All amendments to the reports described in paragraph (a) of this section must be filed under cover of the form amended, marked with the letter A to designate the document as an amendment, e.g., "1-KC/A," and in compliance with pertinent requirements applicable to such reports. Amendments filed pursuant to this paragraph (b) must set forth the complete text of each item as amended but need not include any items that were not amended.

Amendments must be numbered sequentially and be filed separately for each report amended. Amendments must be signed on behalf of the issuer by a duly authorized representative of the issuer. An amendment to any report required to include certifications as specified in the applicable form must include new certifications by the appropriate persons.

(c) *Suspension of duty to file reports.*

(1) The duty to file reports under paragraph (a) of this section with respect to a class of securities "held of record" (which shall be as defined in § 240.12g5-1 for purposes of determining whether securities are "held of record" under this section) by less than 300 persons shall be suspended for such class of securities immediately upon filing with the Commission a transition report on Form TR (§ 239.604) if the issuer of such class has filed all reports required to be filed under this rule before the date of such Form TR filing for the shorter of:

(i) The period since the issuer became subject to such reporting obligation; or

(ii) Its most recent three fiscal years and the portion of the current year preceding the date of filing Form TR.

(2) For the purposes of paragraph (c)(1) of this section, the term *class* is construed to include all securities of an issuer that are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. If the Form TR is subsequently withdrawn or if it is denied because the issuer was ineligible to use the form, the issuer must, within 60 calendar days, file with the

Commission all reports which would have been required if such transition report had not been filed. If the suspension resulted from the issuer's merger into, or consolidation with, another issuer or issuers, the notice must be filed by the successor issuer.

(3) The ability to suspend reporting, as described in paragraph (c)(1) of this section, is not available for any class of securities if:

(i) During that fiscal year an offering statement was qualified;

(ii) The issuer has not filed an annual report under this rule or the Exchange Act for the fiscal year in which an offering statement was qualified; or

(iii) Offers or sales of securities of that class are being made pursuant to an offering under this subpart.

(d) *Termination of duty to file reports.*

(1) If the duty to file reports is deemed to have been met under paragraph (a)(6) of this section and such status ends because the issuer terminates or suspends its duty to file reports under the Exchange Act, the issuer's obligation to file reports under paragraph (a) of this section will:

(i) Automatically terminate if the issuer is eligible to suspend its duty to file reports under paragraphs (c)(1) and (3) of this section; or

(ii) Recommence with the report covering the most recent financial period after that included in any effective registration statement or filed Exchange Act report.

(2) If an issuer satisfies the conditions of the safe harbor in § 228.400 or the covered investment contract otherwise ceases to exist during the period in which the issuer is required to file reports under paragraph (a) of this section, the issuer's obligation to file reports under paragraph (a) of this section will terminate immediately upon filing with the Commission a transition report on Form TR.

§ 228.306 Suspension of the exemption.

(a) *Suspension.* The Commission may at any time enter an order temporarily suspending an exemption under this subpart if it has reason to believe that:

(1) No exemption is available or any of the terms, conditions, or requirements of Regulation Crypto Assets have not been complied with;

(2) The offering statement, any sales or solicitation of interest material, or any report filed under § 228.305 contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;

(3) The offering is being made or would be made in violation of section 17 of the Securities Act;

(4) An event has occurred after the filing of the offering statement that would have rendered the exemption hereunder unavailable if it had occurred before such filing;

(5) Any person specified in § 230.262(a) of this chapter has been indicted for any crime or offense of the character specified in § 230.262(a)(1) of this chapter, or any proceeding has been initiated for the purpose of enjoining any such person from engaging in or continuing any conduct or practice of the character specified in § 230.262(a)(2) of this chapter, or any proceeding has been initiated for the purposes of § 230.262(a)(3) through (8) of this chapter; or

(6) The issuer or any promoter, officer, director, or underwriter has failed to cooperate, or has obstructed or refused to permit the making of an investigation by the Commission in connection with any offering made or proposed to be made in reliance on Regulation Crypto Assets.

(b) *Notice and hearing.* Upon the entry of an order under paragraph (a) of this section, the Commission will promptly give notice to the issuer, any underwriter, and any selling securityholder:

(1) That such order has been entered, together with a brief statement of the reasons for the entry of the order; and

(2) That the Commission, upon receipt of a written request within 30 calendar days after the entry of the order, will, within 20 calendar days after receiving the request, order a hearing at a place to be designated by the Commission.

(c) *Suspension order.* If no hearing is requested and none is ordered by the Commission, an order entered under paragraph (a) of this section shall become permanent on the 30th calendar day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of and opportunity for such hearing, either vacate the order or enter an order permanently suspending the exemption.

(d) *Permanent suspension.* The Commission may, at any time after notice of and opportunity for hearing, enter an order permanently suspending the exemption for any reason upon which it could have entered a temporary suspension order under paragraph (a) of this section. Any such order shall remain in effect until vacated by the Commission.

(e) *Notice procedures.* All notices required by this rule must be given by personal service, registered or certified mail to the addresses given by the issuer, any underwriter and any selling securityholder in the offering statement.

§ 228.307 Withdrawal or abandonment of offering statements.

(a) *Withdrawal.* If none of the securities that are the subject of an offering statement has been sold and such offering statement is not the subject of a proceeding under § 228.306, the offering statement may be withdrawn with the Commission's consent. The application for withdrawal must state the reason the offering statement is to be withdrawn and must be signed by an authorized representative of the issuer. Any withdrawn document will remain in the Commission's files, as well as the related request for withdrawal.

(b) *Abandonment.* When an offering statement, or a post-qualification amendment to such statement, has been on file with the Commission for nine months without amendment and has not become qualified, the Commission may, in its discretion, declare the offering statement or post-qualification amendment abandoned. If the offering statement has been amended, or if the post-qualification amendment has been amended, the nine-month period shall be computed from the date of the latest amendment.

Subpart D—Investment Contract Safe Harbor

§ 228.400 Investment Contract Safe Harbor.

A covered investment contract will be deemed to have ceased to exist, and the crypto asset that was subject to the covered investment contract will be deemed not to constitute or represent or to be subject to that investment contract for purposes of section 2(a)(1) of the Securities Act (15 U.S.C. 77b(a)(1)) and section 3(a)(10) of the Exchange Act (15 U.S.C. 78c(a)(10)), if the following conditions are satisfied:

(a) The issuer of the covered investment contract has completed or otherwise permanently ceased all essential managerial efforts that it represented or promised it would engage in under the covered investment contract and is not making and does not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset; and

(b) The issuer of the covered investment contract files a transition report containing the information

required by Form TR (§ 239.604 of this chapter) with the Commission.

Subpart E—Definition of “Qualified Purchaser.”

§ 228.500 Definition of “qualified purchaser.”

For purposes of section 18(b)(3) of the Securities Act (15 U.S.C. 77r(b)(3)), a “qualified purchaser” means any person to whom securities are offered or sold pursuant to:

(a) An offering under Regulation Crypto Assets (§§ 228.100 through 228.500); or

(b) An offering pursuant to a transaction by any person other than an issuer, underwriter, or dealer with respect to a covered investment contract (as defined in § 228.100); *provided that*:

(1) The issuer has satisfied the requirements of an exemption under Regulation Crypto Assets with respect to such covered investment contract; and

(2) The issuer remains subject to, and is current with respect to, such exemption’s disclosure and filing requirements and/or periodic reporting obligations, as applicable.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 6. The authority citation for part 230 continues to read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78ll(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

Section 230.151 is also issued under 15 U.S.C. 77s(a).

Section 230.160 is also issued under section 104(d) of the Electronic Signatures Act.

Section 230.193 is also issued under sec. 943, Public Law 111–203, 124 Stat. 1376.

Sections 230.400 to 230.499 issued under secs. 6, 8, 10, 19, 48 Stat. 78, 79, 81, and 85, as amended (15 U.S.C. 77f, 77h, 77j, 77s).

Sec. 230.457 also issued under secs. 6 and 7, 15 U.S.C. 77f and 77g.

Section 230.502 is also issued under 15 U.S.C. 80a–8, 80a–29, 80a–30.

* * * * *

■ 7. Amend § 230.152 by adding paragraphs (c)(6) and (d)(5) to read as follows:

§ 230.152 Integration.

* * * * *

(c) * * *

(6) Regulation Crypto Assets, in the case of:

(i) An offering in reliance on § 228.200, on the date the issuer first

made an offer of its securities in reliance on § 228.200; or

(ii) An offering in reliance on subpart C of Regulation Crypto Assets, on the earlier of the date the issuer first made an offer soliciting interest in a contemplated securities offering in reliance on subpart C of Regulation Crypto Assets, or the public filing of a Form 1–CRYPTO offering statement.

(d) * * *

(5) Regulation Crypto Assets, in the case of:

(i) An offering in reliance on § 228.200, on the later of the date:

(A) The issuer entered into a binding commitment to sell all securities to be sold under the offering (subject only to conditions outside of the investor’s control); or

(B) The issuer and its agents ceased efforts to make further offers to sell the issuer’s securities under such offering;

(ii) An offering in reliance on subpart C of Regulation Crypto Assets, on:

(A) The withdrawal of an offering statement under § 228.307(a);

(B) The filing of a transition report on Form TR (§ 239.604);

(C) The declaration by the Commission that the offering statement has been abandoned under § 228.307(a); or

(D) The date, after the third anniversary of the date the offering statement was initially qualified, on which § 228.300(c)(3)(i)(F) prohibits the issuer from continuing to sell securities using the offering statement, or any earlier date on which the offering terminates by its terms;

* * * * *

■ 8. Amend § 230.175 by revising paragraph (b)(1)(i) to read as follows:

§ 230.175 Liability for certain statements by issuers.

* * * * *

(b) * * *

(1) * * *

(i) At the time such statements are made or reaffirmed, either the issuer is subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and has complied with the requirements of Rule 13a–1 or 15d–1 (§§ 239.13a–1 or 239.15d–1 of this chapter) thereunder, if applicable, to file its most recent annual report on Form 10–K, Form 20–F, or Form 40–F; or if the issuer is not subject to the reporting requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934, the statements are made in a registration statement filed under the Act, offering statement or solicitation of interest, written document or broadcast script under Regulation A or subpart C of Regulation Crypto Assets or pursuant

to sections 12(b) or (g) of the Securities Exchange Act of 1934; and

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 9. The authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78l, 78m, 78n, 78n–1, 78o(d), 78w(a), 78ll, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

Section 232.302 is also issued under secs. 3(a) and 302, Public Law No. 107–204, 116 Stat. 745.

■ 10. Amend § 232.101 by:

■ a. Revising paragraphs (a)(1)(xxxvii) and (xxxviii); and

■ b. Adding a new paragraph (xxxix).

