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Contents

Federal Register

Vol. 91, No. 64

Friday, April 3, 2026

Agriculture Department
See Food Safety and Inspection Service
See Forest Service
RULES
National Environmental Policy Act, 17062–17122
NOTICES
Hearings, Meetings, Proceedings, etc.:
Endangered Species Committee, 16966–16967

Army Department
NOTICES
Hearings, Meetings, Proceedings, etc.:
Endangered Species Committee, 16966–16967

Centers for Medicare & Medicaid Services
NOTICES
Medicare and Medicaid Programs:
Application from Joint Commission for Continued Approval of its Home Health Agency Accreditation Program, 16944–16946
Application from the Accreditation Commission for Health Care Inc. for Continued Approval of its Critical Access Hospital Accreditation Program, 16946–16947
Approval of Application by the Accreditation Commission for Health Care Inc. for Continued CMS-Approval of its Hospice Accreditation Program, 16947–16949

Civil Rights Commission
NOTICES
Hearings, Meetings, Proceedings, etc.:
Illinois Advisory Committee, 16898–16899
Montana Advisory Committee, 16897–16898
New York Advisory Committee; Revision, 16898
Rhode Island Advisory Committee, 16899

Commerce Department
See National Oceanic and Atmospheric Administration
NOTICES
Hearings, Meetings, Proceedings, etc.:
Endangered Species Committee, 16966–16967

Defense Department
See Army Department

Drug Enforcement Administration
RULES
Designation of P2P Methyl Glycidic Acid as a List I Chemical, 16831–16837
NOTICES
Importer, Manufacturer or Bulk Manufacturer of Controlled Substances; Application, Registration, etc.:
Blue Rabbit Veterinary LLC, 16969
Lipomed/LGC Standards, 16969–16974
Purisys, LLC, 16974–16975
Research Triangle Institute, 16975

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children, 16932
Demonstration Grants for Indian Children and Youth Program Grant Application Package, 16930
Formula Grant EASIE Electronic Application System for Indian Education, 16931–16932
Competition Announcement:
Educational Opportunity Centers Program, 16930–16931

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission

Energy Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 16932–16934

Environmental Protection Agency
NOTICES
Hearings, Meetings, Proceedings, etc.:
Endangered Species Committee, 16966–16967
Proposed Settlement Agreement, Stipulation, Order, and Judgment, etc.:
Lakes Parkway Lithium Battery Fire Superfund Site, Lawrenceville, GA, 16938

Farm Credit Administration
RULES
General Provisions, 16815

Federal Aviation Administration
RULES
Airspace Designations and Reporting Points:
Binghamton, NY, 16826–16828
Airworthiness Directives:
Bombardier Inc. Airplanes, 16818–16821
Costruzioni Aeronautiche Tecnam S.P.A. Airplanes, 16824–16826
DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH) Gliders, 16815–16818
Honda Aircraft Company LLC Airplanes, 16821–16824
PROPOSED RULES
Airworthiness Directives:
Airbus SAS Airplanes, 16867–16871
NOTICES
Noise Exposure Map:
Centennial Airport, Englewood, CO, 17054–17055

Federal Communications Commission
PROPOSED RULES
Lifeline and Link Up Reform and Modernization:
Bridging the Digital Divide for Low–Income Consumers; Telecommunications Carriers Eligible for Universal Service Support; etc., 16871–16893
NOTICES
Debarment:
Federal E-Rate Program, 16938–16943

Federal Deposit Insurance Corporation
NOTICES
Termination of Receivership, 16944

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 16935–16937
Pending Jurisdictional Inquiry:
William Taylor, 16934–16935

Federal Reserve System
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 16944

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Customer/Partner Customer Service Satisfaction Surveys, 16951–16952
Patent Extension Regulatory Review Period:
Emrelis, 16949–16951
Encelto, 16957–16959
Enflonsia, 16959–16960
Hympavzi, 16956–16957
Injectafer, 16954–16955
Vyloy, 16952–16954
Ziihera, 16960–16962

Food Safety and Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
New Poultry Inspection System, 16894–16895

Forest Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Black Pine Gold Project, Cassia and Oneida Counties, ID, 16895–16897

Health and Human Services Department
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health
NOTICES
Statement of Organization, Functions, and Delegations of Authority, 16962–16963

Interior Department
NOTICES
Hearings, Meetings, Proceedings, etc.:
Endangered Species Committee, 16966–16967

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
L-Lysine from China, 16967–16968
Investigations; Determinations, Modifications, and Rulings, etc.:
Active Anode Material from China, 16968–16969

Justice Department
See Drug Enforcement Administration

Labor Department
See Mine Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Employee Benefit Plan Claims Procedure under the Employee Retirement Income Security Act, 16976–16977
Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by an Employee Benefit Plan, 16976

Mine Safety and Health Administration
NOTICES
Petition:
Affirmative Decisions for Modification Granted in Whole or in Part, 16979–16980
Modification of Application of Existing Mandatory Safety Standards, 16977–16989

National Highway Traffic Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Novel Human-Machine Interface Designs, 17055–17058

National Institutes of Health
NOTICES
Hearings, Meetings, Proceedings, etc.:
Center for Scientific Review, 16964–16966
National Institute on Drug Abuse, 16963–16964
Licenses; Exemptions, Applications, Amendments, etc.:
Government-Owned Inventions, 16964

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone off Alaska:
Pollock in Statistical Area 620 in the Gulf of Alaska, 16842–16843
Reallocation of Pollock in the Bering Sea and Aleutian Islands, 16840–16842
PROPOSED RULES
Taking or Importing of Marine Mammals:
Texas Parks and Wildlife Department Fisheries Research; Correction, 16893
NOTICES
Hearings, Meetings, Proceedings, etc.:
Evaluation of Pennsylvania Coastal Management Program, 16923–16924
North Pacific Swordfish United States Stakeholders, 16899–16900
South Atlantic Fishery Management Council, 16924, 16929–16930
Taking or Importing of Marine Mammals:
Eareckson Air Station Fuel Pier Repair in Alcan Harbor on Shemya Island, AK, 16924–16929
Port of San Francisco Mission Bay Ferry Landing Project in San Francisco Bay, CA, 16900–16923

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
NRC Form 237, Request for Access Authorization, 16997–16998
NRC Form 327, Special Nuclear Material and Source Material Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory, 16996–16997

NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page, 16994–16996
NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page, 16992–16994
NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation and Continuation Page, 16998–16999
Licenses; Exemptions, Applications, Amendments, etc.:
El Paso Electric Co.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3, 16990–16992
NextEra Energy Duane Arnold, LLC; Central Iowa Power Cooperative; Corn Belt Power Cooperative; Duane Arnold Energy Center, 16989–16990
Meetings; Sunshine Act, 16994

Pension Benefit Guaranty Corporation
RULES
Allocation of Assets in Single-Employer Plans:
Interest Assumptions for Valuing Benefits, 16838–16840

Postal Regulatory Commission
NOTICES
New Postal Products, 16999–17000

Presidential Documents
EXECUTIVE ORDERS
Citizenship Verification and Integrity in Federal Elections; Efforts To Ensure (EO 14399), 17123–17128

Securities and Exchange Commission
NOTICES
Application:
Cypress Creek Private Strategies Master Fund, LP, et al., 17018
Joint Industry Plan
National Market System Plan Regarding Consolidated Equity Market Data, 17026–17051
Self-Regulatory Organizations; Proposed Rule Changes:
24X National Exchange LLC, 17000–17002
BOX Exchange LLC, 17002–17005
Cboe BZX Exchange, Inc., 17011–17018
Cboe Exchange, Inc., 17005–17010
Nasdaq PHLX LLC, 17018–17020
Nasdaq Texas, LLC, 17024–17026
NYSE American LLC, 17020–17023
The Nasdaq Stock Market LLC, 17010–17011, 17023–17024

Social Security Administration
RULES
Rescission of Obsolete Regulations Addressing Drug Addiction and Alcoholism under Titles II and XVI of the Social Security Act, 16828–16831

State Department
RULES
Implementing First Responders Passport Act to Exempt Certain First Responders from Passport Fees, 16837–16838

Surface Transportation Board
NOTICES
Acquisition of Control:
Thomas L. Hey and James A. Hey; Minnesota Motor Bus, Inc., 17052–17054
Exemption:
Lease and Operation; Stillwater Central Railroad, LLC, Hollis and Eastern Railroad, LLC, 17054
Railroad Cost Recovery Procedures:
Productivity Adjustment, 17054

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

Treasury Department
PROPOSED RULES
GENIUS Act Broad-Based Principles for Determining Whether a State-level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework, 16844–16867
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Local Assistance and Tribal Consistency Fund, 17059

Separate Parts In This Issue

Part II
Agriculture Department, 17062–17122

Part III
Presidential Documents, 17123–17128

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
14399.....17125

7 CFR
1b.....17061

12 CFR
618.....16815
Proposed Rules:
Ch. XV 16844

14 CFR
39 (4 documents) 16815, 16818, 16821, 16824
71.....16826
Proposed Rules:
39 (2 documents) 16867, 16869

20 CFR
404.....16828
406.....16828

21 CFR
1310.....16831

22 CFR
22.....16837

29 CFR
4044.....16838

47 CFR
Proposed Rules:
54.....16871

50 CFR
679 (2 documents) 16840, 16842
Proposed Rules:
217.....16893

Rules and Regulations

Federal Register
Vol. 91, No. 64
Friday, April 3, 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.

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

FARM CREDIT ADMINISTRATION

12 CFR Parts 618

RIN 3052–AD65

General Provisions

AGENCY: Farm Credit Administration.

ACTION: Final rule, confirmation of effective date.

SUMMARY: The Farm Credit Administration (FCA, Agency, or we) is publishing the effective date of the final rule amending FCA's business planning requirements to comply with Executive Order 14219.

DATES: The final rule was published on February 19, 2026 (91 FR 7817) and is confirmed as March 23, 2026.

FOR FURTHER INFORMATION CONTACT:

Technical information: Darius Hale, Senior Policy Analyst, Office of Regulatory Policy, (703) 883–4165, TTY (703) 883–4056, *haled@fca.gov.*

Legal information: Jennifer Cohn, Assistant General Counsel, Office of General Counsel, (703) 883–4020, TTY (703) 883–4056, *cohnj@fca.gov.*

SUPPLEMENTARY INFORMATION: On February 19, 2026, FCA issued a final rule amending FCA's business planning requirements to comply with Executive Order 14219. In accordance with 12 U.S.C. 2252(c)(1), the final rule provided the regulation would become effective 30 days after publication in the **Federal Register** during which either or both houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulation is March 23, 2026.

Ashley Waldron,

Secretary to the Board, Farm Credit Administration.

[FR Doc. 2026–06553 Filed 4–2–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2727; Project Identifier MCAI–2025–00685–G; Amendment 39–23298; AD 2026–07–03]

RIN 2120–AA64

Airworthiness Directives; DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH) Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH) Model DG–1000M gliders. This AD was prompted by reports of engine mount cracking near the propeller head. This AD requires updating the maintenance manual, inspecting the engine mount for cracks, and taking corrective actions if cracks are found. This AD also requires performing a powerplant belt tension inspection and, depending on the results of the inspection, adjusting the belt tension. This AD also requires balancing the propeller assembly and installing a carbon fiber reinforced plastic (CFRP) bracket. This AD also prohibits accomplishing certain maintenance actions in the maintenance manual. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 20, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 20, 2026.

The FAA must receive comments on this AD by May 18, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2727; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For DG Aviation GmbH material identified in this AD, contact DG Aviation GmbH, Rita Rodrigues, Otto Lilienthal Weg 2/Am Flugplatz, Bruchsal, Germany; phone: +49 (0) 7251 36660–32; email: *rodrigues@dg-aviation.de;* website: *dg-aviation.de/en/dg-flugzeugbau/contact.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–2727.

FOR FURTHER INFORMATION CONTACT: For more information about this AD, contact Evan Weaver, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 944–8910; email: *evan.p.weaver@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2727; Project Identifier MCAI–2025–00685–G'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR

11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Evan Weaver, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0091, dated April 23, 2025 (EASA AD 2025–0091) (also referred to as the MCAI), to correct an unsafe condition on DG Aviation GmbH Model DG–1000M gliders. The MCAI states that occurrences of engine mount cracking near the propeller head on DG–1000M powered gliders have been reported. Given the urgency of the unsafe condition, EASA issued the MCAI as a final rule with request for comments. To address this potential unsafe condition, DG Aviation GmbH issued DG Aviation GmbH Technical Note No. TN 1000/51, Doc. No. TM1000–51 FE–29–01, Issue 01.d, dated February 26, 2025 (DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d), to provide inspection, repair, and modification instructions for affected parts. This condition, if not addressed, could result in loss of power transmission to the propeller and reduced or loss of control of the glider.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2727.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d. This material specifies procedures for updating the maintenance manual, inspecting the engine mount for cracks, repairing the engine mount, performing a powerplant belt tension inspection and adjustment, installing a CFRP bracket, balancing the propeller assembly, and updating the software in the front and rear cockpit DEI–NTs and the control unit NT (E-box).

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

FAA's Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the material already described, except as discussed under ''Differences Between this Proposed AD and the Referenced Material.''

Differences Between This Proposed AD and the Referenced Material

Paragraph 1 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d, provides instructions to ''Exchange the following Maintenance manual pages against new pages: 0.0, 0.2, 0.3, 0.5, 0.7, 0.13, 4.2, 4.19, 6.1, 6.2, diagram 21 issued January 2025, marked with TN1000–51. Respect the marked changes.'' This AD, instead, requires revising page 0.13 in accordance with paragraph 1 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d, dated February 26, 2025.

Paragraph 2 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d, provides instructions to contact DG Aviation GmbH to obtain an approved repair and accomplish that repair accordingly, including post-repair follow-on action(s), as applicable. This AD instead requires contacting either the Manager, International Validation Branch, FAA; EASA; or DG Aviation GmbH's EASA Design Organization Approval (DOA); for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly, including post-repair follow-on action(s), as applicable. If approved by the DOA, the approval must include the DOA-authorized signature.

Although paragraph 6 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d, provides instructions to send both front and rear cockpit DEI–NTs as well as the control unit-NT (E-box) to DG Aviation for software updates, this AD does not require those actions.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because cracking of the engine mount near the propeller head could lead to structural failure of the engine mount with consequent loss of power transmission to the propeller, and reduced or loss of control of the glider. Therefore, an inspection of the engine mount for cracks and a power plant belt tension inspection are required before further flight, or within 30 days of the effective date of this AD, whichever occurs first. In addition, repair of the engine mount is required before further flight if cracks are found during inspection. These compliance times are shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects two gliders of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Update maintenance manual	1 work-hour × $85 per hour = $85	$0	$85	$170
Inspect engine mount	1 work-hour × $85 per hour = $85	0	85	170
Accomplish powerplant belt tension inspection	1 work-hour × $85 per hour = $85	0	85	170
Install CFRP bracket	2 work-hours × $85 per hour = $170	0	170	340
Perform dynamic balancing of the propeller assembly.	2 work-hours × $85 per hour = $170	0	170	340

The FAA estimates the following costs to do any repairs or replacements that would be required based on the results of the inspection. The agency has no way of determining the number of gliders that might need these repairs or replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair engine mount	4 work-hours × $85 per hour = $340	$0	$340
Adjust belt tension	2 work-hours × $85 per hour = $170	0	170
Replace engine mount	4 work-hours × $85 per hour = $340	0	340

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–07–03 DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH): Amendment 39–23298; Docket No. FAA–2026–2727; Project Identifier MCAI–2025–00685–G.

(a) Effective Date

This airworthiness directive (AD) is effective April 20, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all DG Aviation GmbH (type certificate previously held by DG Flugzeugbau GmbH) Model DG–1000M gliders, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 5346, Powerplant Attach Fittings.

(e) Unsafe Condition

This AD was prompted by reports of the engine mount cracking near the propeller head. The FAA is issuing this AD to detect and correct indications of structural failure of the engine mount. The unsafe condition, if not addressed, could result in loss of power transmission to the propeller and reduced or loss of control of the glider.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, the definitions in paragraphs (g)(1) through (3) of this AD apply.

(1) An ''affected part'' is a steel frame engine mount having part number (P/N) 10M112.

(2) A ''serviceable part'' is an affected part which is new (never previously installed on any glider), or a part that has passed the engine mount inspection prior to installation in accordance with Instructions 2 of DG Aviation GmbH Technical Note No. TN 1000/51, Doc. No. TM1000–51 FE–29–01, Issue 01.d, dated February 26, 2025 (DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d).

(3) The ''Old MM'' task is the DG Aviation Maintenance Manual (MM) for DG–1000M, task 4.10.2 ''Mounting and tensioning of the drive belts'', issued before January 2025.

(h) Required Actions

(1) Before the next engine operation after the effective date of this AD, revise page 0.13 of the applicable MM in accordance with paragraph 1 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d.

(2) Before the next engine operation after the effective date of this AD, inspect the affected part for cracks and, if necessary, before further flight, do one of the following:

(i) Repair or replace the affected part, as applicable, in accordance with paragraph 2 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d; or

(ii) Contact either the Manager, International Validation Branch, FAA; European Union Aviation Safety Agency (EASA); or DG Aviation GmbH's EASA Design Organization Approval (DOA); for approved repair instructions and, within the compliance time specified therein, accomplish those instructions accordingly, including post-repair follow-on action(s), as applicable. If approved by the DOA, the approval must include the DOA-authorized signature; or

(iii) Replace an affected part with a serviceable part.

(3) Before the next engine operation after the effective date of this AD, accomplish the powerplant belt tension inspection and, if necessary, adjust the belt tension in accordance with paragraph 3 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d.

(4) Within 15 hours time-in-service (TIS) of engine operation or 11 months, whichever occurs first after the effective date of this AD, install a carbon fiber-reinforced plastic (CFRP) bracket having P/N 10M227 between the brackets of the two upper drive belt guide rollers in accordance with paragraph 4 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d.

(5) Within 15 hours TIS of engine operation or 11 months, whichever occurs first after the effective date of this AD, perform dynamic balancing of the propeller assembly in accordance with paragraph 5 of the Instructions section of DG Aviation GmbH TN TM1000–51 FE–29–01, Issue 01.d.

(6) From the effective date of this AD, do not accomplish any maintenance action on a sailplane in accordance with the instructions of the old MM task, as defined in paragraph (g)(3) of this AD.

(i) Installation Prohibition

As of the effective date of this AD, do not install a steel frame engine mount that is an affected part as defined in paragraph (g)(1) of this AD on any glider, unless it is a serviceable part as defined in paragraph (g)(2) of this AD.

(j) Special Flight Permits

A one-time special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 only in order to fly to a maintenance base to perform the required action in this AD and must specify that the engine not be operated.

(k) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Additional Information

For more information about this AD, contact Evan Weaver, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 944–8910; email: *evan.p.weaver@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) DG Aviation GmbH Technical Note No. TN 1000/51, Doc. No. TM1000–51 FE–29–01, Issue 01.d, dated February 26, 2025.

(ii) [Reserved]

(3) For DG Aviation GmbH material identified in this AD, contact DG Aviation GmbH, Rita Rodrigues, Otto Lilienthal Weg 2/Am Flugplatz, Bruchsal, Germany; phone: +49 (0) 7251 36660–32; email: *rodrigues@dg-aviation.de;* website: *dg-aviation.de/en/dg-flugzeugbau/contact.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 24, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–06534 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–1732; Project Identifier MCAI–2024–00249–T; Amendment 39–23296; AD 2026–07–01]

RIN 2120–AA64

Airworthiness Directives; Bombardier Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Bombardier Inc. Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This AD was prompted by a report of uncommanded nose wheel steering upon landing with touchdown on the runway centerline. This AD requires replacing the nosewheel steering rudder pedal potentiometer universal coupling setscrews. This AD also requires revising the existing maintenance or inspection program, as applicable, to incorporate new life limits for the setscrews. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 8, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 8, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–1732; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

• For Bombardier material identified in this AD, contact Bombardier Business

Aircraft Customer Response Center, 400 Côte Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *https://my.bombardier.com.*

• You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2025–1732.

FOR FURTHER INFORMATION CONTACT: John Massey, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier Inc. Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. The NPRM was published in the **Federal Register** on August 12, 2025 (90 FR 38713). The NPRM was prompted by AD CF–2024–12R1, dated August 13, 2024 (Transport Canada AD CF–2024–12R1) (also referred to as the MCAI), issued by Transport Canada, which is the aviation authority for Canada. The MCAI states that there has been an in-service report where upon landing with touchdown on the runway centerline, following standard procedure, the flight spoilers and thrust reverser were used after the nose wheel touchdown. As the airplane speed reduced to below 80 knots, the airplane veered to the left. The airplane was maintained on the runway by using the rudder and by differential braking. Further investigation determined that the nosewheel steering rudder pedal potentiometer universal coupling setscrews were loose, causing an uncommanded steering input.

In the NPRM, the FAA proposed to require replacing the nosewheel steering rudder pedal potentiometer universal coupling setscrews. The FAA also proposed revising the existing maintenance or inspection program, as applicable, to incorporate new life limits for the setscrews. The FAA is issuing this AD to address uncommanded nosewheel steering due to loose nosewheel steering rudder pedal potentiometer universal coupling setscrews. The unsafe condition, if not addressed, could lead to a runway excursion.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2025–1732.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Bombardier. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Correct a Part Name

Bombardier requested the FAA correct the part name from ''nose wheel steering potentiometer universal coupling'' to ''nose wheel steering rudder pedal potentiometer universal coupling.'' Bombardier suggested that this change would reduce confusion regarding potentiometers.

The FAA agrees with the requested use of the term ''nose wheel steering rudder pedal potentiometer universal coupling'' throughout the final rule. The FAA has revised this final rule accordingly.

Request To Revise References to Temporary Revisions (TR)

Bombardier requested the FAA revise the AD to change the TR reference numbers for the CL600 and CL601 Time Limits/Maintenance Checks (TLMC) as follows:

• Replace CL600 TLMC TR 5–165 with TR 5–167.

• Replace CL601 TLMC TR 5–269 with TR 5–272.

• Replace CL601A TLMC TR 5–283 with TR 5–286.

Bombardier noted that later revisions of the TRs specified in the proposed AD are now available.

The FAA agrees to clarify. Paragraph (h) of this AD requires operators to incorporate ''the information in the applicable temporary revision'' of the specified TRs. If operators incorporate a later revision of a TR that contains the same information as the specified TR revision, then they are in compliance with paragraph (h) of this AD. The FAA has reviewed the later revisions of the TRs and determined that they do contain the same information. However, if there are changes to procedures in later revisions, operators may request an alternative method of compliance with this AD under the provisions of paragraph (i)(1) of this AD. The FAA has not revised this AD in response to this comment.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed the following material issued by Bombardier:

• Bombardier Service Bulletin 600–0782, dated October 30, 2023.

• Bombardier Service Bulletin 601–1114, dated October 30, 2023.

• Bombardier Service Bulletin 604–32–033, dated October 30, 2023.

• Bombardier Service Bulletin 605–32–010, dated October 30, 2023.

• Bombardier Service Bulletin 650–32–007, dated October 30, 2023.

This material contains procedures to replace the existing nosewheel steering rudder pedal potentiometer universal coupling setscrews with new self-locking setscrews, anaerobic retaining compound, and specified torque, and rig the potentiometer; and perform an operational test of the nosewheel steering system. These documents are distinct since they apply to different airplane models.

The FAA also reviewed the following Bombardier material:

• Bombardier Challenger 600 Time Limits/Maintenance Checks (TLMC) Temporary Revision (TR) No. TR 5–165, dated October 25, 2023.

• Bombardier Challenger 601 TLMC TR No. TR 5–269, dated October 25, 2023.

• Bombardier Challenger 601 TLMC TR No. TR 5–283, dated October 25, 2023.

• Bombardier Challenger 604 TLMC TR No. 5–2–73, dated October 25, 2023.

• Bombardier Challenger 605 TLMC TR No. 5–2–29, dated October 25, 2023.

• Bombardier Challenger 650 TLMC TR No. 5–2–5, dated October 16, 2023.

This material specifies certain life limits of the safe life items. These documents are distinct since they apply to different airplane models.

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

Costs of Compliance

The FAA estimates that this AD affects 930 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Setscrew replacement	4 work-hours × $85 per hour = $340	$40	$380	$353,400

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–07–01 Bombardier Inc.: Amendment 39–23296; Docket No. FAA–2025–1732; Project Identifier MCAI–2024–00249–T.

(a) Effective Date

This airworthiness directive (AD) is effective May 8, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier Inc. airplanes, certificated in any category, identified in paragraphs (c)(1) through (3) of this AD.

(1) Model CL–600–1A11 (600) airplanes.

(2) Model CL–600–2A12 (601) airplanes.

(3) Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report of uncommanded nose wheel steering upon landing with touchdown on the runway centerline. The FAA is issuing this AD to address uncommanded nosewheel steering due to loose nosewheel steering rudder pedal potentiometer universal coupling setscrews. The unsafe condition, if not addressed, could lead to a runway excursion.

(f) Compliance

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

(g) Replacement of Universal Coupling and Nosewheel Steering Rudder Pedal Potentiometer Universal Coupling Setscrews

For airplanes identified in paragraphs (g)(1) through (5) of this AD: Within 36 months or 1,400 flight hours, whichever occurs first, after the effective date of this AD, replace the nosewheel steering rudder pedal potentiometer universal coupling setscrews (self-locking setscrews) in accordance with Sections 2.B.(3) and 2.C. of the Accomplishment Instructions in the applicable service bulletin identified in paragraphs (g)(1) through (5) of this AD.

(1) For Model CL–600–1A11 (600) airplanes, serial numbers 1004 through 1085 inclusive, on which the actions in Part E of Canadair Challenger Service Bulletin 600–0380, Revision 02, have been completed: Bombardier Service Bulletin 600–0782, dated October 30, 2023.

Note 1 to paragraph (g)(1): This note applies to paragraphs (g)(1) and (h)(1) of this AD. These airplanes are also referred to by the marketing designation Challenger 600.

(2) For Model CL–600–2A12 (601) airplanes, serial numbers 3001 through 3059 inclusive, on which the actions in Part D of Canadair Challenger Service Bulletin 601–0092, Revision 01 have been completed, and serial numbers 3060 through 3066 inclusive; and Model CL–600–2B16 (601–3A and 601–3R Variants) airplanes, serial numbers 5001 through 5194 inclusive: Bombardier Service Bulletin 601–1114, dated October 30, 2023.

Note 2 to paragraph (g)(2): This note applies to paragraphs (g)(2), (h)(2), and (h)(3) of this AD. These airplanes are also referred to by the marketing designation Challenger 601.