The revision reads as follows:

(a) * * *

(1) * * *

(xxxvii) Form 1–N (§ 249.10 of this chapter);

(xxxviii) Form 15A (§ 249.801 of this chapter); and

(xxxix) Filings made pursuant to Regulation Crypto Assets (§§ 228.100 through 228.500 of this chapter).

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Subpart B—Forms Pertaining to Exemptions

■ 11. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

■ 12. Add § 239.600 to read as follows:

§ 239.600 Form 1–CRYPTO, offering statement under Regulation Crypto Assets.

This form shall be used for filing under Regulation Crypto Assets (17 CFR part 228).

Note: Form 1–CRYPTO is attached as Appendix A to this document. Form 1–CRYPTO will not appear in the Code of Federal Regulations.

* * * * *

■ 13. Add § 239.601 to read as follows:

§ 239.601 Form 1–KC.

This form shall be used for filing annual reports under Regulation Crypto Assets (17 CFR part 228).

Note: Form 1–KC is attached as Appendix B to this document. Form 1–KC will not appear in the Code of Federal Regulations.

- 14. Add § 239.602 to read as follows:

§ 239.602 Form 1–SC.

This form shall be used for filing semiannual reports under Regulation Crypto Assets (17 CFR part 228).

Note: Form 1–SC is attached as Appendix C to this document. Form 1–SC will not appear in the Code of Federal Regulations.

- 15. Add § 239.603 to read as follows:

§ 239.603 Form 1–UC.

This form shall be used for filing current reports under Regulation Crypto Assets (17 CFR part 228).

Note: Form 1–UC is attached as Appendix D to this document. Form 1–UC will not appear in the Code of Federal Regulations.

- 16. Add § 239.604 to read as follows:

§ 239.604 Form TR.

This form shall be used to file a transition report under Regulation Crypto Assets (17 CFR part 228).

Note: Form TR is attached as Appendix E to this document. Form TR will not appear in the Code of Federal Regulations.

- 17. Add § 239.605 to read as follows:

§ 239.605 Form NOR.

This form shall be used to file a notice of reliance under Regulation Crypto Assets (17 CFR part 228).

Note: Form NOR is attached as Appendix F to this document. Form NOR will not appear in the Code of Federal Regulations.

By the Commission.

Dated: August 18, 2026.

Vanessa A. Countryman,
Secretary.

Note: The following appendices will not appear in the Code of Federal Regulations.

BILLING CODE 8011–01–P

Appendix A—Form 1-CRYPTO

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 1-CRYPTO

**REGULATION CRYPTO ASSETS OFFERING STATEMENT
UNDER THE SECURITIES ACT OF 1933**

GENERAL INSTRUCTIONS

I. Eligibility Requirements for Use of Form 1-CRYPTO.

This Form is to be used for securities offerings made in reliance on the fundraising exemption in Regulation Crypto Assets (17 CFR part 228, subpart C). Careful attention should be directed to the terms, conditions, and requirements of Regulation Crypto Assets, especially Rule 300 (17 CFR 228.300), because the exemption is not available to all issuers or for every type of securities transaction. Further, the aggregate offering price and aggregate sales of securities in any 12-month period is strictly limited to \$20 million for Tier 1 offerings and \$75 million for Tier 2 offerings, including no more than \$6 million offered by all selling securityholders that are affiliates of the issuer for Tier 1 offerings and \$22.5 million by all selling securityholders that are affiliates of the issuer for Tier 2 offerings. Please refer to Rule 300 of Regulation Crypto Assets for more details.

II. Preparation, Submission, and Filing of the Offering Statement.

An offering statement must be prepared by all persons seeking exemption under the provisions of the fundraising exemption in Regulation Crypto Assets. Parts I, II, and III must be addressed by all issuers. General information regarding the preparation, format, content, and submission or filing of the offering statement is contained in Rule 301 (17 CFR 228.301). Information regarding non-public submission of the offering statement is contained in Rule 301(d). Requirements relating to the offering circular are contained in Rules 302 (17 CFR 228.302) and 303 (17 CFR 228.303). The offering statement must be submitted or filed with the Securities and Exchange Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System (EDGAR) in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).

III. Incorporation by Reference and Cross-Referencing.

An issuer may incorporate by reference to other documents previously submitted or filed on EDGAR. Cross-referencing within the offering statement is also encouraged to avoid repetition of information. For example, you may respond to an item of this Form by providing a cross-reference to the location of the information in the financial statements, instead of repeating such information. Incorporation by reference and cross-referencing are subject to the following additional conditions and limitations:

- (a) The use of incorporation by reference and cross-referencing is prohibited for Part I and Item 1 of Part II of this Form.

(b) Descriptions of where the information incorporated by reference or cross-referenced can be found must be specific and must clearly identify the relevant document and portion thereof where such information can be found. For exhibits incorporated by reference, this description must be noted in the exhibits index for each relevant exhibit. All descriptions of where information incorporated by reference can be found must be accompanied by a hyperlink to the incorporated document on EDGAR.

(c) Reference may not be made to any document if the portion of such document containing the pertinent information includes an incorporation by reference to another document. Incorporation by reference to documents not available on EDGAR is not permitted. Incorporating information into the financial statements from elsewhere is not permitted. Information shall not be incorporated by reference or cross-referenced in any case where such incorporation would render the statement or report incomplete, unclear, or confusing.

(d) If any substantive modification has occurred in the text of any document incorporated by reference since such document was filed, the issuer must file with the reference a statement containing the text and date of such modification.

IV. Supplemental Information.

The information specified below must be furnished to the Commission as supplemental information, if applicable. Supplemental information shall not be required to be filed with or deemed part of the offering statement, unless otherwise required. The information shall be returned to the issuer upon request made in writing at the time of submission, provided that the return of such information is consistent with the protection of investors and the provisions of the Freedom of Information Act [5 U.S.C. 552] and the information was not filed in electronic format.

(a) A statement as to whether or not the amount of compensation to be allowed or paid to the underwriter has been cleared with the Financial Industry Regulatory Authority (FINRA).

(b) Any engineering, management, market, or similar report referenced in the offering circular or provided for external use by the issuer or by a principal underwriter in connection with the proposed offering. There must also be furnished at the same time a statement as to the actual or proposed use and distribution of such report or memorandum. Such statement must identify each class of persons who have received or will receive the report or memorandum, and state the number of copies distributed to each such class along with a statement as to the actual or proposed use and distribution of such report or memorandum.

(c) Such other information as requested by the staff in support of statements, representations, and other assertions contained in the offering statement or any correspondence to the staff.

Correspondence appropriately responding to any staff comments made on the offering statement must also be furnished electronically. When applicable, such correspondence must clearly indicate where changes responsive to the staff's comments may be found in the offering statement.

PART I—NOTIFICATION

The following information must be provided in the XML-based portion of Form 1-CRYPTO available through EDGAR and must be completed or updated before uploading each offering statement or amendment thereto. The format of Part I shown below may differ from the electronic version available on EDGAR. The electronic version of Part I will allow issuers to attach Part II and Part III for filing by means of EDGAR. All items must be addressed, unless otherwise indicated.

* * * * *

☐ No changes to the information required by Part I have occurred since the last filing of this offering statement.

ITEM 1. Issuer Information

Exact name of issuer as specified in the issuer's charter: _____

Jurisdiction of incorporation/organization: _____

Year of incorporation/organization: _____

CIK: _____

Primary Standard Industrial Classification Code: _____

Contact Information

Address of Principal Executive Offices (if any): _____

Telephone: () _____

Provide the following information for the person the Securities and Exchange Commission's staff should call in connection with any pre-qualification review of the offering statement:

Name: _____

Address: _____

Telephone: () _____

Provide up to two e-mail addresses to which the Securities and Exchange Commission's staff may send any comment letters relating to the offering statement. After qualification of the offering statement, e-mail addresses are not required to remain active: _____

ITEM 2. Summary Information Regarding the Offering and Other Current or Proposed Offerings

Number of securities offered: _____

Number of securities of that class already outstanding: _____

The information called for by this item below may be omitted if undetermined at the time of filing or submission, except that if a price range has been included in the offering statement, the midpoint of that range must be used to respond. Please refer to Rule 100(a) for the definition of “aggregate offering price” and “aggregate sales” as used in this item. Please leave the field blank if undetermined at this time and include a zero if a particular item is not applicable to the offering.

Price per security: \$ _____

The portion of the aggregate offering price attributable to securities being offered on behalf of the issuer:

\$ _____

The portion of the aggregate offering price attributable to securities being offered on behalf of selling securityholders:

\$ _____

The portion of aggregate sales attributable to all the securities of the issuer sold pursuant to a qualified offering statement under this exemption within the 12 months before the qualification of this offering statement:

\$ _____

The estimated portion of aggregate sales attributable to securities that may be sold pursuant to any other qualified offering statement under this exemption concurrently with securities being sold under this offering statement:

\$ _____

Total: \$ _____ (the sum of the aggregate offering price and aggregate sales in the four preceding paragraphs).

Estimated net proceeds to the issuer: \$ _____

Clarification of responses (if necessary): _____

PART II — INFORMATION REQUIRED IN OFFERING CIRCULAR

- (a) The general disclosure principles for information included in the offering circular are set forth in Rule 103(a) of Regulation Crypto Assets (17 CFR 228.103(a)).
- (b) Financial statement requirements regardless of the applicable disclosure format are specified in Part F/S of this Form 1-CRYPTO. The narrative disclosure contents of offering circulars are specified as follows:

- (1) The information required by the Offering Circular described below;
- (2) The offering circular must describe any matters that would have triggered disqualification under Rule 104 of Regulation Crypto Assets (17 CFR 228.104);
- (3) The legend required by Rule 302(e) of Regulation Crypto Assets (17 CFR 228.302(e)) must be included on the offering circular cover page;
- (4) For preliminary offering circulars, the legend required by Rule 303(a) of Regulation Crypto Assets (17 CFR 228.303(a)) must be included on the offering circular cover page; and
- (5) The offering circular cover page must include the following legend highlighted by prominent type or in another manner:

Generally, no sale may be made to you in this offering if the aggregate purchase price you pay is more than 10% of the greater of your annual income or net worth. Different rules apply to accredited investors and non-natural persons. Before making any representation that your investment does not exceed applicable thresholds, we encourage you to review Rule 300(c)(2)(i)(C) of Regulation Crypto Assets (17 CFR 228.300(c)(2)(i)(C)). For general information on investing, we encourage you to refer to www.investor.gov.

- (c) The Commission encourages the use of management's projections of future economic performance that have a reasonable basis and are presented in an appropriate format. See Securities Act Rule 175 (17 CFR 230.175).
- (d) Offering circulars need not follow the order of the items set forth in Rule 103(a) of Regulation Crypto Assets (17 CFR 228.103(a)). Such information may not, however, be set forth in such a fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Information requested to be presented in a specified tabular format must be given in substantially the tabular format specified. For incorporation by reference, please refer to General Instruction III of this Form.