(3) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 5301 through 5665 inclusive: Bombardier Service Bulletin 604–32–033, dated October 30, 2023.

Note 3 to paragraph (g)(3): This note applies to paragraphs (g)(3) and (h)(4) of this

AD. These airplanes are also referred to by the marketing designation Challenger 604.

(4) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 5701 through 5990 inclusive: Bombardier Service Bulletin 605–32–010, dated October 30, 2023.

Note 4 to paragraph (g)(4): This note applies to paragraphs (g)(4) and (h)(5) of this AD. These airplanes are also referred to by the marketing designation Challenger 605.

(5) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 6050 through 6193 inclusive: Bombardier Service Bulletin 650–32–007, dated October 30, 2023.

Note 5 to paragraph (g)(5): This note applies to paragraphs (g)(5) and (h)(6) of this AD. These airplanes are also referred to by the marketing designation Challenger 650.

(h) Maintenance/Inspection Program Revision

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information in the applicable temporary revision identified in paragraphs (h)(1) through (6) of this AD. The initial compliance time for the replacement is within 96 months after the replacement required by paragraph (g) of this AD. Using a different document with information identical to the information in the applicable temporary revision identified in paragraphs (h)(1) through (6) of this AD is acceptable for compliance with the requirements of this paragraph.

(1) For all Model CL–600–1A11 (600) airplanes: Bombardier Challenger 600 Time Limits/Maintenance Checks (TLMC) Temporary Revision (TR) No. TR 5–165, dated October 25, 2023.

(2) For all Model CL–600–2A12 (601) airplanes: Bombardier Challenger 601 TLMC TR No. TR 5–269, dated October 25, 2023.

(3) For all Model CL–600–2B16 airplanes (601–3A and 601–3R Variants): Bombardier Challenger 601 TLMC TR No. TR 5–283, dated October 25, 2023.

(4) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 5301 through 5665 inclusive: Bombardier Challenger 604 TLMC TR No. 5–2–73, dated October 25, 2023.

(5) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 5701 through 5990 inclusive: Bombardier Challenger 605 TLMC TR No. 5–2–29, dated October 25, 2023.

(6) For Model CL–600–2B16 (604 Variant) airplanes, serial numbers 6050 and subsequent: Bombardier Challenger 650 TLMC TR No. 5–2–5, dated October 16, 2023.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(j) Additional Information

For more information about this AD, contact John Massey, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Bombardier Challenger 600 Time Limits/Maintenance Checks (TLMC) Temporary Revision (TR) No. TR 5–165, dated October 25, 2023.

(ii) Bombardier Challenger 601 TLMC TR No. TR 5–269, dated October 25, 2023.

(iii) Bombardier Challenger 601 TLMC TR No. TR 5–283, dated October 25, 2023.

(iv) Bombardier Challenger 604 TLMC TR No. 5–2–73, dated October 25, 2023.

(v) Bombardier Challenger 605 TLMC TR No. 5–2–29, dated October 25, 2023.

(vi) Bombardier Challenger 650 TLMC TR No. 5–2–5, dated October 16, 2023.

(vii) Bombardier Service Bulletin 600–0782, dated October 30, 2023.

(viii) Bombardier Service Bulletin 601–1114, dated October 30, 2023.

(ix) Bombardier Service Bulletin 604–32–033, dated October 30, 2023.

(x) Bombardier Service Bulletin 605–32–010, dated October 30, 2023.

(xi) Bombardier Service Bulletin 650–32–007, dated October 30, 2023.

(3) For Bombardier material identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* website *https://my.bombardier.com.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on March 24, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–06506 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–0485; Project Identifier AD–2024–00670–A; Amendment 39–23293; AD 2026–06–71]

RIN 2120–AA64

Airworthiness Directives; Honda Aircraft Company LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–22–12 for certain Honda Aircraft Company LLC (Honda) Model HA–420 airplanes. AD 2021–22–12 required removing and cleaning the inner diameter of the flap control pushrod assemblies and repetitively applying corrosion inhibiting compound (CIC) to this area. Since the FAA issued AD 2021–22–12, new flap control pushrods have been approved that are more corrosion resistant and do not require repetitive CIC applications. In addition, referenced service material has been updated to a new revision that includes redesigned replacement flap control pushrod assemblies that have been modified to prevent interference with adjacent parts. This AD retains the requirements of AD 2021–22–12 and requires replacing the flap control pushrod assemblies with improved design pushrod assemblies for all airplanes affected by AD 2021–22–12, as well as for other airplanes not affected by AD 2021–22–12. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 8, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 8, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 19, 2021 (86 FR 60753, November 4, 2021).

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–0485; or in person at

Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Honda Aircraft Company material identified in this AD, contact Honda, 6430 Ballinger Road, Greensboro, NC 27410; phone: (336) 662–0246; website: *hondajet.com.*
- You may view this material at the FAA, FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2025–0485.

FOR FURTHER INFORMATION CONTACT: Kelly Fichter, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337: (404) 474–5544; email: *ecb-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–22–12, Amendment 39–21785 (86 FR 60753, November 4, 2021) (AD 2021–22–12). AD 2021–22–12 applied to certain Honda Model HA–420 airplanes. AD 2021–22–12 required removing and cleaning the inner diameter of the flap control pushrods and repetitively applying CIC to this area to prevent corrosion. The NPRM was published in the **Federal Register** on April 11, 2025 (90 FR 15426). The NPRM was prompted by the manufacturer developing improved flap control pushrods that are more corrosion resistant and do not require repetitive CIC applications. The manufacturer also determined that the applicability should be expanded to include airplanes with serial number 42000211, 42000212, and 42000215 through 42000287, as these airplanes also have an affected flap pushrod assembly installed.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2021–22–12. The SNPRM was published in the **Federal Register** on December 23, 2025 (90 FR 60029). The SNPRM was prompted by the discovery that the updated outboard corrosion resistant pushrods could interfere with the mid flap drive arms when fully deployed. As a result of this finding, the manufacturer published updated service material that includes a modified design of the flap control pushrod assembly to prevent interference with adjacent parts. In the SNPRM, the FAA proposed to require retaining all of the requirements of AD 2021–22–12. The SNPRM also proposed to require expanding the applicability to include additional airplanes, and replacing the flap control pushrod assemblies with new corrosion-resistant flap control pushrod assemblies as terminating action for the repetitive CIC applications required by AD 2021–22–12. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the SNPRM.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Honda Aircraft Company Alert Service Bulletin No. SB–420–27–009, Revision B, dated August 5, 2025. This material specifies procedures for replacing the flap control pushrod assemblies with improved design flap control pushrod assemblies.

This AD also requires Honda Aircraft Company Alert Service Bulletin No. SB–420–27–008, dated August 31, 2021, which the Director of the Federal Register approved for incorporation by reference as of November 19, 2021 (86 FR 60753, November 4, 2021).

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

Costs of Compliance

The FAA estimates that this AD affects 107 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove, clean, and apply CIC to the flap control pushrod assembly (retained from AD 2021–22–12).	22 work-hours × $85 per hour = $1,870.	$70	$1,940	$85,360 (44 airplanes).
Reapply CIC every 90 days (cost for each time) (retained from AD 2021–22–12).	1 work-hour × $85 per hour = $85	70	155	$6,820 (44 airplanes).
Replace the left and right inboard flap control pushrod assemblies.	22 work-hours × $85 per hour = $1,870.	5,168	7,038	$753,066 (107 airplanes).

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–22–12, Amendment 39–21785 (86 FR 60753, November 4, 2021); and

■ b. Adding the following new airworthiness directive:

2026–06–71 Honda Aircraft Company LLC: Amendment 39–23293; Docket No. FAA–2025–0485; Project Identifier AD–2024–00670–A.

(a) Effective Date

This airworthiness directive (AD) is effective May 8, 2026.

(b) Affected ADs

This AD replaces AD 2021–22–12, Amendment 39–21785 (86 FR 60753, November 4, 2021) (AD 2021–22–12).

(c) Applicability

This AD applies to the following Honda Aircraft Company LLC Model HA–420 airplanes, certificated in any category:

(1) Group 1 airplanes: serial numbers 42000153 through 42000158 and 42000160 through 42000206; and

(2) Group 2 airplanes: serial numbers 42000211, 42000212, and 42000215 through 42000287.

(d) Subject

Joint Aircraft System Component (JASC) Code 2752, Trailing Edge Flap Actuator.

(e) Unsafe Condition

This AD was prompted by a report that the flap pushrod assemblies are susceptible to corrosion. The FAA is issuing this AD to prevent failure of the flap control pushrod assembly. The unsafe condition, if not addressed, could result in uncontrolled and un-annunciated flap asymmetry with consequent loss of control of the airplane.

(f) Compliance

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

(g) Retained Actions From AD 2021–22–12 for Group 1 Airplanes

(1) Within 90 days after November 19, 2021 (the effective date of AD 2021–22–12), or 18 months after issuance of the first standard certificate of airworthiness, whichever occurs later: Remove, clean, apply corrosion inhibiting compound (CIC) to, and reinstall the left and right inboard and outboard flap control pushrod assemblies by following steps (3) through (6) of the Accomplishment Instructions in Honda Aircraft Company Alert Service Bulletin No. SB–420–27–008, dated August 31, 2021.

(2) Within 90 days or 300 hours time-in-service (TIS), whichever occurs first after accomplishing the actions required by paragraph (g)(1) of this AD, and thereafter at intervals not to exceed 90 days or 300 hours TIS, whichever occurs first: Reapply CIC by following step (5)(a) through (c) of the Accomplishment Instructions in Honda Aircraft Company Alert Service Bulletin No. SB–420–27–008, dated August 31, 2021.

(h) New Required Actions for Group 1 and Group 2 Airplanes

(1) Within 2 years after the effective date of this AD, replace the flap control pushrod assemblies with redesigned (zero hours TIS) flap control pushrod assemblies in accordance with steps (3) through (5) of the Accomplishment Instructions in Honda Aircraft Company Alert Service Bulletin No. SB–420–27–009 Revision B, dated August 5, 2025.

(2) For Group 1 airplanes, accomplishing the replacement required by paragraph (h)(1) of this AD terminates the requirements of paragraphs (g)(1) and (2) of this AD.

(i) Installation Prohibition

As of the effective date of this AD, do not install on any airplane, an inboard or outboard flap control pushrod assembly part number that is identified in the Effectivity section of Honda Aircraft Company Alert Service Bulletin No. SB–420–27–009 Revision B, dated August 5, 2025.

(j) No Reporting Requirement

Although Honda Aircraft Company Alert Service Bulletin No. SB–420–27–008, dated August 31, 2021, and Alert Service Bulletin No. SB–420–27–009, Revision B, dated August 5, 2025, specify to submit certain information to the manufacturer, this AD does not include those requirements.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(3) For material that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(3)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Additional Information

For more information about this AD, contact Kelly Fichter, Aviation Safety Engineer, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5544; email: *ecb-cos@faa.gov.*

(m) Material Incorporated by Reference

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

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

(3) The following material was approved for IBR on May 8, 2026.

(i) Honda Aircraft Company Alert Service Bulletin No. SB–420–27–009, Revision B, dated August 5, 2025.

(ii) [Reserved]

(4) The following material was approved for IBR on November 19, 2021 (86 FR 60753, November 4, 2021).

(i) Honda Aircraft Company Alert Service Bulletin No. SB–420–27–008, dated August 31, 2021.

(ii) [Reserved]

(5) For Honda Aircraft Company material identified in this AD, contact Honda Aircraft Company LLC, 6430 Ballinger Road, Greensboro, NC 27410; phone: (336) 662–0246; website: *hondajet.com.*

(6) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 20, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–06527 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2728; Project Identifier MCAI–2026–00092–A; Amendment 39–23300; AD 2026–07–05]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam S.P.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Costruzioni Aeronautiche Tecnam S.P.A. (Tecnam) Model P2010 airplanes. This AD was prompted by a report of unrecoverable loss of engine power. This AD requires repetitive detailed borescope inspections (BSIs) of the exhaust muffler flame tube and, depending on the results, repair of the exhaust muffler flame tube. This AD includes an optional terminating action for the inspection and repair requirements. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 20, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 20, 2026.

The FAA must receive comments on this AD by May 18, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2728; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For TECNAM material identified in this AD, contact Tecnam, Via Maiorise, 81043 Capua CE, Italy; phone: +39 0823 997538; email: *technical.support@tecnam.com;* website: *tecnam.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–2728.

FOR FURTHER INFORMATION CONTACT: George Weir, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4045; email: *george.a.weir@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2728; Project Identifier MCAI–2026–00092–A'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to George Weir, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0023, dated February 2, 2026 (also referred to as the MCAI), to correct an unsafe condition on certain Tecnam Model P2010 airplanes. The MCAI states that there was a report of unrecoverable loss of engine power on a P2010 airplane. A subsequent investigation identified a 95 percent blockage of the exhaust due to disconnection of the exhaust muffler flame tube. A similar impending failure was also detected on another airplane of the same model. As a result, the manufacturer published updated service material providing instructions for repetitive BSIs of the exhaust muffler flame tube. This condition, if not detected and corrected, could result in unrecoverable loss of engine power and loss of control of the airplane. The MCAI requires initial and repetitive inspections of the exhaust muffler flame tube and, if any discrepancy is detected, contacting Tecnam for repair instructions and accomplishing those instructions accordingly. The MCAI also provides an optional terminating action for the repetitive inspections.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2728.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed TECNAM Service Bulletin SB 937–CS–Ed. 2, Rev. 1, dated February 26, 2026 (TECNAM SB 937–CS–Ed. 2, Rev. 1); and TECNAM P2010-Maintenance Manual, Tecnam P2010

AMM Supplement S6, Ed. 2, Rev. 2, dated January 8, 2026. This material specifies procedures for performing repetitive detailed BSIs of the perforated flame tube within the exhaust muffler. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the material already described, except as discussed under ''Differences Between this AD and the Referenced Material.''

Differences Between This AD and the MCAI or Referenced Material

The MCAI specifies to contact the manufacturer for approved repair instructions if it is determined during an inspection that there is any discrepancy detected as described in the referenced service material. This AD requires doing repairs in accordance with a method approved by the FAA; EASA; or Tecnam's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

Although TECNAM SB 937–CS–Ed. 2, Rev. 1, specifies reporting certain information to the manufacturer, this AD does not require that reporting.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because failure of the exhaust muffler flame tube could result in blockage of the exhaust system, leading to an unrecoverable loss of engine power during flight. A loss of engine power in flight reduces the pilot's ability to maintain safe operation of the airplane. Accordingly, the FAA has determined that inspection of the exhaust muffler flame tube must be accomplished within 25 hours time-in-service or 30 days, whichever occurs first after the effective date of this AD, to prevent potential loss of engine power during flight. These compliance times are shorter than the time necessary for the public to comment prior to publication of a final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 33 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Perform repetitive BSIs of the exhaust muffler flame tube.	2 work-hours × $85 per hour = $170 per inspection.	$0	$170 per inspection	$5,610
Revise aircraft maintenance program	1 work-hour × $85 per hour = $85	0	$85	2,805

The FAA estimates the following costs to do any repairs that would be required based on the results of the inspection. The agency has no way of determining the number of airplanes that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair exhaust muffler flame tube	4 work-hours × $85 per hour = $340	$2,500	$2,840

Authority for This Rulemaking

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

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

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–07–05 Costruzioni Aeronautiche Tecnam S.P.A.: Amendment 39–23300; Docket No. FAA–2026–2728; Project Identifier MCAI–2026–00092–A.

(a) Effective Date

This airworthiness directive (AD) is effective April 20, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam S.P.A. (Tecnam) Model P2010 airplanes, up to and including serial number 335, certificated in any category, that are equipped with a Lycoming IO–390 engine (MOD2010/078).

(d) Subject

Joint Aircraft System Component (JASC) Code 7800, Engine Exhaust System.

(e) Unsafe Condition

This AD was prompted by a report of unrecoverable loss of engine power. The FAA is issuing this AD to detect and address blockage of the exhaust system due to potential failure of the exhaust muffler flame tube. The unsafe condition, if not addressed, could result in loss of engine power and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 25 hours time-in-service (TIS) or 30 days, whichever occurs first after the effective date of this AD, and thereafter, at intervals not to exceed 200 hours TIS, perform a detailed borescope inspection (BSI) of the exhaust muffler flame tube for cracks, fractures, or evidence of crack or fracture initiation, in accordance with Appendix A of the Accomplishment Instructions in TECNAM Service Bulletin (SB) 937–CS–Ed. 2, Rev. 1, dated February 26, 2026 (TECNAM SB 937–CS–Ed. 2, Rev. 1).

(2) If any crack, fracture, or evidence of crack or fracture initiation is detected during any BSI required by paragraph (g)(1) of this AD, before further flight, repair using a method approved by the Manager, International Validation Branch, FAA; European Union Aviation Safety Agency (EASA); or Tecnam's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(h) Optional Terminating Action

Revising the aircraft maintenance program for your airplane to include TECNAM P2010-Maintenace Manual, Tecnam P2010 AMM Supplement S6, Ed. 2, Rev. 2, dated January 8, 2026, constitutes an acceptable method to comply with the requirements of paragraphs (g)(1) and (2) of this AD.

(i) No Reporting Requirement

Although TECNAM SB 937–CS–Ed. 2, Rev. 1, specifies to submit information to the manufacturer, this AD does not require that action.

(j) Credit for Previous Actions

You may take credit for the actions required by paragraphs (g)(1) and (2) of this AD if you performed those actions before the effective date of this AD using TECNAM Service Bulletin SB 937–CS–Ed. 1, Rev. 0, dated September 16, 2025; or TECNAM Service Bulletin SB 937–CS–Ed. 2, Rev. 0, dated January 7, 2026.

(k) Special Flight Permits

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(l) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (m) of this AD and email to *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(m) Additional Information

For more information about this AD, contact George Weir, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4045; email: *george.a.weir@faa.gov.*

(n) Material Incorporated by Reference

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

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

(i) TECNAM Service Bulletin SB 937–CS–Ed. 2, Rev. 1, dated February 26, 2026.

(ii) TECNAM P2010-Maintenance Manual, Tecnam P2010 AMM Supplement S6, Ed. 2, Rev. 2, dated January 8, 2026.

(3) For TECNAM material identified in this AD, contact Costruzioni Aeronautiche Tecnam S.P.A., Via Maiorise, 81043 Capua CE, Italy; phone: +39 0823 997538; email: *technical.support@tecnam.com;* website: *tecnam.com.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 31, 2026.

Christopher R. Parker,

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

[FR Doc. 2026–06532 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–1024; Airspace Docket No. 26–AEA–2]

RIN 2120–AA66

Amendment of Class D and Class E2 Airspace Over Binghamton, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E2 airspace at Greater Binghamton Airport/Edwin A. Link

Field, Binghamton, NY. This action reduces the lateral dimensions of the Binghamton, NY Class D and Class E2 airspace, which are overlays, from a 4.4-mile radius of the airport to a 4.3-mile radius of the airport.

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

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E2 airspace in Binghamton, NY.

History

The FAA published an NPRM for Docket No. FAA–2026–1024 in the **Federal Register** (91 FR 3700; January 28, 2026), proposing to amend Class D and Class E2 airspace above Binghamton, NY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class D and Class E2 airspace designations are published in paragraphs 5000 and 6002 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the latest version of that order, FAA Order JO 7400.11K, dated August 4, 2025, and effective September 15, 2025. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11K, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action amends 14 CFR part 71 by modifying both the Class D airspace and the Class E2 airspace, which are overlays, for Greater Binghamton Airport/Edwin A. Link Field, Binghamton, NY. Controlled airspace is necessary for the safety and management of IFR operations in the area for existing instrument approach procedures. A review of the current airspace revealed a need for this reduction in the lateral dimensions.

This action reduces the lateral dimensions of the Binghamton, NY Class D airspace, serving Greater Binghamton Airport/Edwin A. Link Field, from a 4.4-mile radius of the airport to a 4.3-mile radius of the airport.

This action also reduces the lateral dimensions of the Binghamton, NY Class E2 airspace, serving Greater Binghamton Airport/Edwin A. Link Field, from a 4.4-mile radius of the airport to a 4.3-mile radius of the airport.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace

* * * * *

AEA NY D Binghamton, NY [Amended]

Greater Binghamton Airport/Edwin A. Link Field, NY
(Lat. 42°12′30″ N, long. 75°58′47″W)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 4.3-mile radius of Greater Binghamton Airport/Edwin A. Link Field. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be

continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas

* * * * *

AEA NY E2 Binghamton, NY [Amended]

Greater Binghamton Airport/Edwin A. Link Field, NY
(Lat. 42°12′30″ N, long. 75°58′47″W)

That airspace extending upward from the surface within a 4.3-mile radius of Greater Binghamton Airport/Edwin A. Link Field. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Chart Supplement.

* * * * *

Issued in College Park, Georgia, on April 1, 2026.

Patrick Young,

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

[FR Doc. 2026–06543 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 406

[Docket No. SSA–2025–0189]

RIN 0960–AJ05

Rescission of Obsolete Regulations Addressing Drug Addiction and Alcoholism Under Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: This rule rescinds obsolete drug addiction and alcoholism (DAA) regulations.

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

FOR FURTHER INFORMATION CONTACT: Michael J. Goldstein, Director, Medical Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–1020. For more information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at *http://www.ssa.gov.*

SUPPLEMENTARY INFORMATION: The President's Executive Order (E.O.) 14219, *Ensuring Lawful Governance and Implementing the President's* ''*Department of Government Efficiency*'' *Deregulatory Initiative,*[1] (issued February 19, 2025), directed all agency heads to review regulations within their purview and rescind or modify those that meet the criteria specified in the E.O.[2]

SSA conducted such a review and identified obsolete provisions in 20 CFR parts 404 and 416 related to drug addiction and alcoholism (DAA) policies. These DAA regulations are obsolete because they do not reflect our current polices, which went into effect with the enactment of the Contract with America Advancement Act of 1996 (Contract with America Act).[3] Because our regulations were never updated, they do not represent the best reading of the underlying statutory authority granted by the Contract with America Act. This final rule will rescind these obsolete provisions. This removal will align our regulations with the Contract with America Act. Through its updating and streamlining to ensure only relevant regulations remain, it also accords with E.O. 14219.

Although we have not yet rescinded these regulatory sections, we have always followed the provisions of the Contract with America Act since its enactment. Accordingly, while this rescission will simply streamline our regulations by removing obsolete information, it will not cause any actual policy or procedural changes.

In accordance with section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), we follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in promulgating regulations. Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final regulation. The APA provides exceptions to the notice-and-comment requirements when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B).

We determined that good cause exists under 5 U.S.C. 553(b)(B) for dispensing with the notice and public comment procedures. We determined that opportunity for prior comment is unnecessary because this final rule merely removes obsolete provisions of the regulations that were superseded by Congressional action and it makes no substantive changes to our current rules. As such, we are issuing this regulation as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule as provided by 5 U.S.C. 553(d)(3). As noted above, we are not making any substantive changes to our policies, so delaying the effective date of this final rule is unnecessary.

Regulatory Procedures

E.O. 12866, as Supplemented by E.O. 13563

We consulted with the Office of Management and Budget (OMB) and OMB has determined that this rule does not meet the criteria for a significant regulatory action under section (3)(f) of E.O. 12866, as supplemented by E.O. 13563, and is not subject to OMB review. Therefore, OMB has not reviewed it.

Congressional Review Act

This final rule is not a major rule as defined by the Congressional Review Act.[4]

E.O. 14192

Based upon the criteria established in E.O. 14192 and OMB Memorandum M–25–20, this rule is not an ''E.O. regulatory action.''[5]

[1] 90 FR 10583.

[2] Section 2 of E.O. 14219 specified that agency heads shall identify the following classes of regulations: ''(i) unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution; (ii) regulations that are based on unlawful delegations of legislative power; (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition; (iv) regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority; (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits; (vi) regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and (vii) regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.''

[3] Public Law 104–121 (*govinfo.gov/content/pkg/PLAW-104publ121/html/PLAW-104publ121.htm*). The Contract with America Act requires that no individual can be found disabled when DAA is a ''contributing factor material to the determination of disability.'' The law also terminated eligibility of DAA beneficiaries receiving SSI or SSDI unless those individuals appealed and were found to be disabled on a separate basis. Though we did not update our regulations, we followed the law in agency practices and policies, ensuring full compliance.

[4] 5 U.S.C. 801 *et seq.*

[5] Page 3 of M–25–20 states that an E.O. 14192 regulatory action is: ''(i) A significant regulatory action as defined in Section 3(f) of E.O. 12866 that has been finalized and that imposes total costs greater than zero; or (ii) A significant guidance document, broadly conceived, (*e.g.,* significant interpretive guidance) reviewed by OIRA under the

Anticipated Transfers/Costs to Our Program

SSA's Actuarial Services anticipates no direct effect on program costs for the Old-Age, Survivors, and Disability Insurance (OASDI) and Federal Supplemental Security Income (SSI) programs as a result of the implementation of this final rule. This is because the final rule rescinds obsolete regulations and does not alter the policies or procedures that the agency currently follows. Therefore, no changes in OASDI or SSI program eligibility or benefit payments are expected due to this action.

Anticipated Administrative Costs/ Benefits to the Social Security Administration

Our Budget Office expects that we will not incur any administrative costs nor realize any savings from the implementation of the final rule, as this rule will not change any current agency policies or procedures but will simply rescind obsolete regulations.

E.O. 13132

We analyzed this rule in accordance with the principles and criteria established by E.O. 13132, and determined that the rule will not have sufficient federalism implications to warrant preparation of a federalism assessment. We also determined that this rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it removes obsolete regulations that have no current effect on individuals. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act (PRA)

This final rule is rescinding obsolete regulations that do not reflect our current policies. We have previously obtained OMB PRA approval for any conforming changes to affected information collection when the regulations were first obsoleted. Accordingly, this recission does not create or affect any existing information collections, and it does not require OMB approval under the PRA.

procedures of E.O. 12866 that has been finalized and that imposes total costs greater than zero.''

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blindness and Disability benefits, Reporting and recordkeeping requirements, Social Security, Vocational rehabilitation.

20 CFR Part 416

Administrative practice and procedure, Medicaid, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Vocational rehabilitation.

For the reasons stated in the preamble, the Social Security Administration amends 20 CFR parts 404 and 416 as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950-)

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

■ 1. The authority citation for subpart D of part 404 continues to read as follows:

Authority: Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, and 902(a)(5)).

§ 404.315 [Amended]

■ 2. Amend § 404.315 by removing and reserving paragraph (b).

§ 404.316 [Amended]

■ 3. Amend § 404.316 by removing paragraphs (e) and (f).

§ 404.321 [Amended]

■ 4. Amend § 404.321 by removing paragraph (d).