OFFERING CIRCULAR

Item 1. Cover Page of Offering Circular

The cover page of the offering circular must be limited to one page and must include the information specified in this item.

- (a) Name of the issuer.

Instruction to Item 1(a):

If the issuer's name is the same as, or confusingly similar to, that of a company that is well known, include information to eliminate any possible confusion with the other company. If your name indicates a line of business in which you are not engaged or you are engaged only to a limited extent, include information to eliminate any misleading inference as to your business.

- (b) Full mailing address of the issuer's principal executive offices (if any) and the issuer's telephone number (including the area code) and, if applicable, website address.

(c) Date of the offering circular.

(d) Title and amount of securities offered.

Item 2. Table of Contents

On the page immediately following the cover page of the offering circular, provide a reasonably detailed table of contents. It must show the page numbers of the various sections or subdivisions of the offering circular.

Item 3. Covered Investment Contract

Furnish the information required by Rule 103(b)(1) (17 CFR 228.103(b)(1)).

Item 4. Offering

Furnish the information required by Rule 103(b)(2) (17 CFR 228.103(b)(2)).

Item 5. Subject Crypto Asset

Furnish the information required by Rule 103(b)(3) (17 CFR 228.103(b)(3)).

Item 6. Management, Related Persons, and Conflicts of Interest

Furnish the information required by Rule 103(b)(4) (17 CFR 228.103(b)(4)).

Item 7. Associated Crypto Network/Application; Plan of Development

Furnish the information required by Rule 103(b)(5) (17 CFR 228.103(b)(5)).

Item 8. Security; Source Code

Furnish the information required by Rule 103(b)(6) (17 CFR 228.103(b)(6)).

Item 9. Subject Crypto Asset Economics and Allocations

Furnish the information required by Rule 103(b)(7) (17 CFR 228.103(b)(7)).

Item 10. Governance

Furnish the information required by Rule 103(b)(8) (17 CFR 228.103(b)(8)).

Item 11. Subject Crypto Asset Ecosystem

Furnish the information required by Rule 103(b)(9) (17 CFR 228.103(b)(9)).

Item 12. Risk Factors

Furnish the information required by Rule 103(b)(10) (17 CFR 228.103(b)(10)).

Item 13. Discussion of Financial Condition

Discuss the issuer's financial condition, including, to the extent material, changes in financial condition, liquidity, capital resources, and results of operations.

Instructions to Item 13:

- 1. The discussion must cover each period for which financial statements of the issuer are provided. An issuer also must include a discussion of any material changes or trends known to management in the financial condition and results of operations of the issuer subsequent to the period for which financial statements are provided.*
- 2. For issuers with no prior operating history, the discussion should focus on financial milestones and operational, liquidity and other challenges. For issuers with an operating history, the discussion should focus on whether historical results and cash flows for the financial statement periods presented are representative of what investors should expect in the future. Issuers should take into account the proceeds of the offering and any other known or pending sources of capital. Issuers also should discuss how the proceeds from the offering will affect the issuer's liquidity, whether receiving these funds and any other additional funds is necessary to the viability of the business, and how quickly the issuer anticipates using its available cash. In addition, issuers should describe the other available sources of capital to the business, such as lines of credit or required contributions by investors.*
- 3. References to the issuer in this paragraph and its instructions refer to the issuer and its predecessors, if any.*

Part F/S**(a) General Rules**

- (1) The appropriate financial statements set forth below of the issuer, or the issuer and its predecessors or any businesses to which the issuer is a successor must be filed as part of the offering statement and included in the offering circular that is distributed to investors.
- (2) Financial statements must be prepared in accordance with generally accepted accounting principles in the United States (U.S. GAAP), except as permitted pursuant to paragraph (b)(6)(iii) below.
- (3) The issuer may elect to delay complying with any new or revised financial accounting standard until the date that a company that is not an issuer (as defined under section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is required to comply with such new or revised accounting standard, if such standard also applies to companies that are not issuers. An issuer electing such extension of time accommodation must disclose it at the time the issuer files its offering statement and apply the election to all standards. Issuers electing not to use this accommodation must forgo this accommodation for all financial accounting standards and may not elect to rely on this accommodation in any future filings.

(b) Financial Statements for Tier 1 Offerings

- (1) The financial statements prepared pursuant to this paragraph (b), including (b)(6), need not be prepared in accordance with Regulation S-X.
- (2) The financial statements prepared pursuant to paragraph (b), including (b)(6), need not be audited. If the financial statements are not audited, they shall be labeled as "unaudited." However, if an audit of these financial statements is obtained for other purposes and that audit was performed in accordance with either U.S. generally accepted

auditing standards or the Standards of the Public Company Accounting Oversight Board by an auditor that is independent pursuant to either the independence standards of the American Institute of Certified Public Accountants (AICPA) or Rule 2-01 of Regulation S-X, those audited financial statements must be filed, and an audit opinion complying with Rule 2-02 of Regulation S-X must be filed along with such financial statements. The auditor may, but need not, be registered with the Public Company Accounting Oversight Board.

(3) *Consolidated Balance Sheets.* Age of balance sheets at filing and at qualification:

(i) If the filing is made, or the offering statement is qualified, more than three months but no more than nine months after the most recently completed fiscal year end, include a balance sheet as of the two most recently completed fiscal year ends.

(ii) If the filing is made, or the offering statement is qualified, more than nine months after the most recently completed fiscal year end, include a balance sheet as of the two most recently completed fiscal year ends and an interim balance sheet as of a date no earlier than six months after the most recently completed fiscal year end.

(iii) If the filing is made, or the offering statement is qualified, within three months after the most recently completed fiscal year end, include a balance sheet as of the two fiscal year ends preceding the most recently completed fiscal year end and an interim balance sheet as of a date no earlier than six months after the date of the most recent fiscal year end balance sheet that is required.

(iv) If the filing is made, or the offering statement is qualified, during the period from inception until three months after reaching the annual balance sheet date for the first time, include a balance sheet as of a date within nine months of filing or qualification.

(4) Statements of comprehensive income, cash flows, and changes in stockholders' equity. File consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flows, and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed or such shorter period as the issuer has been in existence.

(5) Interim financial statements.

(i) If a consolidated interim balance sheet is required by (b)(3) of Part F/S, consolidated interim statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and cash flows shall be provided and must cover at least the first six months of the issuer's fiscal year and the corresponding period of the preceding fiscal year. An analysis of the changes in each caption of stockholders' equity presented in the balance sheets must be provided in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which a statement of comprehensive income is required to be filed with all significant reconciling items described by appropriate captions with contributions from and distributions to owners shown separately. Dividends per share for each class of shares shall also be provided.

(ii) Interim financial statements of issuers that report under U.S. GAAP may be condensed as described in Rule 8-03(a) of Regulation S-X.

(iii) The interim statements of comprehensive income for all issuers must be accompanied by a statement that in the opinion of management all adjustments necessary in order to make the interim financial statements not misleading have been included.

(6) *Financial Statements of and Disclosure About Other Entities.* The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities in the offering statement. The financial statements of other entities must be presented for the same periods as if the other entity were the issuer as described above in paragraphs (b)(3) and (b)(4) unless a shorter period is specified by the rules below. The financial statements of other entities shall follow the same audit requirement as paragraph (b)(2) of this Part F/S:

(i) *Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities.* The requirements of Rule 3-10 of Regulation S-X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3-10(a) of Regulation S-X to “an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S-X with respect to the guarantee or guaranteed security” instead refers to “an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to Regulation Crypto Assets is required to file financial statements required by Part F/S of Form 1-CRYPTO with respect to the guarantee or guaranteed security.” The definition of “parent company” is the same as in Rule 3-10(b)(1) of Regulation S-X, except that Rule 3-10(b)(1)(ii) instead reads as follows: “Is, or as a result of the subject offering statement will be, required to file reports with the Commission under Rule 305(a) of Regulation Crypto Assets (17 CFR 228.305(a)), or is an Exchange Act reporting company.” The parent company must also provide the disclosures required by Rule 13-01 of Regulation S-X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 13 of Part II of Form 1-CRYPTO.

(ii) *Financial Statements of and Disclosures About Affiliates Whose Securities Collateralize an Issuance.* The requirements of Rules 3-16 or 13-02 of Regulation S-X are applicable if an issuer’s securities that are qualified or being qualified pursuant to Regulation Crypto Assets are collateralized by the securities of the issuer’s affiliates. Rule 13-02 of Regulation S-X must be followed unless Rule 3-16 of Regulation S-X applies. The issuer may elect to provide the disclosures specified in Rule 13-02 of Regulation S-X in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 13 of Part II of Form 1-CRYPTO.

(iii) *Financial Statements of Businesses Acquired or to be Acquired.* File the financial statements required by Rule 8-04 of Regulation S-X.

(iv) *Pro Forma Financial Statements.* File pro forma financial information as described in Rule 8-05 of Regulation S-X.

(v) *Real Estate Operations Acquired or to be Acquired.* File the financial information required by Rule 8-06 of Regulation S-X.

Instructions to paragraph (b) in Part F/S:

1. *Issuers should refer to Rule 305(a)(2) (17 CFR 228.305(a)(2)) to determine whether a special financial report will be required after qualification of the offering statement.*
2. *If the last day that the financial statements included in the offering statement can be accepted, according to the age requirements of this item, falls on a Saturday, Sunday, or holiday, such offering statement may be filed on the first business day following the last day of the specified period.*
3. *As an alternative, an issuer may—but need not—elect to comply with the provisions of paragraph (c).*

(c) Financial Statement Requirements for Tier 2 Offerings

(1) In addition to the general rules in paragraph (a), provide the financial statements required by paragraph (b) of this Part F/S, except the following rules should be followed in the preparation of the financial statements:

- (i) Issuers that report under U.S. GAAP and, when applicable, other entities for which financial statements are required, must comply with Article 8 of Regulation S-X, as if they were conducting a registered offering on Form S-1, except the age of financial statements may follow paragraphs (b)(3)-(4) of this Part F/S.
- (ii) Audited financial statements are required for Tier 2 offerings for the issuer and, when applicable, for financial statements of other entities. However, interim financial statements may be unaudited.
- (iii) The audit must be conducted in accordance with either U.S. generally accepted auditing standards or the standards of the Public Company Accounting Oversight Board (United States) and the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S-X. Accounting firms conducting audits for the financial statements included in the offering circular may, but need not, be registered with the Public Company Accounting Oversight Board.

PART III—EXHIBITS

Item 14. Index to Exhibits

- (a) An exhibits index must be presented at the beginning of Part III.
- (b) Each exhibit must be listed in the exhibit index according to the number assigned to it under Item 15 below.
- (c) For incorporation by reference, please refer to General Instruction III of this Form.

Item 15. Description of Exhibits

As appropriate, the following documents must be filed as exhibits to the offering statement.

1. *Underwriting agreement*—Each underwriting contract or agreement with a principal underwriter or letter pursuant to which the securities are to be distributed; where the terms have yet to be finalized, proposed formats may be provided.

2. *Charter and bylaws*—The charter and bylaws of the issuer or instruments corresponding thereto as currently in effect and any amendments thereto.

3. *Instruments defining the rights of securityholders*—

(a) All instruments defining the rights of any holder of the issuer's securities, including but not limited to (i) holders of covered investment contracts being issued (including any whitepaper or similar document published by the issuer); (ii) holders of equity or debt securities; and (iii) holders of long-term debt of the issuer, and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(b) The following instruments need not be filed if the issuer agrees to file them with the Commission upon request: (i) instruments defining the rights of holders of long-term debt of the issuer and all of its subsidiaries for which consolidated financial statements are required to be filed if the total amount of such authorized issuance does not exceed 5% of the total assets of the issuer and its subsidiaries on a consolidated basis; (ii) any instrument with respect to a class of securities that is to be retired or redeemed before the issuance or upon delivery of the securities being issued pursuant to this Regulation Crypto Assets offering and appropriate steps have been taken to assure such retirement or redemption; and (iii) copies of instruments evidencing scrip certificates or fractions of shares.

4. *Subscription agreement*—The form of any subscription agreement to be used in connection with the purchase of securities in this offering, including any token purchase agreement or simple agreement for future tokens.

5. *Voting trust agreement*—Any voting trust agreements and amendments.

6. *Material contracts*—Every contract: (a) not made in the ordinary course of business; (b) that is material to the issuer; and (c) that either (i) is to be performed in whole or in part at or after the filing of the offering statement or (ii) was entered into not more than two years before such filing.

7. *Plan of acquisition, reorganization, arrangement, liquidation, or succession*—Any material plan of acquisition, disposition, reorganization, readjustment, succession, liquidation or arrangement and any amendments thereto described in the offering statement. Schedules (or similar attachments) to these exhibits must not be filed unless such schedules contain information that is material to an investment decision and that is not otherwise disclosed in the agreement or the offering statement. The plan filed must contain a list briefly identifying the contents of all omitted schedules, together with an agreement to furnish supplementally a copy of any omitted schedule to the Commission upon request.

8. *Escrow agreements*—Any escrow agreement or similar arrangement which has been executed in connection with the Regulation Crypto Assets offering.

9. *Letter re change in certifying accountant*—A letter from the issuer’s former independent accountant regarding its concurrence or disagreement with the statements made by the issuer in the current report concerning the resignation or dismissal as the issuer’s principal accountant.

10. *Power of attorney*—If any name is signed to the offering statement pursuant to a power of attorney, signed copies of the power of attorney must be filed. Where the power of attorney is contained elsewhere in the offering statement or documents filed therewith, a reference must be made in the index to the part of the offering statement or document containing such power of attorney. In addition, if the name of any officer signing on behalf of the issuer is signed pursuant to a power of attorney, certified copies of a resolution of the issuer’s board of directors authorizing such signature must also be filed. A power of attorney that is filed with the Commission must relate to a specific filing or an amendment thereto. A power of attorney that confers general authority may not be filed with the Commission.

11. *Consents*—

(a) Experts: The written consent of

(i) any accountant, counsel, engineer, geologist, appraiser, or any persons whose profession gives authority to a statement made by that person and who is named in the offering statement as having prepared or certified any part of the document or is named as having prepared or certified a report or evaluation whether or not for use in connection with the offering statement;

(ii) the expert that authored any portion of a report quoted or summarized as such in the offering statement, expressly stating that expert’s consent to the use of such quotation or summary;

(iii) any persons who are referenced as having reviewed or passed upon any information in the offering statement, and that such information is being included on the basis of their authority or in reliance upon their status as experts.

(b) All written consents must be dated and signed.

12. *Opinion re legality*—An opinion of counsel as to the legality of the securities covered by the offering statement, indicating whether they will be binding obligations of the issuer.

13. *“Testing the waters” materials*—Any written communication or broadcast script used under the authorization of Securities Act Rule 241 (17 CFR 230.241) within 30 days of the initial filing of the offering statement, and any written communication or broadcast script used under the authorization of Rule 304 of Regulation Crypto Assets (17 CFR 228.304). Materials used under the authorization of Rule 304 need not be filed if they are substantively the same as materials previously filed with the offering statement.

14. *Subsidiary guarantors and issuers of guaranteed securities and affiliates whose securities collateralize securities of the issuer.* List each of the entities in paragraphs (a) and (b) below under an appropriately captioned heading that identifies the associated securities. An entity need not be listed more than once so long as its role as issuer, co-issuer, or guarantor of a

guaranteed security and/or as affiliate whose security is pledged as collateral for an issuer's security is clearly indicated with respect to each applicable security:

(a) For an issuer that is the parent company (as that term is defined in paragraph (b)(6)(i) of Part F/S) and subject to 17 CFR 210.13-01 as described in paragraph (b)(6)(i) of Part F/S, each of the issuer's subsidiaries that is a guarantor, issuer, or co-issuer of the guaranteed security for which the issuer is required to file reports with the Commission pursuant to Rule 305(a) of Regulation Crypto Assets, or is an Exchange Act reporting company subject to section 13(a) or section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is qualified or being qualified pursuant to Regulation Crypto Assets; and

(b) For an issuer that is subject to 17 CFR 210.13-02 as described in paragraph (b)(6)(i) of Part F/S, each of the issuer's affiliates whose security is pledged as collateral for the issuer's security for which the issuer is required to file reports with the Commission pursuant to Rule 305(a) of Regulation Crypto Assets (17 CFR 228.305(a)), or is an Exchange Act reporting company subject to section 13(a) or section 15(d) of the Securities Exchange Act of 1934, or the offer and sale of which is qualified or being qualified under Regulation Crypto Assets. For each affiliate, also identify the security or securities pledged as collateral.

15. *Additional exhibits*—Any additional exhibits which the issuer may wish to file, which must be so marked as to indicate clearly the subject matters to which they refer.

Instruction to Item 15:

The issuer may redact information from exhibits required to be filed by this Item if disclosure of such information would constitute a clearly unwarranted invasion of personal privacy (e.g., disclosure of bank account numbers, social security numbers, home addresses, crypto wallet addresses, and similar information). In addition, the issuer may redact specific provisions or terms of exhibits required to be filed by paragraph 6 or 7 of this Item, if the issuer customarily and actually treats that information as private or confidential and if the omitted information is not material. If it does so, the issuer should mark the exhibit index to indicate that portions of the exhibit have been omitted and include a prominent statement on the first page of the redacted exhibit that certain identified information has been excluded from the exhibit because it is both not material and is the type that the registrant treats as private or confidential. The issuer also must include brackets indicating where the information is omitted from the filed version of the exhibit. If requested by the Commission or its staff, the issuer must promptly provide on a supplemental basis an unredacted copy of the exhibit and its materiality and privacy or confidentiality analyses. Upon evaluation of the issuer's supplemental materials, the Commission or its staff may require the issuer to amend its filing to include in the exhibit any previously redacted information that is not adequately supported by the issuer's analyses. The issuer may request confidential treatment of the supplemental material submitted under paragraphs 6 or 7 pursuant to Rule 83 (17 CFR 200.83) while it is in the possession of the Commission or its staff. After completing its review of the supplemental information, the Commission or its staff will return or destroy it if the registrant complies with the procedures outlined in Rule 418 (17 CFR 230.418).

SIGNATURES

Pursuant to the requirements of Regulation Crypto Assets, the issuer certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form 1-CRYPTO

and has duly caused this offering statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the

City of _____, State of _____, on _____ (date).

(Exact name of issuer as specified in its charter) _____

By (Signature and Title) _____

This offering statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) _____

(Title) _____

(Date) _____

Instructions to Signatures:

(1) *The offering statement must be signed by the issuer, its principal executive officer, principal financial officer, principal accounting officer, and a majority of the members of its board of directors or other governing body. If a signature is by a person on behalf of any other person, evidence of authority to sign must be filed with the offering statement, except where an executive officer signs on behalf of the issuer.*

(2) *The offering statement must be signed using a typed signature. Each signatory to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or otherwise adopting the signature that appears in the filing. Such document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained pursuant to this section.*

(3) *The name and title of each person signing the offering statement must be typed beneath the signature.*

Appendix B—Form 1-KC**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549****FORM 1-KC****GENERAL INSTRUCTIONS****A. Rules as to Use of Form 1-KC.**

(1) This Form shall be used for annual reports pursuant to Rule 305(a)(1) of Regulation Crypto Assets (17 CFR 228.305(a)(1)).

(2) Annual reports on this Form shall be filed within 120 calendar days after the end of the fiscal year covered by the report.

(3) This Form also shall be used for special financial reports filed pursuant to Rule 305(a)(2)(i)(A) of Regulation Crypto Assets (17 CFR 305(a)(2)(i)(A)). Such special financial reports shall be filed and signed in the manner set forth in this Form but otherwise need only provide Part I and the financial statements required by Rule 305(a)(2)(i)(A). Special financial reports filed using this Form shall be filed within 120 calendar days after the qualification date of the offering statement.

B. Preparation of Report.

(1) Regulation Crypto Assets (17 CFR part 228) contains certain general requirements that are applicable to reports on any form, including amendments to reports. These general requirements should be carefully read and observed in the preparation and filing of reports on this Form.

(2) This Form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report.

(3) Except where information is required to be given for the fiscal year or as of a specified date, it shall be given as of the latest date reasonably practicable.

(4) References in this Form to the items in Form 1-CRYPTO are to the items set forth in Part II and Part III of Form 1-CRYPTO, not Part I.

(5) In addition to the information expressly required to be included in this Form, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

C. Signature and Filing of Report.

(1) The report must be filed with the Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).

(2) The report must be signed by the issuer, its principal executive officer, principal financial officer, principal accounting officer, and at least a majority of the members of its board of directors or other governing body. If a signature is by a person on behalf of any other person, evidence of authority to sign must be filed with the report, except where an executive officer signs on behalf of the issuer.

(3) The report must be signed using a typed signature. Each signatory to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or otherwise adopting the signature that appears in the filing. Such document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained pursuant to this paragraph.

D. Incorporation by Reference and Cross-Referencing.

(1) An issuer may incorporate by reference to other documents previously submitted or filed on EDGAR. Cross-referencing within the report is also encouraged to avoid repetition of information. For example, you may respond to an item of this Form by providing a cross-reference to the location of the information in the financial statements, instead of repeating such information. Descriptions of where the information incorporated by reference or cross-referenced can be found must be specific and must clearly identify the relevant document and portion thereof where such information can be found. For exhibits incorporated by reference, this description must be noted in the exhibits index for each relevant exhibit. All descriptions of where information incorporated by reference can be found must be accompanied by a separate hyperlink to the incorporated document on EDGAR.