■ 5. Amend § 404.332 by revising paragraph (b)(5) to read as follows:

§ 404.332 When wife's and husband's benefits begin and end.

* * * * *

(b) * * *

(5) The insured person dies or is no longer entitled to old age or disability benefits.

* * * * *

§ 404.335 [Amended]

■ 6. Amend § 404.335 by removing paragraph (c)(4).

§ 404.336 [Amended]

■ 7. Amend § 404.336 by removing paragraph (c)(4).

§ 404.337 [Amended]

■ 8. Amend § 404.337 by removing and reserving paragraph (b)(3).

§ 404.350 [Amended]

■ 9. Amend § 404.350 by removing and reserving paragraph (b).

■ 10. Amend § 404.352 as follows:

■ a. Revise paragraph (b)(5); and

■ b. Remove and reserve paragraph (c).

The revision reads as follows:

§ 404.352 When does my entitlement to child's benefits begin and end?

* * * * *

(b) * * *

(5) With the month before the month the insured's entitlement to old-age or disability benefits ends for a reason other than death or the attainment of full retirement age (as defined in § 404.409).

* * * * *

Subpart E—Deductions; Reductions; and Nonpayments of Benefits

■ 11. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 216(l), 222(c), 223(e), 224, 225, 702(a)(5), and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 416(l), 422(c), 423(e), 424a, 425, 902(a)(5), and 1320a–8a); 48 U.S.C. 1801.

■ 12. Amend § 404.402 by revising paragraph (a) introductory text to read as follows:

§ 404.402 Interrelationship of deductions, reductions, adjustments, and nonpayment of benefits.

(a) *Deductions, reductions, adjustment.* Deductions because of earnings or work (*see* §§ 404.415 and 404.417); failure to have a child ''in his or her care'' (*see* § 404.421); as a penalty for failure to timely report noncovered work outside the United States, failure to report that he or she no longer has a child ''in his or her care,'' or failure to timely report earnings (*see* §§ 404.451 and 404.453); or because of unpaid maritime taxes (*see* § 404.457) are made:

* * *

* * * * *

§ 404.470 [Removed]

■ 13. Remove § 404.470.

§ 404.480 [Removed]

■ 14. Remove § 404.480.

Subpart P—Determining Disability and Blindness

■ 15. The authority citation for subpart P of part 404 continues to read as follows:

Authority: 42 U.S.C. 402, 405(a)–(b) and (d)–(h), 416(i), 421(a) and (h)–(j), 422(c), 423, 425, 902(a)(5), and 1320e–3; sec. 211(b), Pub.

L. 104–193, 110 Stat. 2105, 2189; sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

§ 404.1536 [Removed]

■ 16. Remove § 404.1536.

§ 404.1537 [Removed]

■ 17. Remove § 404.1537.

§ 404.1538 [Removed]

■ 18. Remove § 404.1538.

§ 404.1539 [Removed]

■ 19. Remove § 404.1539.

§ 404.1540 [Removed]

■ 20. Remove § 404.1540.

§ 404.1541 [Removed].

■ 21. Remove § 404.1541.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart A—Introduction, General Provisions and Definitions

■ 22. The authority citation for subpart A of part 416 continues to read as follows:

Authority: Secs. 702(a)(5) and 1601–1635 of the Social Security Act (42 U.S.C. 902(a)(5) and 1381–1383d); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note).

■ 23. Amend § 416.101 by revising paragraph (q) to read as follows:

§ 416.10 Introduction.

* * * * *

(q) Subpart Q of this part contains provisions with respect to the referral of individuals for vocational rehabilitation and application for other benefits to which an applicant may be potentially entitled.

* * * * *

Subpart B—Eligibility

■ 24. The authority citation for subpart B of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1110(b), 1602, 1611, 1614, 1619(a), 1631, and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1310(b), 1381a, 1382, 1382c, 1382h(a), 1383, and 1383c); secs. 211 and 212, Pub. L. 93–66, 87 Stat. 154 and 155 (42 U.S.C. 1382 note); sec. 502(a), Pub. L. 94–241, 90 Stat. 268 (48 U.S.C. 1681 note); sec. 2, Pub. L. 99–643, 100 Stat. 3574 (42 U.S.C. 1382h *note*).

§ 416.202 [Amended]

■ 25. Amend § 416.202 by removing and reserving paragraph (e).

§ 416.214 [Removed]

■ 26. Remove § 416.214.

■ 27. Amend § 416.262 as follows:

■ a. Revise paragraph (c); and

■ b. Remove and reserve paragraph (d).

The revision reads as follows:

§ 416.262 Eligibility requirements for special SSI cash benefits.

* * * * *

(c) You continue to have a disabling impairment; and

* * * * *

■ 28. Amend § 416.265 by revising paragraph (a) to read as follows:

§ 416.265 Requirements for the special SSI eligibility status.

* * * * *

(a) You continue to be blind or continue to have a disabling impairment.

* * * * *

Subpart E—Payment of Benefits, Overpayments, and Underpayments

■ 29. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3716; 31 U.S.C. 3720A.

§ 416.535 [Amended]

■ 30. Amend § 416.535 by removing and reserving paragraph (b).

§ 416.542 [Amended]

■ 31. Amend § 416.542 by removing and reserving paragraph (a)(2).

§ 416.544 [Removed]

■ 32. Remove § 416.544.

§ 416.558 [Amended]

■ 33. Amend § 416.558 by removing paragraph (c).

Subpart F—Representative Payment

■ 34. The authority citation for subpart F of part 416 continues to read as follows:

Authority: Secs. 205(j)(1)(C), 702(a)(5), 1631(a)(2) and (d)(1) of the Social Security Act (42 U.S.C. 405(j)(1)(C), 902(a)(5), 1383(a)(2) and (d)(1)).

§ 416.601 [Amended]

■ 35. Amend § 416.601 by removing the fourth sentence of paragraph (b)(1).

§ 416.610 [Amended]

■ 36. Amend § 416.610 by removing paragraph (a)(3).

Subpart G—Reports Required

■ 37. The authority citation for subpart G of part 416 continues to read as follows:

Authority: 42 U.S.C. 902(a)(5), 1320a–8a, 1320e–3, 1382, 1382a, 1382b, 1382c, and 1383; sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

§ 416.708 [Amended]

■ 38. Amend § 416.708 by removing and reserving paragraph (j).

Subpart I—Determining Disability and Blindness

■ 39. The authority citation for subpart I of part 416 continues to read as follows:

Authority: 42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383, and 1383b; secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 40. Amend § 416.901 by revising paragraph (h) to read as follows:

§ 416.901 Scope of subpart.

* * * * *

(h) In § 416.935 we explain the rules which apply in cases of drug addiction and alcoholism.

* * * * *

§ 416.936 [Removed]

■ 41. Remove § 416.936.

§ 416.937 [Removed]

■ 42. Remove § 416.937.

§ 416.938 [Removed]

■ 43. Remove § 416.938.

§ 416.939 [Removed]

■ 44. Remove § 416.939.

§ 416.940 [Removed]

■ 45. Remove § 416.940.

§ 416.941 [Removed]

■ 46. Remove § 416.941.

Subpart K—Income

■ 47. The authority citation for subpart K of part 416 continues to read as follows:

Authority: 42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b; sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

§ 416.1123 [Amended]

■ 48. Amend § 416.1123 by removing and reserving paragraph (d)(2).

Subpart M—Suspensions and Terminations

■ 49. The authority citation for subpart M of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1129A, 1611–1614, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1320a–8a, 1382–1382c, 1382h, and 1383).

§ 416.1326 [Removed]

■ 50. Remove § 416.1326.

§ 416.1331 [Amended]

■ 51. Amend § 416.1331 by removing paragraphs (c), (d), and (e).

Subpart Q—Referral of Persons Eligible for Supplemental Security Income to Other Agencies

■ 52. The authority citation for subpart Q of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611(e)(3), 1615, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382(e)(3), 1382d, and 1383).

■ 53. Revise § 416.1701 to read as follows:

§ 416.1701 Scope of subpart.

This subpart describes whom we refer to agencies for vocational rehabilitation services. The purpose of these services is to restore your ability to work.

■ 54. Remove the undesignated center heading ''Referral for Treatment of Alcoholism or Drug Addiction''.

§§ 416.1720 and 416.1725 [Removed and Reserved]

■ 55. Remove and reserve §§ 416.1720 and 416.1725.

Subpart T—State Supplementation Provisions; Agreement; Payments

■ 56. The authority citation for subpart T of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1616, 1618, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382e, 1382g, and 1383); sec. 212, Pub. L. 93–66, 87 Stat. 155 (42 U.S.C. 1382 note); sec. 8(a), (b)(1)–(b)(3), Pub. L. 93–233, 87 Stat. 956 (7 U.S.C. 612c note, 1431 note and 42 U.S.C. 1382e note); secs. 1(a)–(c) and 2(a), 2(b)(1), 2(b)(2), Pub. L. 93–335, 88 Stat. 291 (42 U.S.C. 1382 note, 1382e note).

■ 57. Revise paragraph (b) of § 416.2040 to read as follows:

§ 416.2040 Limitations on eligibility.

* * * * *

(b) *Ineligible persons.* No person who is ineligible for a Federal benefit for any month under sections 1611(e)(1)(A), (2), or (f) of the Act (failure to file; outside the United States) or other reasons (other than the amount of income) shall be eligible for such State supplementation for such month.

* * * * *

Mark Steffensen,

General Counsel, Social Security Administration.

[FR Doc. 2026–06557 Filed 4–2–26; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–1395]

Designation of P2P Methyl Glycidic Acid as a List I Chemical

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration is finalizing the control of 2-methyl-3-phenyloxirane-2-carboxylic acid (also known as P2P methyl glycidic acid and BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible, as a list I chemical under the Controlled Substances Act (CSA). P2P methyl glycidic acid is used in the illicit manufacture of the controlled substances phenylacetone (also known as phenyl-2-propanone or P2P), methamphetamine, and amphetamine, and it is important to the manufacture of these substances. This final rule subjects handlers of P2P methyl glycidic acid to the chemical regulatory provisions of the CSA and its implementing regulations.

DATES: This rulemaking will become effective on May 4, 2026. Persons seeking registration must apply on or before May 4, 2026 to continue their business pending final action by DEA on their application.

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

SUPPLEMENTARY INFORMATION: This final rule designates P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, as a list I chemical. This action subjects handlers of P2P methyl glycidic acid to the chemical regulatory provisions of the Controlled Substances Act (CSA) and its implementing regulations. This rulemaking does not establish a threshold for domestic and international transactions of P2P methyl glycidic acid. As such, all transactions involving P2P methyl glycidic acid, regardless of size, shall be regulated and are subject to control under the CSA. In addition, chemical mixtures containing P2P methyl glycidic acid are not exempt from regulatory requirements at any concentration. Therefore, all transactions of chemical mixtures containing any quantity of P2P methyl glycidic acid shall be regulated pursuant to the CSA.

Legal Authority

The CSA gives the Attorney General the authority to specify, by regulation, chemicals as list I chemicals.[1] A ''list I chemical'' is defined as ''a chemical that is used in manufacturing a controlled substance in violation of [the CSA] and is important to the manufacture of the controlled substances.'' [2] The current list of all listed chemicals is published at 21 CFR 1310.02. Pursuant to 28 CFR 0.100(b), the Attorney General has delegated her authority to designate list I chemicals to the Administrator of DEA (Administrator). DEA's regulations set forth the process by which DEA may add a chemical as a listed chemical. As set forth in 21 CFR 1310.02(c), the agency may do so by publishing a final rule in the **Federal Register** following a published notice of proposed rulemaking (NPRM) with at least 30 days for public comments.

In addition, the United States is a party to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988 Convention), Dec. 20, 1988, 1582 U.N.T.S. 95. Under Article 12 of the 1988 Convention, when the United States receives notification that a chemical has been added to Table I or Table II of the 1988 Convention, the United States is required to take measures it deems appropriate to monitor the manufacture and distribution of that chemical within the United States and to prevent its diversion, including measures related to international trade.

[1] 21 U.S.C. 802(34).

[2] *Id.*

Background

By letter dated June 6, 2022, in accordance with Article 12, paragraph 6 of the 1988 Convention, the Secretary-General of the United Nations informed the United States that the chemicals P2P methyl glycidic acid and specific esters of P2P methyl glycidic acid, including their optical isomers, were added to Table I of the 1988 Convention. This letter was prompted by a decision of the United Nations Commission on Narcotic Drugs to add P2P methyl glycidic acid and specific esters of P2P methyl glycidic acid to Table I during its 67th Session on March 19, 2024. As discussed above, the United States is a party to the 1988 Convention and has certain obligations pursuant to Article 12. By designating P2P methyl glycidic acid, as well as its esters and their optical and geometric isomers, as list I chemicals, the United States will fulfill its obligations under the 1988 Convention.

On October 2, 2025, DEA published an NPRM to designate P2P methyl glycidic acid, including its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, as a list I chemical under the CSA.[3] In the NPRM, the Administrator found that P2P methyl glycidic acid is used in, and is important to, the manufacture of the schedule II substances phenylacetone (also known as phenyl-2-propanone, P2P, or benzyl methyl ketone), methamphetamine, and amphetamine. P2P methyl glycidic acid does not have any legitimate use, and it has not been widely traded through legitimate channels. Clandestine laboratory operators have circumvented the schedule II controls on P2P by developing a variety of synthetic methods for producing P2P, which they then convert to methamphetamine and amphetamine.[4]

Comments Received

As part of the NPRM published on October 2, 2025, DEA solicited comments regarding this rulemaking.[5] In response to the NPRM, DEA received three comments. One commenter was in support of controlling P2P methyl glycidic acid as a list I chemical. One commenter supported the control of P2P methyl glycidic acid; however, it requested that DEA correct what it believed to be procedural deficiencies to ensure the rule is legally sustainable and complete. One commenter submitted a response that was outside the scope of the action.