(2) Reference may not be made to any document if the portion of such document containing the pertinent information includes an incorporation by reference to another document. Incorporation by reference to documents not available on EDGAR. You may not incorporate information into the financial statements from elsewhere is not permitted. Information shall not be incorporated by reference or cross-referenced in any case where such incorporation would render the statement or report incomplete, unclear, or confusing.

(3) If any substantive modification has occurred in the text of any document incorporated by reference since such document was filed, the issuer must file with the reference a statement containing the text and date of such modification.

PART I
NOTIFICATION

The following information must be provided in the XML-based portion of Form 1-KC available through EDGAR and must be completed or updated before uploading each report or amendment thereto. The format of Part I shown below may differ from the electronic version available on EDGAR. The electronic version of Part I will allow issuers to attach Part II for filing by means of EDGAR. All items must be addressed, unless otherwise indicated.

* * * * *

This Form 1-KC is to provide an ☐ Annual Report OR ☐ Special Financial Report for the fiscal year ended _____

Exact name of issuer as specified in the issuer's charter: _____

Jurisdiction of incorporation/organization: _____

Address of Principal Executive Offices (if any): _____

Phone: () _____

Title of each class of securities issued under Rules 300-307 of Regulation Crypto Assets: _____

PART II
INFORMATION TO BE INCLUDED IN REPORT

Item 1. Covered Investment Contract

Furnish the information required by Rule 103(b)(1) (17 CFR 228.103(b)(1)).

Item 2. Subject Crypto Asset

Furnish the information required by Rule 103(b)(3) (17 CFR 228.103(b)(3)).

Item 3. Management, Related Persons, and Conflicts of Interest

Furnish the information required by Rule 103(b)(4) (17 CFR 228.103(b)(4)).

Item 4. Associated Crypto Network/Application; Plan of Development

Furnish the information required by Rule 103(b)(5) (17 CFR 228.103(b)(5)).

Item 5. Security; Source Code

Furnish the information required by Rule 103(b)(6) (17 CFR 228.103(b)(6)).

Item 6. Subject Crypto Asset Economics and Allocations

Furnish the information required by Rule 103(b)(7) (17 CFR 228.103(b)(7)).

Item 7. Governance

Furnish the information required by Rule 103(b)(8) (17 CFR 228.103(b)(8)).

Item 8. Subject Crypto Asset Ecosystem

Furnish the information required by Rule 103(b)(9) (17 CFR 228.103(b)(9)).

Item 9. Risk Factors

Furnish the information required by Rule 103(b)(10) (17 CFR 228.103(b)(10)).

Item 10. Discussion of Financial Condition

Furnish the information required by Item 13 of Form 1-CRYPTO for the most recent two completed fiscal years.

Item 11. Other Information

Furnish any information required to be disclosed in a report on Form 1-UC during the last six months of the fiscal year covered by this Form 1-KC, but not reported, whether or not otherwise required by this Form 1-KC. If disclosure of information is made under this item, it need not be repeated in a report on Form 1-UC that would otherwise be required to be filed with respect to that information or in a subsequent report on Form 1-UC.

Item 12. Financial Statements

The appropriate financial statements set forth below of the issuer, or the issuer and its predecessors or any businesses to which the issuer is a successor must be filed as part of the Form 1-KC.

The financial statements prepared for issuers who have issued securities solely pursuant to Tier 1 of Regulation Crypto Assets need not be audited. If the financial statements are not audited, they must be labeled as “unaudited.” However, if an audit of these financial statements is obtained for other purposes and that audit was performed in accordance with either U.S. generally accepted auditing standards or the Standards of the Public Company Accounting Oversight Board by an auditor that is independent under either the independence standards of the American Institute of Certified Public Accountants (AICPA) or Rule 2-01 of Regulation S-X, those audited financial statements must be filed, and an audit opinion complying with Rule 2-02 of Regulation S-X must be filed along with such financial statements. The auditor may, but need not, be registered with the Public Company Accounting Oversight Board.

Audited financial statements are required for issuers who have issued securities pursuant to Tier 2 of Regulation Crypto Assets.

Financial statements must be prepared in accordance with generally accepted accounting principles in the United States (U.S. GAAP).

Any audit of the financial statements must be conducted in accordance with either U.S. generally accepted auditing standards or the standards of the Public Company Accounting Oversight Board

(United States) and the report and qualifications of the independent accountant shall comply with the requirements of Article 2 of Regulation S-X. Accounting firms conducting audits for the financial statements may, but need not, be registered with the Public Company Accounting Oversight Board.

(a) *Balance Sheet.* There shall be filed an audited consolidated balance sheet as of the end of each of the most recent two fiscal years.

(b) *Statements of comprehensive income, cash flows, and changes in stockholders' equity.* File audited consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income), cash flows, and changes in stockholders' equity for each of the two fiscal years preceding the date of the most recent balance sheet being filed or such shorter period as the issuer and its predecessor has been in existence.

(c) *Financial Statements of and Disclosures About Other Entities.* The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities. The financial statements of other entities must be presented for the same periods as the issuer's financial statements described above in paragraphs (a) and (b) unless a shorter period is specified by the rules below.

(1) *Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities.* The requirements of Rule 3-10 of Regulation S-X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3-10(a) of Regulation S-X to "an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S-X with respect to the guarantee or guaranteed security" instead reads "an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to Rules 300-307 of Regulation Crypto Assets is required to file financial statements required by Item 5 of Part II of Form 1-KC with respect to the guarantee or guaranteed security." The definition of "parent company" is the same as in Rule 3-10(b)(1) of Regulation S-X, except that Rule 3-10(b)(1)(ii) instead reads: "Is, or as a result of the subject offering statement will be, required to file reports with the Commission pursuant to Rule 305(a) of Regulation Crypto Assets (§§228.300–228.300), or is an Exchange Act reporting company." The parent company must also provide the disclosures required by Rule 13-01 of Regulation S-X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 2 of Part II of Form 1-KC.

(2) *Financial Statements of and Disclosures About Affiliates Whose Securities Collateralize an Issuance.* The requirements of Rules 3-16 or 13-02 of Regulation S-X are applicable if an issuer's securities that are qualified or being qualified pursuant to Regulation Crypto Assets are collateralized by the securities of the issuer's affiliates. Rule 13-02 of Regulation S-X must be followed unless Rule 3-16 of Regulation S-X applies. The issuer may elect to provide the disclosures specified in Rule 13-02 of Regulation S-X in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 10 of Part II of Form 1-KC.

Item 13. Exhibits

(a) An exhibits index must be presented immediately preceding the first signature page of the report.

(b) File, as exhibits to this Form, the exhibits required by Form 1-CRYPTO, except for the exhibits required by paragraphs 1, 12, and 13 of Item 15.

SIGNATURES

Pursuant to the requirements of Regulation Crypto Assets, the issuer has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Exact name of issuer as specified in its charter) _____

By (Signature and Title) _____

Date _____

Pursuant to the requirements of Regulation Crypto Assets, this report has been signed below by the following persons on behalf of the issuer and in the capacities and on the dates indicated.

By (Signature and Title) _____

Date _____

By (Signature and Title) _____

Date _____

Appendix C—Form 1-SC**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549****FORM 1-SC****[] SEMIANNUAL REPORT PURSUANT TO REGULATION CRYPTO ASSETS****or****[] SPECIAL FINANCIAL REPORT PURSUANT TO REGULATION CRYPTO ASSETS**

For the fiscal semiannual period ended _____

(Exact name of issuer as specified in its charter)_____
State or other jurisdiction of incorporation or organization_____
(Full mailing address of principal executive offices (if any))_____
(Issuer's telephone number, including area code)**GENERAL INSTRUCTIONS****A. Rules as to Use of Form 1-SC.**

- (1) This Form is used for semiannual reports pursuant to Rule 305(a)(3) of Regulation Crypto Assets (17 CFR 228.305(a)(3)).
- (2) Semiannual reports on this Form shall be filed within 90 calendar days after the end of the semiannual period covered by the report.
- (3) This Form also shall be used for special financial reports filed pursuant to Rule 305(a)(2)(i)(B) of Regulation Crypto Assets (17 CFR 228.305(a)(2)(i)(B)). Special financial reports shall be filed and signed in the manner set forth in this Form but otherwise need only provide the cover page and financial statements required by Rule 305(a)(2)(i)(B). Special financial reports filed using this Form shall be filed within 90 calendar days after the qualification date of the offering statement.

B. Preparation of Report.

- (1) Regulation Crypto Assets (17 CFR part 228) contains certain general requirements that are applicable to reports on any form, including amendments to reports. Please carefully read and observe these general requirements when preparing and filing reports on this Form.
- (2) This Form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report.
- (3) In addition to the information expressly required to be included in this Form, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

C. Signature and Filing of Report.

- (1) The report must be filed with the Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).
- (2) The report must be signed by the issuer, its principal executive officer, principal financial officer, and principal accounting officer. If a signature is by a person on behalf of any other person, evidence of authority to sign must be filed with the report, except where an executive officer signs on behalf of the issuer.
- (3) The report must be signed using a typed signature. Each signatory to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or otherwise adopting the signature that appears in the filing. Such document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained pursuant to this paragraph.

D. Incorporation by Reference and Cross-Referencing.

- (1) An issuer may incorporate by reference to other documents previously submitted or filed on EDGAR. Cross-referencing within the report is also encouraged to avoid repetition of information. For example, you may respond to an item of this Form by providing a cross-reference to the location of the information in the financial statements, instead of repeating such information. Descriptions of where the information incorporated by reference or cross-referenced can be found must be specific and must clearly identify the relevant document and portion thereof where such information can be found. For exhibits incorporated by reference, this description must be noted in the exhibits index for each relevant exhibit. All such descriptions of where information incorporated by reference can be found must be accompanied by a separate hyperlink to the incorporated document on EDGAR. A hyperlink need not remain active after the filing of the report, except that amendments to the report must update any hyperlinks referred to in the amendment that are inactive.
- (2) Reference may not be made to any document if the portion of such document containing the pertinent information includes an incorporation by reference to another document. Incorporation by reference to documents not available on EDGAR is not permitted. Information shall not be incorporated by reference or cross-referenced in any case where such incorporation would render the statement or report incomplete, unclear, or confusing. Incorporating information into the financial statements from elsewhere is not permitted.

(3) If any substantive modification has occurred in the text of any document incorporated by reference since such document was filed, the issuer must file with the reference a statement containing the text and date of such modification.

INFORMATION TO BE INCLUDED IN REPORT

Item 1. Covered Investment Contract

Furnish the information required by Rule 103(b)(1) (17 CFR 228.103(b)(1)).

Item 2. Associated Crypto Network/Application; Plan of Development

Furnish the information required by Rule 103(b)(5) (17 CFR 228.103(b)(5)).

Item 3. Discussion of Financial Condition

Set forth the information required by Item 13 of Form 1-CRYPTO for the interim period for which financial statements are required by Item 4 below.

Item 4. Other Information

Set forth any information required to be disclosed in a report on Form 1-UC during the semiannual period covered by this Form 1-SC, but not reported, whether or not otherwise required by this Form 1-SC. If disclosure of information is made under this item, it need not be repeated in a report on Form 1-UC that would otherwise be required to be filed with respect to such information or in a subsequent report on Form 1-UC.

Item 5. Financial Statements

The appropriate financial statements set forth below of the issuer, or the issuer and its predecessors or any businesses to which the issuer is a successor must be filed as part of the Form 1-SC.

Financial statements must be prepared on a consolidated basis in accordance with generally accepted accounting principles in the United States (US GAAP).

The financial statements included pursuant to this item may be condensed, unaudited, and are not required to be reviewed. For additional guidance on presentation of the financial statements, issuers should refer to Rule 8-03(a) of Regulation S-X. The financial statements for all issuers must include the following:

(a) An interim consolidated balance sheet as of the end of the six-month period covered by this report and a balance sheet as of the end of the preceding fiscal year. An interim balance sheet as of the end of the corresponding six-month interim period of the preceding fiscal year need not be provided unless necessary for an understanding of the impact of seasonal fluctuations on the issuer's financial condition.

(b) Interim consolidated statements of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) must be provided for the six-month interim period covered by this report and for the corresponding period of the preceding fiscal year.

Statements of comprehensive income must be accompanied by a statement that in the opinion of management all adjustments necessary in order to make the interim financial statements not misleading have been included.

(c) Interim statements of cash flows must be provided for the six-month interim period covered by this report and for the corresponding period of the preceding fiscal year.

(d) An analysis of the changes in each caption of stockholders' equity presented in the balance sheets must be provided in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which a statement of comprehensive income is required to be filed with all significant reconciling items described by appropriate captions with contributions from and distributions to owners shown separately. Dividends per share for each class of shares shall also be presented.

(e) Financial Statements of and Disclosures About Other Entities. The circumstances described below may require you to file financial statements of, or provide disclosures about, other entities. These financial statements and disclosures may be unaudited.

- 1) *Financial Statements of and Disclosures About Guarantors and Issuers of Guaranteed Securities.* The requirements of Rule 3-10 of Regulation S-X are applicable to financial statements of a subsidiary that issues securities guaranteed by the parent company or guarantees securities issued by the parent company. However, the reference in Rule 3-10(a) of Regulation S-X to "an issuer or guarantor of a guaranteed security that is registered or being registered is required to file financial statements required by Regulation S-X with respect to the guarantee or guaranteed security" instead refers to "an issuer or guarantor of a guaranteed security that is qualified or being qualified pursuant to the fundraising exemption in Regulation Crypto Assets (17 CFR 228, subpart C) is required to file financial statements required by Item 3 of Form 1-SA with respect to the guarantee or guaranteed security." The definition of "parent company" is the same as in Rule 3-10(b)(1) of Regulation S-X, except that Rule 3-10(b)(1)(ii) instead reads as follows: "Is, or as a result of the subject offering statement will be, required to file reports with the Commission pursuant to Rule 305(a) of Regulation Crypto Assets (17 CFR 228.305(a)), or is an Exchange Act reporting company." The parent company must also provide the disclosures required by Rule 13-01 of Regulation S-X. The parent company may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 2 of Form 1-SC.
- 2) *Disclosures About Affiliates Whose Securities Collateralize an Issuance.* Disclosures about an issuer's affiliates whose securities collateralize any class of securities being offered must be provided as required by Rule 13-02 of Regulation S-X. The issuer may elect to provide these disclosures in a footnote to its consolidated financial statements or alternatively, in the discussion of financial condition described in Item 3 of Form 1-SC.

Item 4. Exhibits

- A. An exhibits index must be presented immediately preceding the first signature page of the report.
- B. File, as exhibits to this Form, the exhibits required by Form 1-CRYPTO, except for the exhibits required by paragraphs 1, 11, and 12 of Item 15.

SIGNATURES

Pursuant to the requirements of Regulation Crypto Assets, the issuer has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Exact name of issuer as specified in its charter) _____

By (Signature and Title) _____

Date _____

Pursuant to the requirements of Regulation Crypto Assets, this report has been signed below by the following persons on behalf of the issuer and in the capacities and on the dates indicated.

By (Signature and Title) _____

Date _____

By (Signature and Title) _____

Date _____

Appendix D—Form 1-UC

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 1-UC

CURRENT REPORT PURSUANT TO REGULATION CRYPTO ASSETS

Date of Report (Date of earliest event reported) _____

(Exact name of issuer as specified in its charter)

State or other jurisdiction of incorporation or organization

(Full mailing address of principal executive offices (if any))

(Issuer’s telephone number, including area code)

Title of each class of securities issued pursuant to Regulation Crypto Assets: _____

GENERAL INSTRUCTIONS

A. Rules as to Use of Form 1-UC.

- (1) This Form shall be used for current reports pursuant to Rule 305(a)(4) of Regulation Crypto Assets (17 CFR 228.305(a)(4)).
- (2) A report on this Form is required to be filed, as applicable, upon the occurrence of any one or more of the events specified in Items 1 through 8 of this Form. Unless otherwise specified, a report is to be filed within four business days after occurrence of the event. If the event occurs on a Saturday, Sunday, or holiday on which the Commission is not open for business, then the four-business day period shall begin to run on, and include, the first business day thereafter.
- (3) If the issuer previously has provided substantially the same information as required by this Form in a report required by Rule 305(a) of Regulation Crypto Assets, the issuer need not make an additional report of the information on this Form. To the extent that an item calls for disclosure of developments concerning a previously reported event or transaction, any information required in the new report or amendment about the previously reported event or transaction may be provided by incorporation by reference to the previously filed report, if a hyperlink to such report as filed with the Commission is included.
- (4) Copies of agreements, amendments or other documents or instruments are not required to be filed as exhibits to the Form 1-UC unless specifically required by the applicable item. This instruction does not affect the requirement to otherwise file such agreements, amendments or other documents or instruments, including as exhibits to offering statements and periodic reports pursuant to the requirements of the fundraising exemption in Regulation Crypto Assets (17 CFR 228, subpart C).

B. Preparation of Report.

- (1) Rules 300-307 of Regulation Crypto Assets contain certain general requirements which are applicable to reports on any form, including amendments to reports. These general requirements should be carefully read and observed in the preparation and filing of reports on this Form.
- (2) This Form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report. Nevertheless, the report shall contain the number and caption of each applicable item, but the text of such item may be omitted. All items that are not required to be answered in a particular report may be omitted and no reference thereto need be made in the report. All instructions should also be omitted.
- (3) In addition to the information expressly required to be included in this Form, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

C. Signature and Filing of Report.

- (1) The report must be filed with the Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).
- (2) The report must be signed by an officer duly authorized to sign on behalf of the issuer. The report must be signed using a typed signature. The signatory to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or

otherwise adopting the signature that appears in the filing. Such document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained pursuant to this paragraph.

D. Incorporation by Reference and Cross-Referencing.

(1) An issuer may incorporate by reference to other documents previously submitted or filed on EDGAR. Cross-referencing within the report is also encouraged to avoid repetition of information. For example, you may respond to an item of this Form by providing a cross-reference to the location of the information in another item, instead of repeating such information. Descriptions of where the information incorporated by reference or cross-referenced can be found must be specific and must clearly identify the relevant document and portion thereof where such information can be found. For exhibits incorporated by reference, this description must be noted in the exhibits index for each relevant exhibit. All such descriptions of where information incorporated by reference can be found must be accompanied by a separate hyperlink to the incorporated document on EDGAR. A hyperlink need not remain active after the filing of the report, except that amendments to the report must update any hyperlinks referred to in the amendment that are inactive.

(2) Reference may not be made to any document if the portion of such document containing the pertinent information includes an incorporation by reference to another document. Incorporation by reference to documents not available on EDGAR is not permitted. Information shall not be incorporated by reference or cross-referenced in any case where such incorporation would render the statement or report incomplete, unclear, or confusing. Incorporating information into any financial statements from elsewhere is not permitted.

(3) If any substantive modification has occurred in the text of any document incorporated by reference since such document was filed, the issuer must file with the reference a statement containing the text and date of such modification.

INFORMATION TO BE INCLUDED IN THE REPORT

Item 1. Fundamental Changes

(a) If the issuer has entered into or terminated a material definitive agreement that has resulted in or would reasonably be expected to result in a fundamental change to the nature of its business or the plan of development, disclose the following information to the extent applicable:

(1) the date on which the agreement was entered into, amended, or terminated, the identity of the parties to the agreement or amendment, and a brief description of any material relationship between the issuer or its affiliates and any of the parties (other than the relationship created by the material definitive agreement or amendment);

(2) a brief description of the material terms and conditions of the agreement;

(3) a brief description of the material circumstances surrounding the termination; and

(4) any material early termination penalties incurred by the issuer.

(b) For purposes of this item, a material definitive agreement means an agreement that provides for obligations that are material to and enforceable against the issuer, or rights that are material to the issuer and enforceable by the issuer against one or more other parties to the agreement, in each case whether or not subject to conditions.

(c) File any material definitive agreement disclosed pursuant to this item as an exhibit to the report on this Form.

Instructions to Item 1:

1. *A material definitive agreement that is not made in the ordinary course of business is not necessarily required to be disclosed under this item if it does not result in, and would not reasonably be expected to result in, a fundamental change to the nature of the issuer's business or the plan of development.*

2. *Without limiting the generality of the foregoing and solely for the purposes of this Item 1, a material definitive agreement is deemed to result in a fundamental change if it involves any of the following:*

a. An acquisition transaction for which the purchase price, as defined by U.S. GAAP, exceeds fifty-percent of the total consolidated assets of the issuer as of the end of the most recently completed fiscal year. If the acquirer transferred assets to the acquiree than the carrying value of those assets should be excluded from the purchase price;

b. A merger, consolidation, acquisition or similar transaction that requires approval by the issuer's securityholders; or

c. Any contract upon which the issuer's business is substantially dependent, as in the case of continuing contracts to sell the major part of the issuer's products or services or to purchase the major part of the issuer's requirements of goods, services or raw materials or any franchise or license or other agreement to use a patent, formula, trade secret, process or trade name upon which the issuer's business is substantially dependent.