Comment in support of rulemaking: One commenter stated that it supported regulating P2P methyl glycidic acid and encouraged DEA to continue to monitor international discoveries of alternative precursors to highly marketable illicit substances.

DEA Response: DEA agrees with the comment in support of controlling P2P methyl glycidic acid as a list I chemical. DEA is concerned with the abuse of illicitly manufactured methamphetamine and amphetamine in the United States and believes this rule will help to control the illicit manufacture of these substances. DEA also agrees that the illicit manufacture of methamphetamine and other drugs is a global challenge and necessitates cooperation with international partners, including compliance with international treaties.

Comment raising procedural requests: One commenter agreed with the proposal and targeting against chemical diversion, but it requested that DEA fix problems in the proposed rule by adhering to the following procedures: (1) using the Administrative Procedure Act (APA) correctly for public input; (2) analyzing impacts on small businesses under the Regulatory Flexibility Act (RFA); (3) justifying why the rule is not a ''significant regulatory action'' as defined by Executive Order (E.O.) 12866; and (4) complying with information collection under the Paperwork Reduction Act (PRA) because a new listed chemical expands the number of respondents subject to existing collections of information.

DEA Response: DEA appreciates the comment. First, DEA followed standard rulemaking process as set forth in 21 CFR 1310.02(c) and (h), which involved publishing an NPRM in the **Federal Register** and allowing a 30-day period for interested persons to file written comments. DEA did not rely on the APA's ''good cause'' exception under 5 U.S.C. 553(b)(B) or (d)(3) to forego notice-and-comment rulemaking in this instance. On the contrary, the agency provided a 30-day public comment period,[6] consistent with both DEA regulations and APA requirements.[7] Because notice and an opportunity for public participation were afforded, the rulemaking process complied with the APA's procedural requirements.

Second, in regard to the RFA, DEA certified in the NPRM that the rule will not result in a significant economic impact on a substantial number of small entities and provided the factual basis for the certification.[8] For example, DEA explained that there are nine suppliers of P2P Methyl Glycidic Acid which account for far less than a substantial number (approximately 0.07 percent) of small businesses in industries likely to represent such suppliers, *i.e.,* 325412—Pharmaceutical Preparation Manufacturing, 424210—Drugs and Druggists' Sundries Merchant Wholesalers, and 424690—Other Chemical and Allied Products Merchant Wholesalers. Furthermore, the NPRM adequately explained that the cost of this rule on any affected small entity is minimal.[9]

Third, the Office of Information and Regulatory Affairs determined that the rule would not be a ''significant regulatory action'' as defined under section 3(f) of E.O. 12866, including section 3(f)(1), and, therefore, the rule did not require review by the Office of Management and Budget (OMB).

Finally, the PRA distinguishes between the creation of a new information collection and changes to the scope or scale of an already approved collection. An increase in the number of respondents associated with an existing, OMB-approved information collection does not, by itself, constitute a ''new collection of information'' under the PRA. This rule requires compliance with the following existing OMB collections: 1117–0023 and 1117–0029.

Comment that was not related to this rulemaking: One commenter stated that it supported placing MDMB-4en-PINACA in schedule I due to the harm associated with that substance and the public health risk.

DEA Response: While DEA appreciates the comment, it is outside the scope of the current rulemaking action; therefore, this comment was not considered.

Designation of P2P Methyl Glycidic Acid as a List I Chemical

For the reasons discussed in the NPRM and reiterated in the above background section, the Administrator finds that P2P methyl glycidic acid is used in the manufacture of controlled substances in violation of the CSA and is important to the manufacture of these controlled substances. Therefore, the Administrator designates P2P methyl glycidic acid, including its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination

[3] *Designation of P2P Methyl Glycidic Acid as a List I Chemical,* 90 FR 47670 (Oct. 2, 2025).

[4] *Id.* at 47671–72.

[5] *See id.* at 47670.

[6] *Designation of P2P Methyl Glycidic Acid as a List I Chemical,* 90 FR at 47670.

[7] 21 CFR 1310.02(c), (h); 5 U.S.C. 553(c).

[8] *Designation of P2P Methyl Glycidic Acid as a List I Chemical,* 90 FR at 47675.

[9] *Id.*

thereof, and its optical isomers as a list I chemical.

Chemical Mixtures of P2P Methyl Glycidic Acid

Pursuant to this final rule, chemical mixtures containing P2P methyl glycidic acid are not exempt from regulatory requirements at any concentration, unless a manufacturer submits to DEA an application for exemption of such chemical mixture, DEA accepts the application for filing, and DEA exempts the chemical mixture in accordance with 21 CFR 1310.13 (exemption of chemical mixtures by application). Because there are no legitimate industrial uses for P2P methyl glycidic acid, regulation of chemical mixtures containing any amount of P2P methyl glycidic acid is necessary to prevent the illicit extraction, isolation, and use of P2P methyl glycidic acid. Therefore, all chemical mixtures containing any quantity of P2P methyl glycidic acid are subject to control under the CSA, unless a manufacturer of P2P methyl glycidic acid is granted an exemption by the application process in accordance with 21 CFR 1310.13. This rule finalizes the modification of the ''Table of Concentration Limits'' in 21 CFR 1310.12(c) to reflect the fact that chemical mixtures containing any amount of P2P methyl glycidic acid are subject to CSA chemical control provisions.

Application Process for Exemption of Chemical Mixtures

DEA has implemented an application process to exempt certain chemical mixtures from the requirements of the CSA and its implementing regulations.[10] Manufacturers may apply for an automatic exemption for those mixtures that do not meet the criteria set forth in 21 CFR 1310.12(d). Pursuant to 21 CFR 1310.13(a), DEA may grant an exemption of a chemical mixture, by publishing a final rule in the **Federal Register**, if DEA determines that: (1) the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance, and (2) the listed chemical or chemicals cannot be readily recovered.

Requirements for Handling List I Chemicals

The designation of P2P methyl glycidic acid as a list I chemical subjects handlers (manufacturers, distributors, importers, and exporters) and proposed handlers to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importing, and exporting of a list I chemical. Upon the effective date of the final rule, persons handling P2P methyl glycidic acid, including regulated chemical mixtures containing P2P methyl glycidic acid, are required to comply with the following list I chemical regulations:

1. *Registration.* Any person who handles (manufactures, distributes, imports, or exports), or proposes to engage in such handling of P2P methyl glycidic acid or a chemical mixture containing P2P methyl glycidic acid must obtain a registration pursuant to 21 U.S.C. 822, 823, 957, and 958. Regulations describing registration for list I chemical handlers are set forth in 21 CFR part 1309. DEA regulations require separate registrations for manufacturing, distributing, importing, and exporting of P2P methyl glycidic acid.[11] Further, a separate registration is required for each principal place of business at one general physical location where list I chemicals are manufactured, distributed, imported, or exported by a person.[12]

DEA notes that under the CSA, ''warehousemen'' are not required to register and may lawfully possess list I chemicals, if the possession of those chemicals is in the usual course of business or employment.[13] Under DEA implementing regulations, the warehouse in question must receive the list I chemical from a DEA registrant and shall only distribute the list I chemical back to the DEA registrant and registered location from which it was received.[14] A warehouse that distributes list I chemicals to persons other than the registrant and registered location from which they were obtained is conducting distribution activities and is required to register as such.

Upon the effective date of this final rule, any person manufacturing, distributing, importing, or exporting P2P methyl glycidic acid or a chemical mixture containing P2P methyl glycidic acid will become subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who are subject to the registration requirements to immediately complete and submit an application for registration and for DEA to immediately issue registrations for those activities. Therefore, to allow any continued legitimate commerce in P2P methyl glycidic acid, DEA is establishing in 21 CFR 1310.09 a temporary exemption from the registration requirement for persons desiring to engage in activities with P2P methyl glycidic acid, provided that DEA receives a properly completed application for registration on or before May 4, 2026. The temporary exemption for such persons will remain in effect until DEA takes final action on their application for registration or application for exemption of a chemical mixture.

The temporary exemption would apply solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, will become effective on the effective date of the final rule. Therefore, all transactions of P2P methyl glycidic acid and chemical mixtures containing P2P methyl glycidic acid will be regulated while an application for registration or exemption is pending. This is necessary because a delay in regulating these transactions could result in increased diversion of chemicals desirable to drug traffickers.

Additionally, the temporary exemption for registration does not suspend applicable Federal criminal laws relating to P2P methyl glycidic acid, nor does it supersede State or local laws or regulations. All handlers of P2P methyl glycidic acid must comply with applicable State and local requirements in addition to the CSA regulatory controls.

2. *Records and Reports.* Every DEA registrant must maintain records and submit reports to DEA with respect to P2P methyl glycidic acid pursuant to 21 U.S.C. 830(a) and (b)(1) and (2) and in accordance with 21 CFR 1310.04 and 1310.05. Pursuant to 21 CFR 1310.04, a record must be kept for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a listed chemical must submit manufacturing, inventory, and use data on an annual basis.[15] Existing standard industry reports containing the required information are acceptable, provided the information is separate or readily retrievable from the report.

Regulated persons must comply with the CSA and its implementing regulations requiring that each regulated person must report to DEA any regulated transaction involving an extraordinary quantity of a listed

[10] 21 CFR 1310.13 specifies that this chemical mixture is a chemical mixture consisting of two or more chemical components, at least one of which is a list I or list II chemical. *See also* 21 CFR 1300.02 (defining the term ''chemical mixture'').

[11] 21 CFR 1309.21.

[12] 21 CFR 1309.23(a). *See also* 21 U.S.C. 822(e)(1) (separate registration requirements pertaining to manufacturing or distributing a list I chemical).

[13] 21 U.S.C. 822(c)(2), 957(b)(1)(B).

[14] *See* 21 CFR 1309.23(b)(1).

[15] 21 CFR 1310.05(d).

chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of subchapter I of the CSA. In addition, regulated persons must report any proposed regulated transaction with a person whose description or other identifying characteristics DEA has previously furnished to the regulated person, any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person, and any in-transit loss in which the regulated person is the supplier.[16]

3. *Importation and Exportation.* All importation and exportation of P2P methyl glycidic acid must comply with 21 U.S.C. 957, 958, and 971 and in accordance with 21 CFR part 1313.

4. *Security.* All applicants and registrants must provide effective controls against theft and diversion of list I chemicals in accordance with 21 CFR 1309.71–1309.73.

5. *Administrative Inspection.* Places, including factories, warehouses, or other establishments and conveyances, where registrants or other regulated persons may lawfully hold, manufacture, distribute, or otherwise dispose of a list I chemical or where records relating to those activities are maintained, are controlled premises as defined in 21 U.S.C. 880(a) and 21 CFR 1316.02(c). The CSA allows for administrative inspections of these controlled premises as provided in 21 CFR part 1316, subpart A.[17]

6. *Liability.* Any activity involving P2P methyl glycidic acid not authorized by, or in violation of, the CSA is unlawful, and would subject the person to administrative, civil, and/or criminal action.

Regulatory Analyses

Executive Orders 12866, 13563, 14192, and 14294 (Regulatory Review)

This final rule was drafted and reviewed in accordance with E.O. 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation, and E.O. 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation. DEA scheduling actions are not subject to either E.O. 14192, Unleashing Prosperity Through Deregulation, or E.O. 14294, Fighting Overcriminalization in Federal Regulations.

E.O. 12866 classifies a ''significant regulatory action,'' requiring review by OMB, 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, the President's priorities, or the principles set forth in the E.O.

The Office of Information and Regulatory Affairs has determined that this rule is not a ''significant regulatory action'' under E.O. 12866, section 3(f). Accordingly, this rule was not reviewed by the Office of Information and Regulatory Affairs.

As finalized, P2P methyl glycidic acid is subject to all of the regulatory controls as well as the administrative, civil, and criminal sanctions applicable to the manufacturing, distributing, importing, and exporting of list I chemicals. P2P methyl glycidic acid is used in, and is important to, the illicit manufacture of the schedule II-controlled substances P2P, methamphetamine, and amphetamine.

DEA has searched information in the public domain for any legitimate uses of this chemical. Other than the small amounts for research, development, and laboratory analytical purposes, DEA has not documented any industrial use for P2P methyl glycidic acid except for it being a chemical intermediate in the production of the schedule II substances P2P, methamphetamine, and amphetamine. Based on the review of the established aggregate production quota for P2P (100 grams for 2024), legal conversion of P2P methyl glycidic acid to P2P in the United States, if it takes place at all, is limited to small, gram quantities. Therefore, DEA concludes that the vast majority of, if not all, P2P methyl glycidic acid is used for the illicit manufacturing of P2P, methamphetamine, and amphetamine.

DEA cannot rule out the possibility that minimal quantities of P2P methyl glycidic acid are used for the manufacturing of legitimate P2P. However, if there are any quantities of P2P methyl glycidic acid used for the manufacturing of legitimate P2P, the quantities are believed to be minimal.

DEA evaluated the costs and benefits of this action. Due to many unknowns, DEA is unable to provide an estimated cost of this rule; however, DEA believes the economic effects will not be significant and will be far below the E.O. 12866 section 3(f)(1) threshold.

Costs

DEA believes the market for P2P methyl glycidic acid for the legitimate manufacturing of pharmaceutical amphetamine or methamphetamine is minimal. As stated above, the only use for P2P methyl glycidic acid of which DEA is aware is as a chemical intermediate for the manufacture of P2P, methamphetamine, and amphetamine. Any manufacturer, distributor, importer, or exporter of P2P methyl glycidic acid for the production of legitimate P2P, methamphetamine, and amphetamine, if they exist at all, would incur costs if this proposed rule were finalized. The primary costs associated with this proposed rule would be the annual registration fees for manufacturers ($3,699) and for distributors, importers, and exporters ($1,850). However, any manufacturer that uses P2P methyl glycidic acid for legitimate P2P, methamphetamine, and amphetamine production would already be registered with DEA and have all security and other handling processes established because of the controls already in place on P2P, methamphetamine, and amphetamine, resulting in minimal cost to those entities. As there are different forms of handling the scheduled substances versus the list I chemical (distribution of P2P, methamphetamine, and amphetamine versus exporting P2P methyl glycidic acid), this could require a separate registration for the different handling of the substances. If an entity is already registered to handle, manufacture, import, or export a scheduled substance, the entity would not need an additional registration for the list I chemical, provided it is handling the list I chemical in the same manner that it is registered for the scheduled substance, or as a coincident activity permitted by 21 CFR 1309.21(c). Even with the possibility of these additional registrations, DEA believes that the cost would be minimal.

DEA has identified nine domestic suppliers of P2P methyl glycidic acid. It is difficult to estimate the quantity of P2P methyl glycidic acid these suppliers distribute. Chemical distributors often have items in their catalog while not actually having any material level of sales. As finalized, suppliers for the legitimate use of P2P methyl glycidic acid, if any, are expected to choose the least-cost option, which might include stopping the selling of minimal quantities of P2P methyl glycidic acid, rather than incurring the registration

[16] 21 U.S.C. 830(b); 21 CFR 1310.05(a), (b).

[17] 21 U.S.C. 880.

cost. Because DEA believes the quantities of P2P methyl glycidic acid supplied for the legitimate manufacturing of P2P, methamphetamine, and amphetamine are minimal, DEA estimates that the cost of foregone sales is minimal; and thus, the cost of this proposed rule is minimal. DEA requested public comments regarding this estimate, however no public comment was received during the notice and comment period regarding the costs to industry.

This analysis excludes consideration of any economic impact to those businesses that facilitate the manufacture and distribution of P2P methyl glycidic acid for the production of manufacturing illicit P2P, methamphetamine, and amphetamine. As a law enforcement organization and as a matter of principle, DEA believes considering the economic utility of facilitating the manufacture of illicit P2P, methamphetamine, and amphetamine would be improper.

Benefits

Controlling P2P methyl glycidic acid is expected to prevent, curtail, and limit the unlawful manufacturing and distribution of the controlled substances P2P, methamphetamine, and amphetamine. As a list I chemical, handling of P2P methyl glycidic acid would require registration with DEA, various controls, and monitoring as required by the CSA. This rule is also expected to assist in preventing the possible theft or diversion of P2P methyl glycidic acid from any legitimate firms. DEA also believes control is necessary to prevent unscrupulous chemists from synthesizing P2P methyl glycidic acid and selling it (as unregulated material) through the internet and other channels, to individuals who may wish to acquire unregulated chemical intermediates for the purpose of manufacturing illicit P2P, methamphetamine, and amphetamine.

In summary, DEA conducted a qualitative analysis of costs and benefits. DEA believes this action will minimize the diversion of P2P methyl glycidic acid. DEA believes the market for P2P methyl glycidic acid for the legitimate manufacturing of P2P, methamphetamine, and amphetamine is minimal. Therefore, any potential cost as a result of this regulation is minimal.

Executive Order 12988, Civil Justice Reform

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

Executive Order 13132, Federalism

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

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rulemaking does not have tribal implications warranting the application of E.O. 13175. This rule 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.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act (RFA),[18] has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities.

As discussed above, with this rulemaking, P2P methyl glycidic acid and criminal mixtures containing P2P methyl glycidic acid are subject to all of the regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, importation, and exportation of list I chemicals. P2P methyl glycidic acid is used in, and is important to, the illicit manufacture of the schedule II-controlled substances P2P, methamphetamine, and amphetamine. DEA has not identified any legitimate industrial use for P2P methyl glycidic acid, other than its role as a chemical intermediate in the production of P2P, methamphetamine, and amphetamine. Based on the review of established aggregate production quota for P2P, 100 grams for 2024, legal conversion of P2P methyl glycidic acid in the United States, if it takes place at all, is limited to small, gram quantities. Therefore, DEA believes the vast majority, if not all, of P2P methyl glycidic acid is used for the illicit manufacturing of P2P, methamphetamine, and amphetamine.

The primary costs associated with this rule is the annual registration fees ($3,699 for manufacturers and $1,850 for distributors, importers, and exporters), but those registration fees are only applicable if they choose as part of their business plan to continue to handle P2P methyl glycidic acid and that may not be economically worthwhile if they only had been handling small amounts. Additionally, any manufacturer that does use P2P methyl glycidic acid for legitimate P2P, methamphetamine, and amphetamine production would already be registered with DEA and have all security and other handling processes in place, resulting in minimal cost.

DEA has identified nine domestic suppliers of P2P methyl glycidic acid. It is difficult to estimate the quantity of P2P methyl glycidic acid these suppliers distribute. Chemical distributors often have items in their catalog while not actually having any material level of sales. Based on the review of established aggregate production quota for P2P (100 grams for 2024), legal conversion of P2P methyl glycidic acid to P2P in the United States is limited to small gram quantities. DEA believes any quantity of sales of P2P methyl glycidic acid from these distributors for legitimate P2P manufacturing is minimal. Therefore, DEA estimates the cost of this rule on any affected small entity is minimal. Based on these factors, DEA projects that this rule will not result in a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

On the basis of information contained in the RFA section above, DEA has determined and certifies pursuant to the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year . . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under provisions of UMRA.

Paperwork Reduction Act

This rule requires compliance with the following existing OMB collections: 1117–0023 and 1117–0029. 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.

List of Subjects in 21 CFR Part 1310

Administrative practice and procedure, Drug traffic control, Exports,

[18] 5 U.S.C. 601–612.

Imports, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, DEA amends 21 CFR part 1310 as follows:

PART 1310—RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES; IMPORTATION AND EXPORTATION OF CERTAIN MACHINES

■ 1. The authority citation for 21 CFR part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

■ 2. In § 1310.02 add paragraph (a)(42) to read as follows:

§ 1310.02 Substances covered.

* * * * *

(a) * * *

* * * * * * *	
(42) P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible, including the following:	8526
(i) Methyl ester of P2P methyl glycidic acid (methyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P methyl glycidicate; BMK methyl glycidicate).	
(ii) Ethyl ester of P2P methyl glycidic acid (ethyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P ethyl glycidicate; BMK ethyl glycidicate).	
(iii) Propyl ester of P2P methyl glycidic acid (propyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P propyl glycidicate; BMK propyl glycidicate).	
(iv) Isopropyl ester of P2P methyl glycidic acid (isopropyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P isopropyl glycidicate; BMK isopropyl glycidicate).	
(v) Butyl ester of P2P methyl glycidic acid (butyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P butyl glycidicate; BMK butyl glycidicate).	
(vi) Isobutyl ester of P2P methyl glycidic acid (isobutyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P isobutyl glycidicate; BMK isobutyl glycidicate).	
(vii) sec-Butyl ester of P2P methyl glycidic acid (sec-butyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P sec-butyl glycidicate; BMK sec-butyl glycidicate.	
(viii) tert-Butyl ester of P2P methyl glycidic acid (tert-butyl 2-methyl-3-phenyloxirane-2-carboxylate; P2P tert-butyl glycidicate; BMK tert-butyl glycidicate.	

* * * * *

■ 3. In § 1310.04:

■ a. Redesignate paragraphs (g)(1)(xvi) through (xxi) as paragraphs (g)(1)(xvii) through (xxii), respectively; and

■ b. Add new paragraph (g)(1)(xvi).

The addition reads as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *

(1) * * *

(xvi) P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible

* * * * *

■ 4. Amend § 1310.09 by adding new paragraph (u) to read as follows:

§ 1310.09 Temporary exemption from registration.

* * * * *

(u)(1) Each person required under 21 U.S.C. 822 and 957 to obtain a registration to manufacture, distribute, import, or export P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; also known as BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible, including regulated chemical mixtures pursuant to § 1310.12, is temporarily exempted from the registration requirement, provided that DEA receives a properly completed application for registration or application for exemption for a chemical mixture containing P2P methyl glycidic acid pursuant to § 1310.13 on or before 30 days after the publication of a rule finalizing this action. The exemption would remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in the Act and parts 1309, 1310, 1313, and 1316 of this chapter remain in full force and effect.

(2) Any person who manufactures, distributes, imports, or exports a chemical mixture containing P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible, whose application for exemption is subsequently denied by DEA must obtain a registration with DEA. A temporary exemption from the registration requirement would also be provided for those persons whose application for exemption is denied, provided that DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has been denied. The temporary exemption for such persons would remain in effect until DEA takes final action on their registration application.

* * * * *

■ 5. In § 1310.12, the Table of Concentration Limits in paragraph (c) is amended by adding an entry for ''P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible'' in alphabetical order to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

	DEA chemical code No.	Concentration	Special conditions
* * * *	*	*	* *
P2P methyl glycidic acid (2-methyl-3-phenyloxirane-2-carboxylic acid; BMK glycidic acid) and its esters, its optical and geometric isomers, its salts, salts of its optical and geometric isomers and its esters, and any combination thereof, whenever the existence of such is possible.	8526	Not exempt at any concentration.	Chemical mixtures containing any amount of P2P methyl glycidic acid are not exempt.
* * * *	*	*	* *

* * * * *

Signing Authority

This document of the Drug Enforcement Administration was signed on March 28, 2026, by Assistant Administrator Cheri Oz. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–06523 Filed 4–2–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice: 12947]

RIN 1400–AG19

Implementing First Responders Passport Act To Exempt Certain First Responders From Passport Fees

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (''Department'') proposes an adjustment to the Schedule of Fees for Consular Services of the Department of State's Bureau of Consular Affairs (''Schedule of Fees'' or ''Schedule''), to implement the First Responders Passport Act by adding an additional exemption from the payment of passport fees. This exemption authorizes the Special Issuance Agency (SIA) to issue no-fee regular passports to applicants who meet the criteria listed in the statute.

DATES: This rule is effective on April 3, 2026.

FOR FURTHER INFORMATION CONTACT: Steve Jacob, Resource Management Unit, Bureau of Consular Affairs, Department of State; phone: 771–204–4677; email: *Fees@state.gov.*

SUPPLEMENTARY INFORMATION: The First Responders Passport Act was enacted as part of the 2024 National Defense Authorization Act, 118 P.L. 31. The Act amended 22 U.S.C. 214(a) to exempt from passport fees an individual who, at the discretion of the Secretary, is:

i. operating under a contract, grant, or cooperative agreement with the United States Government to participate in search, rescue, and other related disaster relief operations within a foreign country following a natural disaster; or

ii. required pursuant to such contract, grant, or cooperative agreement to be available to travel abroad to assist in search, rescue, or other related disaster relief efforts immediately upon notice from the United States Government.

22 U.S.C. 214(a)(2)(E). This exemption category is hereby added to the Schedule of Fees for Consular Services (22 CFR 22.1) to implement the First Responders Passport Act. The Special Issuance Agency (SIA) processes passports for most applicants who are exempt from payment of passport fees under 22 U.S.C. 214. Applications submitted for this category will be invoiced to the sponsoring federal agency under the Department's Working Capital Fund. Funds appropriated to the Department of State will be used to cover the cost of these passports. Currently, this rule applies to two Urban Search and Rescue Teams, each of which has approximately 200 total members.

Regulatory Analyses

Administrative Procedure Act

This rule implements a statutorily created exemption from the payment of passport fees. As a result, this rule is exempt from notice and comment under the ''good cause'' exemption of the Administrative Procedure Act. 5 U.S.C. 553(b). The Department finds that delaying the effective date of this rule to solicit comments is unnecessary and would undermine the statutory objectives of the First Responders Passport Act. Therefore, the provisions of 5 U.S.C. 553(d) are not applicable, and this rule is effective upon publication.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates 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 in any 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.

Congressional Review Act

This rule is not a major rule as defined by 5 U.S.C. 804.

Executive Order 12866, 14192, and 13563

The Office of Information and Regulatory Affairs has designated this rulemaking as not significant under Executive Order 12866, section 3(f), *Regulatory Planning and Review.* The Department has reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866.

The Department of State has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein. Since this rule is not

significant, it is not subject to the provisions of Executive Order 14192.

Executive Orders 12372 and 13132

This regulation 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, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 12988

The Department of State has reviewed the rule considering sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Order 13175

The Department of State has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 22

Administrative practice and procedure, Fees, Foreign Service, Immigration, Passports, Visas.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1183a note, 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 11 U.S.C. 1157 note; 22 U.S.C. 214, 214 note, 1475e, 2504(a), 2651a, 4201,4206, 4215, 4219, 6551; 31 U.S.C. 9701; Exec. Order 10,718, 22 FR 4632 (1957); Exec. Order 11,295, 31 FR 10603 (1966).