3. *An issuer must provide disclosure under this item if the issuer succeeds as a party to the agreement or amendment to the agreement by assumption or assignment (other than in connection with a merger or acquisition or similar transaction that is otherwise reported pursuant to this item).*
4. *No disclosure under this item is required regarding the termination of a material definitive agreement if:*
- a. The agreement terminated on its stated termination date, or as a result of all parties completing their obligations under such agreement.*
 - b. Only negotiations or discussions regarding termination of a material definitive agreement are being conducted and the agreement has not been terminated.*
 - c. The issuer believes in good faith that the material definitive agreement has not been terminated, unless the issuer has received a notice of termination pursuant to the terms of agreement.*

Item 2. Bankruptcy or Receivership

(a) If a receiver, fiscal agent, or similar officer has been appointed for an issuer or its parent, in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under State or Federal laws, in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the issuer or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental authority, disclose the following information:

- (1) the name or other identification of the proceeding;
- (2) the identity of the court or governmental authority;
- (3) the date that jurisdiction was assumed; and
- (4) the identity of the receiver, fiscal agent, or similar officer and the date of his or her appointment.

(b) If an order confirming a plan of reorganization, arrangement, or liquidation has been entered by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the issuer or its parent, disclose the following:

- (1) the identity of the court or governmental authority;
- (2) the date that the order confirming the plan was entered by the court or governmental authority;
- (3) a summary of the material features of the plan;
- (4) the number of shares or other units of the issuer or its parent issued and outstanding, the number reserved for future issuance in respect of claims and interests filed and allowed under the plan, and the aggregate total of such numbers; and

(5) information as to the assets and liabilities of the issuer or its parent as of the date that the order confirming the plan was entered, or a date as close thereto as practicable.

Instruction to Item 2:

The information called for in paragraph (b)(5) of this item may be presented in the form in which it was furnished to the court or governmental authority.

Item 3. Material Modification to Rights of Securityholders

(a) If the constituent instruments defining the rights of the holders of any class of securities of the issuer that were issued pursuant to Rule 300–Rule 307 of Regulation Crypto Assets have been materially modified, disclose the date of the modification, the title of the class of securities involved and briefly describe the general effect of such modification upon the rights of holders of such securities.

(b) If the rights or benefits evidenced by any class of securities issued pursuant to Regulation Crypto Assets have been materially limited or qualified by the issuance or modification of any other class of securities by the issuer, briefly disclose the date of the issuance or modification, the general effect of the issuance or modification of such other class of securities upon the rights or benefits of the holders of the securities issued pursuant to Regulation Crypto Assets.

Item 4. Changes in Issuer’s Certifying Accountant

(a) If an independent accountant who was previously engaged as the principal accountant to audit the issuer’s financial statements, or an independent accountant upon whom the principal accountant expressed reliance in its report regarding a significant subsidiary, resigns (or indicates that it declines to stand for re-appointment after completion of the current audit) or is dismissed, disclose the information that would be required under Item 304(a)(1) of Regulation S-K (17 CFR 229.304(a)(1)), including compliance with Item 304(a)(3) of Regulation S-K (17 CFR 229.304(a)(3)) if the issuer were a “registrant.”

(b) If a new independent accountant has been engaged as either the principal accountant to audit the issuer’s financial statements or as an independent accountant on whom the principal accountant is expected to express reliance in its report regarding a significant subsidiary, the issuer must disclose the information that would be required by Item 304(a)(2) of Regulation S-K (17 CFR 229.304(a)(2)) if the issuer were a “registrant.”

Instructions to Item 4:

1. Information under this Item 4 is only required if the issuer’s most recent qualified offering statement on Form 1-CRYPTO or report on Form 1-KC, whichever is most recent, contains audited financial statements.

2. The resignation or dismissal of an independent accountant, or its refusal to stand for re-appointment, is a reportable event separate from the engagement of a new independent accountant. On some occasions, two reports on Form 1-UC are required for a single change in accountants: the first on the resignation (or refusal to stand for re-appointment) or dismissal of the former accountant and the second when the new accountant is engaged. Information required in the second Form 1-UC filing to the extent that it has been reported previously in the first Form 1-UC filing.

Item 5. Non-reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

(a) If the issuer's board of directors, a committee of the board of directors or the officer or officers of the issuer authorized to take such action if board action is not required, concludes that any previously issued financial statements, covering one or more years or interim periods for which the issuer is required to provide financial statements under Rule 300–Rule 307 of Regulation Crypto Assets, including Form 1-CRYPTO, should no longer be relied upon because of an error in such financial statements as addressed in FASB Accounting Standards Codification Topic 250, or, if applicable, IAS 8, as may be modified, supplemented or succeeded, disclose the following information:

- (1) the date of the conclusion regarding the non-reliance and an identification of the financial statements and years or periods covered that should no longer be relied upon;
- (2) a brief description of the facts underlying the conclusion to the extent known to the issuer at the time of filing; and
- (3) a statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the issuer's independent accountant the matters disclosed in the filing made pursuant to this paragraph (a).

(b) If the issuer is advised by, or receives notice from, its independent accountant that disclosure should be made or action should be taken to prevent future reliance on a previously issued audit report or completed interim review related to previously issued financial statements, disclose the following information:

- (1) the date on which the issuer was so advised or notified;
- (2) identification of the financial statements that should no longer be relied upon;
- (3) a brief description of the information provided by the accountant; and
- (4) a statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the independent accountant the matters disclosed in the filing pursuant to paragraph (b) of this item.

(c) If the issuer receives advisement or notice from its independent accountant requiring disclosure under paragraph (b) of this item, the issuer must:

- (1) provide the independent accountant with a copy of the disclosures the issuer is making in response to this item and the independent accountant shall receive a copy no later than the day that the disclosures are filed with the Commission;
- (2) request the independent accountant to furnish to the issuer as promptly as possible a letter addressed to the Commission stating whether the independent accountant agrees with the statements made by the issuer in response to this item and, if not, stating the respects in which it does not agree; and
- (3) amend the issuer's previously filed Form 1-UC by filing the independent accountant's letter as an exhibit to the filed Form 1-UC no later than two business days after the issuer's receipt of the letter.

Item 6. Changes in Control of Issuer

(a) If, to the knowledge of the issuer's board of directors, a committee of the board of directors, governing body similar to a board of directors, or authorized officer or officers of the issuer, a change in control of the issuer has occurred, furnish the following information:

- (1) the identity of the persons who acquired such control;
- (2) the date and a description of the transactions which resulted in the change in control;
- (3) the basis of the control, including the percentage of voting securities of the issuer now beneficially owned directly or indirectly by the persons who acquired control;
- (4) the amount of the consideration used by such persons;
- (5) the sources of funds used by the persons, unless all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by section 3(a)(6) of the Securities Exchange Act of 1934;
- (6) the identity of the persons from whom control was assumed; and
- (7) any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters.

(b) Describe any arrangements known to the issuer, including any pledge by any person of securities of the issuer or any of its parents, the operation of which may at a subsequent date result in a change in control of the issuer. It is not necessary to describe ordinary default provisions contained in the charter, trust indentures, or other governing instruments relating to securities of the issuer in response to this paragraph.

Item 7. Departure of Certain Officers

If the issuer's principal executive officer, principal financial officer, principal accounting officer, or any person performing similar functions, retires, resigns or is terminated from that position, disclose the fact that the event has occurred and the date of the event.

Instruction to Item 7:

The disclosure requirements of this item do not apply to an issuer that is a wholly-owned subsidiary of an issuer with a class of securities registered under section 12 of the Exchange Act (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Exchange Act (15 U.S.C. 78o(d)) or under Rule 300–Rule 307 of Regulation Crypto Assets.

Item 8. Other Events

The issuer may, at its option, disclose under this item any events or information, the disclosure of which is not otherwise called for by this Form, that the issuer deems of importance to securityholders.

SIGNATURES

Pursuant to the requirements of Regulation Crypto Assets, the issuer has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Exact name of issuer as specified in its charter) _____

By (Signature and Title) _____

Date _____

Appendix E—Form TR

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM TR

TRANSITION REPORT UNDER REGULATION CRYPTO ASSETS

* * * * *

PRELIMINARY INFORMATION

Exact name of entity(ies) as specified in the charter(s) that comprise the issuer and/or full name(s) of natural person(s) who comprise the issuer: _____

Address of Issuer's Principal Executive Offices (if any): _____

Jurisdiction(s) of incorporation/organization of entity(ies) that comprise the issuer, if applicable: _____

Phone: () _____

Issuer E-mail Address: _____

Name of Crypto Asset: _____

If the issuer is filing this Form TR pursuant to 17 CFR 228.200(e), check the following box. ☐

If the issuer is filing this Form TR pursuant to 17 CFR 228.305(c), check the following box. ☐

If the issuer is filing this Form TR pursuant to 17 CFR 228.305(d), check the following box. ☐

If this Form TR is being filed pursuant to 17 CFR 228.400(b), check the following box. ☐

GENERAL INSTRUCTIONS

(a) If you are filing this Form TR pursuant to 17 CFR 228.200(e) or 17 CFR 228.305(d) and you have satisfied the condition in 17 CFR 228.400(a), provide the information required by Part I.

(b) If you are filing this Form TR pursuant to 17 CFR 228.200(e) or 17 CFR 228.305(d) and you have not satisfied the condition in 17 CFR 228.400(a), provide the information required by Part II.

(c) If you are filing this Form TR pursuant to 17 CFR 228.305(c), provide the information required by Part III.

(d) If you are filing this Form TR pursuant to 17 CFR 228.400(b), provide the information required by Part I.

(e) This Form TR must be filed with the Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).

PART I

Item 1. Description of Covered Investment Contract and Crypto Asset. Provide a brief description of the covered investment contract and crypto asset sufficient for a reasonable investor to identify the security and crypto asset to which this Form TR relates.

Item 2. Certification Regarding Essential Managerial Efforts. Check the following box to provide the following certification:

☐ By checking this box, I certify that I have completed or otherwise permanently ceased all essential managerial efforts in which I promised or represented I would engage under the covered investment contract identified in Item 1 above, and I am not making and do not intend to make any new representations or promises to engage in essential managerial efforts with respect to the crypto asset identified in Item 1 above.

Item 3. Supporting Analysis. Provide an analysis supporting your certification under Item 2 above.

PART II

Item 4. Description of Covered Investment Contract. Provide a brief description of the covered investment contract sufficient for a reasonable investor to identify the covered investment contract to which this Form TR relates.

Item 5. Description of Current Status. Provide a description of the current status of the covered investment contract, the subject crypto asset, and the associated crypto network or associated crypto application and the issuer's plans with respect to such covered investment contract, subject crypto asset, and associated crypto network or associated crypto application.

Item 6. Analysis Supporting Current Status. If you indicated under Item 5 above that the covered investment contract has ceased to exist, provide an analysis supporting that determination.

PART III**Certification of Suspension of Duty to File Reports**

Title of each class of securities covered by this Form _____

Commission File Number(s) _____

Approximate number of holders of record as of the certification date: _____

Pursuant to the requirements of Regulation Crypto Assets, _____ (Name of issuer as specified in charter) certifies that it meets all of the conditions for termination of Regulation Crypto Assets reporting specified in Rule 305(c) (17 CFR 228.305(c)) and that there are no classes of securities other than those that are the subject of this Form TR regarding which the issuer has Regulation Crypto Assets reporting obligations. _____ (Name of issuer as specified in charter) has caused this certification to be signed on its behalf by the undersigned duly authorized person(s).

Instruction to Signature: If the issuer is composed of a group of individuals or entities, each such person that is a member of that group (or that person's duly authorized representative) must sign this Form TR and provide the below certification. An officer of the issuer (or each member of the group, as applicable) or any other duly authorized person(s) may sign, and must do so by typed signature. The name and title of the person(s) signing the Form must be typed under the signature. The signatory(ies) to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or otherwise adopting the signature that appears in the filing. This document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained under this instruction.

Signature. By signing below, I certify, after reasonable inquiry and to the best of my knowledge and belief, that the information set forth in this Form TR is true, complete, and correct.

Signature:

Title:

Date:

Appendix F—Form NOR

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM NOR

NOTICE OF RELIANCE UNDER REGULATION CRYPTO ASSETS

PRELIMINARY INFORMATION

Exact name of entity(ies) as specified in the charter(s) that comprise the issuer and/or full name(s) of natural person(s) who comprise the issuer: _____

Jurisdiction(s) of incorporation/organization of entity(ies) that compose the issuer, if applicable: _

Address of Issuer's Principal Executive Offices (if any): _____

Issuer's Phone: () _____

Issuer E-mail Address: _____

Name of Subject Crypto Asset: _____

Provide the website address at which you will make the information required by Rule 103 of Regulation Crypto Assets (17 CFR 228.103) publicly accessible, free of charge pursuant to Rule 200(d)(1) of Regulation Crypto Assets (17 CFR 228.200(d)(1)).

Note: This Form NOR must be filed with the Commission in electronic format by means of the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") in accordance with the electronic filing rules set forth in Regulation S-T (17 CFR part 232).

Instruction to Signature: If the issuer is composed of a group of individuals or entities, each such person that is a member of that group (or that person's duly authorized representative) must sign this Form NOR and provide the below certification. An officer of the issuer (or each member of the group, as applicable) or any other duly authorized person(s) may sign, and must do so by typed signature. The name and title of the person(s) signing the Form must be typed under the signature. The signatory(ies) to the filing must also manually or electronically sign a signature page or other document authenticating, acknowledging or otherwise adopting the signature that appears in the filing. This document must be executed before or at the time the filing is made and must be retained by the issuer for a period of five years. Upon request, the issuer must furnish to the Commission or its staff a copy of any or all documents retained under this instruction.

Signature. By signing below, I certify, after reasonable inquiry and to the best of my knowledge and belief, that (1) the information set forth in this Form NOR is true, complete, and correct and (2) I intend to fulfill, within four years after the date of filing this Form NOR, the essential managerial efforts in which I represented or promised investors I would engage under the covered investment contract.

Signature:

Title:

Date:

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Reader Aids

Federal Register

Vol. 91, No. 161

Friday, August 21, 2026

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

Other Services

Electronic and on-line services (voice) **741-6020**

Privacy Act Compilation **741-6050**

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FEDERAL REGISTER PAGES AND DATE, AUGUST

48755-49268	3
49269-50468	4
50469-50660	5
50661-51062	6
51063-51358	7
51359-51548	10
51549-51996	11
51997-52218	12
52219-52474	13
52475-53180	14
53181-53356	17
53357-53520	18
53521-53712	19
53713-54210	20
54211-54656	21

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

11051	50645
11052	51975
11053	51989
11054	53355
11055	53699

Executive Orders:

14417	51059
14418	51991
14419	51993
14420	53173

Administrative Orders:

Notices:

Notice of August 3, 2026	50659
Notice of August 12, 2026	53179

Presidential

Determinations:

No. 2026-19 of July 30, 2026	50465
No. 2026-20 of August 3, 2026	51547

Permits:

Presidential Permit of July 30, 2026	50467

4 CFR

Proposed Rules:

28	51107

5 CFR

2	52475
3	52475
5	52475
6	52475
9	52475
10	52475
11	49072
230	49072
315	49072
316	49178
330	49178
351	49178, 49230
353	49178
359	49178
362	49178
430	49178
432	49072
532	52479
550	52479
731	49034
751	49072
752	49072
1201	51997

7 CFR

984	53181

Proposed Rules:

272	53200
274	53200

277	53200
319	50485
1924	53540
4280	53540
4290	53540

8 CFR

1	51924
103	51359, 51924
106	51360, 51924
214	51549
252	51549
1103	54211

Proposed Rules:

100	54249
103	54252

9 CFR

Proposed Rules:

145	50488
146	50488
147	50488

10 CFR

2	51555
7	51555
10	51555
51	54214
72	51999
861	51999

Proposed Rules:

2	51600
7	51600
10	51600

12 CFR

701	50661, 50664, 50666, 50669, 50672, 50674, 50677, 50680
704	50684
721	50674
741	50677, 50686, 50688
746	50677, 50680

Proposed Rules:

4	50610
5	50610, 52113
7	50610
21	50610
24	52113
25	52113
35	52113
163	50610
215	49526
217	49490
225	49526
239	49490
337	50730
345	52113
346	52113
Ch. XV	53368

13 CFR

124	51568

Proposed Rules:	56.....48785	151.....51592	42 CFR
121.....53741, 54096	73.....53545, 53546	152.....51592	405.....49570
14 CFR	106.....48785	159.....51592	412.....48982, 49570
25.....51063	170.....51834	165.....49278, 50482, 50714,	413.....49570
27.....52002	201.....48785	50716, 50717, 51067, 51395,	414.....48982
39.....49269, 50691, 50693,	251.....48785	51592, 52023, 52530, 52531,	415.....49570
50696, 50698, 52219, 52221,	310.....48785	52533, 53194, 53361, 53362,	418.....49118
52223, 52231, 52236, 52484,	312.....48785	54244, 54225, 54227	419.....49570
52487, 52490, 52494, 52496,	314.....48785	334.....51594	441.....52406
52499, 53713	329.....48785	Proposed Rules:	457.....52406
71.....48755, 48756, 50469,	570.....51834	110.....53395	495.....49570
51065, 51066, 51381, 51573,	600.....48785	117.....51113, 51116	512.....49570
51574, 52003	803.....48785	147.....51118, 51119	
95.....49271	862.....48785	165.....52037	45 CFR
97.....50470, 50472, 53521,	866.....48785	334.....51633	170.....49570
53522	870.....48785, 53205	34 CFR	611.....49283
382.....49272	876.....53205, 53209	Ch. III.....53719	1370.....48775
Proposed Rules:	878.....53205	Proposed Rules:	Proposed Rules:
25.....50738	882.....48785	600.....53940	1301.....51248
39.....51111, 52034, 52263,	892.....51405	602.....53940	1302.....51248
52266, 52269, 52551, 53200,	1114.....48785	668.....53940	1303.....51248
53391, 53542, 53785, 53787,	1308.....51606	36 CFR	1304.....51248
53790	1310.....48786	1.....52024	1305.....51248
61.....51398	22 CFR	2.....52024	1356.....52038
71.....48785, 49372, 50739,	35.....51386	4.....52024	46 CFR
51403, 51405, 51602, 51604,	41.....48757	Proposed Rules:	162.....51592
52271, 53203, 53204, 53393	24 CFR	294.....53827	47 CFR
121.....50496	51.....53717	1120.....49377	1.....51075
15 CFR	Proposed Rules:	37 CFR	8.....52251
265.....54214	1.....51416	202.....52239	14.....54243
700.....50701	26 CFR	39 CFR	64.....54243
740.....52501	1.....54216	Proposed Rules:	73.....51075
744.....52501	31.....51391	111.....50741	Proposed Rules:
774.....52501	Proposed Rules:	211.....50741	1.....48809, 51121, 51139
16 CFR	1.....48794, 51611, 52553,	40 CFR	2.....51139
Proposed Rules:	53217, 53792, 53803, 53812,	52.....50719, 51595, 52241,	15.....51139
1.....49376	54280	52243, 52246, 52249, 52534,	27.....48809
17 CFR	27 CFR	53720, 53726, 53728	54.....48823, 52626
270.....50707	9.....53191	81.....52249	73.....51421, 51656
Proposed Rules:	478.....54054	174.....51068	49 CFR
1.....50926, 54249	Proposed Rules:	180.....51071, 53196, 53730,	107.....49291, 49295, 49298,
4.....54254	9.....52576, 52588, 52592,	54228	51098
37.....50926	52598	271.....50721	171.....49301, 49305, 49310,
38.....50926, 54249	28 CFR	180.....48772, 49279	49315, 49320, 51098
39.....50926	0.....53357, 54054	300.....53734	172.....49305, 49325, 49329,
200.....54510	25.....54054	Proposed Rules:	49332, 49335, 51098
201.....54510	68.....51576	52.....50742, 50746, 51635,	173.....49305, 49310, 49315,
228.....54510	107.....54054	51640, 52272, 52604, 52609,	49332, 49335, 49340, 49345,
230.....54510	29 CFR	52617, 53547, 53558, 53573	51098
232.....54510	1404.....49273	81.....51644	174.....49320
239.....54510	30 CFR	174.....53221, 53832	177.....49349
19 CFR	926.....54218	180.....53221, 53832	180.....49354
12.....52005	934.....51584	300.....53834	1011.....53362
Proposed Rules:	935.....51324	41 CFR	1152.....53362
122.....54249	Proposed Rules:	60-1.....54444	1244.....53362
20 CFR	75.....48807, 48808	60-2.....54444	Proposed Rules:
652.....54024	250.....50998	60-3.....54444	210.....48823
220.....51382	254.....50998	60-4.....54444	390.....51422
221.....51358	550.....50998	60-20.....54444	391.....51422
230.....51382	31 CFR	60-30.....54444, 54482	571.....49385
21 CFR	22.....48766	60-40.....54444	585.....49385
74.....50475	1010.....51588, 52508	60-50.....54444	50 CFR
117.....52011	33 CFR	60-300.....54234	300.....50726, 51104
573.....53524	100.....50711, 51067, 51590,	60-741.....54482	622.....50482, 54245, 54246
864.....53184	52018, 52019, 52529, 53718	60-999.....54444	635.....50483, 53526
892.....50708	147.....53359	101-4.....52537	648.....49358, 54247
1308.....52013		101-6.....52537	660.....50728, 52261, 53737
Proposed Rules:		101-8.....52537	679.....50728, 51105, 51598
10.....48785		105-10.....52537	Proposed Rules:

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List July 16, 2026

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