■ 2. In § 22.1, amend the table by revising entry 4 under the heading ''Passport and Citizenship Services'' to read as follows:

§ 22.1 Schedule of fees.

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
Passport and Citizenship Services	
* * * * * * *	
4. *Exemptions:* The following applicants are exempted from all passport fees listed in Item 2 above:	
(a) Officers or employees of the United States and their immediate family members (22 U.S.C. 214) and Peace Corps Volunteers and Leaders (22 U.S.C. 2504(h)) proceeding abroad or returning to the United States in the discharge of their official duties.	NO FEE.
(b) U.S. citizen seamen who require a passport in connection with their duties aboard an American flag vessel (22 U.S.C. 214(a)).	NO FEE.
(c) Widows, children, parents, grandparents, or siblings of deceased members of the Armed Forces proceeding abroad to visit the graves of such members (22 U.S.C. 214(a)).	NO FEE.
(d) An individual or individuals abroad, returning to the United States, when the Secretary determines that foregoing the collection of such fee is justified for humanitarian reasons or for law enforcement purposes (22 U.S.C. 214 (d)) and employees of the American National Red Cross proceeding abroad as members of the Armed Forces of the United States (10 U.S.C. 2602(c)).	NO FEE.
(e) At the discretion of the Secretary, an individual who:.	
(i) Is operating under a contract, grant, or cooperative agreement with the United States Government to participate in search, rescue, and other related disaster relief operations within a foreign country following a natural disaster; or	
(ii) Is required pursuant to such contract, grant, or cooperative agreement to be available to travel abroad to assist in search, rescue, or other related disaster relief efforts immediately upon notice from the United States Government. (22 U.S.C 214(e)).	NO FEE.
* * * * * * *	

Morvared Namdarkhan,

Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 2026–06564 Filed 4–2–26; 8:45 am]

BILLING CODE 4710–06–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans to prescribe the spreads component of the interest assumption under the asset allocation regulation for plans with valuation dates of April 30, 2026–July 30, 2026. These interest assumptions are used for valuing benefits under terminating single-employer plans and for other purposes.

DATES: Effective April 30, 2026.

FOR FURTHER INFORMATION CONTACT: Jose Singer-Freeman (*singer-freeman.jose@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, 202–229–5432. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions—including an interest assumption—for valuing benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The interest assumption is also posted on PBGC's website (*www.pbgc.gov*).

PBGC uses the interest assumption in § 4044.54 to determine the present value of annuities in an involuntary or distress termination of a single-employer plan under the asset allocation regulation. The assumptions in part 4044 of PBGC's regulations are also used in other situations where it is appropriate for liabilities to align with private sector group annuity prices. For example, PBGC's regulations on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) and Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) provide that these assumptions are used to value liabilities for purposes of determining withdrawn employers' reallocation liability in the event of a mass withdrawal from a multiemployer plan. Multiemployer plans that receive special financial assistance under the regulation on Special Financial Assistance by PBGC (29 CFR part 4262) must, as a condition of receiving special financial assistance, use the interest assumption to determine withdrawal liability for a prescribed period. Additionally, plan sponsors are required to use some, or all of these assumptions for specified purposes (*e.g.,* reporting benefit liabilities in filings required under PBGC's regulation on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) or determining certain amounts to transfer to PBGC's Missing Participants Program on behalf of a missing participant of a terminating defined benefit plan under PBGC's regulation on Missing Participants (29 CFR part 4050)) and may use them for other purposes (*e.g.,* to ensure that plan spinoffs comply with section 414(l) of the Internal Revenue Code).

Part 4044 of PBGC's regulations provides that the interest assumption for part 4044 purposes is a yield curve (*i.e.,* the ''4044 yield curve'') that is based on a blend of two publicly available bond yield curves that is adjusted to the extent necessary so that the resulting liabilities align with group annuity prices. The adjustments are referred to as ''spreads.'' PBGC determines and publishes spreads quarterly based on survey data on pricing of private-sector group annuities. PBGC posts the 4044 yield curve on its website at *www.pbgc.gov* each month shortly after its underlying data becomes available. In addition, practitioners are able to determine the 4044 yield curve as of the end of any month using the publicly available bond yield curves and the spreads specified in the regulation.

This rule amends the regulation to specify the spreads used to determine the 4044 yield curve as of the last days of April, May, and June of 2026 (*i.e.,* the ''second quarter 2026 spreads''). Due to space constraints, table 1 to paragraph (e) shows spreads only for the most recent four quarters. Historical spreads are available on *www.pbgc.gov,* along with more recent spreads.

Need for Immediate Guidance

PBGC has determined that notice of, and public comment on, this rule are impracticable, unnecessary, and contrary to the public interest. PBGC routinely updates the spreads component of the interest assumption in the asset allocation regulation so that the 4044 yield curve may be determined as soon as the underlying bond yield curves become available. These amendments are merely technical; they ensure that use of PBGC's interest assumption continues to yield liabilities in line with group annuity prices. Accordingly, PBGC finds that the public interest is best served by issuing this rule expeditiously, without an opportunity for notice and comment, and that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

For the reasons stated in the preamble, PBGC amends 29 CFR part 4044 as follows.

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. In § 4044.54, revise table 1 to paragraph (e) to read as follows:

§ 4044.54 Interest assumptions.

* * * * *

(e) * * *

(3) * * *

TABLE 1 TO PARAGRAPH (e)—SPREADS

Maturity point	Third quarter 2025 spreads (percent)	Fourth quarter 2025 spreads (percent)	First quarter 2026 spreads (percent)	Second quarter 2026 spreads (percent)
0.5	0.40	0.49	0.56	0.63
1.0	0.40	0.49	0.56	0.63
1.5	0.40	0.49	0.56	0.62
2.0	0.40	0.49	0.56	0.62
2.5	0.40	0.49	0.55	0.62
3.0	0.40	0.49	0.55	0.62
3.5	0.39	0.48	0.54	0.60
4.0	0.39	0.48	0.54	0.60
4.5	0.39	0.47	0.53	0.59
5.0	0.39	0.47	0.53	0.59
5.5	0.38	0.46	0.52	0.57
6.0	0.38	0.46	0.52	0.57

TABLE 1 TO PARAGRAPH (e)—SPREADS—Continued

Maturity point	Third quarter 2025 spreads (percent)	Fourth quarter 2025 spreads (percent)	First quarter 2026 spreads (percent)	Second quarter 2026 spreads (percent)
6.5	0.37	0.44	0.50	0.54
7.0	0.37	0.44	0.50	0.54
7.5	0.36	0.43	0.48	0.52
8.0	0.36	0.43	0.48	0.52
8.5	0.34	0.41	0.45	0.49
9.0	0.34	0.41	0.45	0.49
9.5	0.33	0.39	0.43	0.46
10.0	0.33	0.39	0.43	0.46
10.5	0.32	0.37	0.40	0.43
11.0	0.32	0.37	0.40	0.43
11.5	0.30	0.34	0.37	0.39
12.0	0.30	0.34	0.37	0.39
12.5	0.28	0.32	0.34	0.36
13.0	0.28	0.32	0.34	0.36
13.5	0.27	0.30	0.31	0.32
14.0	0.27	0.30	0.31	0.32
14.5	0.25	0.27	0.28	0.28
15.0	0.25	0.27	0.28	0.28
15.5	0.24	0.25	0.25	0.24
16.0	0.24	0.25	0.25	0.24
16.5	0.22	0.23	0.22	0.21
17.0	0.22	0.23	0.22	0.21
17.5	0.20	0.20	0.19	0.17
18.0	0.20	0.20	0.19	0.17
18.5	0.19	0.18	0.16	0.13
19.0	0.19	0.18	0.16	0.13
19.5	0.17	0.16	0.13	0.10
20.0	0.17	0.16	0.13	0.10
20.5	0.16	0.14	0.11	0.07
21.0	0.16	0.14	0.11	0.07
21.5	0.14	0.12	0.08	0.04
22.0	0.14	0.12	0.08	0.04
22.5	0.13	0.10	0.06	0.01
23.0	0.13	0.10	0.06	0.01
23.5	0.12	0.08	0.04	−0.02
24.0	0.12	0.08	0.04	−0.02
24.5	0.11	0.07	0.02	−0.04
25.0	0.11	0.07	0.02	−0.04
25.5	0.10	0.06	0.00	−0.06
26.0	0.10	0.06	0.00	−0.06
26.5	0.09	0.05	−0.01	−0.08
27.0	0.09	0.05	−0.01	−0.08
27.5	0.09	0.04	−0.02	−0.09
28.0	0.09	0.04	−0.02	−0.09
28.5	0.09	0.03	−0.03	−0.10
29.0	0.09	0.03	−0.03	−0.10
29.5	0.09	0.03	−0.03	−0.10
30.0	0.09	0.03	−0.03	−0.10

* * * * *

Joseph Krettek,

Assistant General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2026–06556 Filed 4–2–26; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0066; RTID 0648–XF648]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pollock in the Bering Sea and Aleutian Islands

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of the Aleut Corporation and the Community Development Quota (CDQ) pollock directed fishing allowances (DFA) from the Aleutian Islands subarea to the Bering Sea subarea. This action is necessary to provide the opportunity for the harvest of the 2026 total allowable catch (TAC) of pollock, consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the

Bering Sea and Aleutian Islands Management Area (BSAI).

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 3, 2026, through 2400 hours, A.l.t., December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the BSAI Management Area (FMP) prepared and recommended by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In the Aleutian Islands subarea, the portion of the 2026 pollock TAC allocated to the Aleut Corporation and CDQ DFA is 12,600 metric tons (mt) and 1,900 mt, respectively, as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026).

As of March 14, 2026, the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that 6,300 mt of the Aleut Corporation's DFA and 1,900 mt of pollock CDQ DFA in the Aleutian Islands subarea will likely not be harvested and that there is harvesting capacity by Bering Sea sectors. The Regional Administrator made this determination based on harvest to date that indicates vessels participating in the Aleutian Islands directed pollock fishery and Aleutian Islands CDQ directed pollock fishery likely will not harvest the entire DFAs, the future harvest needs in the Aleutian Islands subarea reported by the Aleut Corporation and CDQ Program groups, and the current harvesting capacity of sectors in the Bering Sea subarea. Therefore, in accordance with § 679.20(a)(5)(iii)(B)(*4*), NMFS reallocates 6,300 mt of the Aleut Corporation's DFA and 1,900 mt of pollock CDQ DFA from the Aleutian Islands subarea to the Bering Sea subarea allocations. The 1,900 mt of pollock CDQ DFA is added to the 2026 Bering Sea pollock CDQ DFA. The 6,300 mt of pollock reallocated from the Aleut Corporation's DFA is apportioned to the American Fisheries Act (AFA) inshore sector (50 percent), AFA catcher/processor (C/P) sector (40 percent), and the AFA mothership sector (10 percent). The 2026 Bering Sea subarea pollock incidental catch allowance remains at 46,000 mt. As a result, the 2026 harvest specifications for pollock in the Aleutian Islands subarea included in the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026) is revised as follows: 0 mt to CDQ DFA and 6,300 mt to the Aleut Corporation's DFA. Furthermore, pursuant to § 679.20(a)(5), table 4 is revised to make 2026 pollock allocations consistent with this reallocation. This reallocation results in an adjustment to the 2026 CDQ pollock DFAs, Aleutian Islands Aleut Corporation DFA, and Bering Sea AFA sector allocations as established at § 679.20(a)(5).

TABLE 4—FINAL 2026 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES DFA [1]

[Amounts are in metric tons]

Area and sector	2026 Allocations	2026 A season [1]		2026 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,383,200	n/a	n/a	n/a
CDQ DFA	139,400	62,730	39,032	76,670
ICA [1]	46,000	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,197,800	539,010	335,384	658,790
AFA Inshore	598,900	269,505	167,692	329,395
AFA CPs	479,120	215,604	134,154	263,516
Catch by CPs	438,395	197,278	n/a	241,117
Catch by CVs [3]	40,725	18,326	n/a	22,399
Unlisted CP Limit [4]	2,396	1,078	n/a	1,318
AFA Motherships	119,780	53,901	33,538	65,879
Excessive Harvesting Limit [5]	209,615	n/a	n/a	n/a
Excessive Processing Limit [6]	359,340	n/a	n/a	n/a
Aleutian Islands subarea ABC	46,437	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	10,800	n/a	n/a	n/a
CDQ DFA	.....	.....	n/a	.....
ICA	4,500	2,250	n/a	2,250
Aleut Corporation [7]	6,300	6,300	n/a	.....
Area harvest limit [8]	n/a	n/a	n/a	n/a
541	13,931	n/a	n/a	n/a
542	6,966	n/a	n/a	n/a
543	2,322	n/a	n/a	n/a
Bogoslof District ICA [9]	250	n/a	n/a	n/a

Note: Season or sector apportionments may not total precisely due to rounding. The 2026 harvest specifications for pollock are effective from 1200 hours, A.l.t., March 18, 2026, through 2400 hours, A.l.t., December 31, 2026.

[1] Pursuant to § 679.20(a)(5)(i)(A), the annual BS subarea pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (46,000 mt), is allocated as a DFA as follows: inshore sector-50 percent, C/P sector-40 percent, and mothership sector-10 percent. In the BS subarea, 45 percent of the DFA and CDQ DFA are allocated to the A season (January 20–June 10) and 55 percent of the DFA and CDQ DFA are allocated to the B season (June 10–November 1). When the AI subarea pollock ABC equals or exceeds 19,000 mt, the annual TAC for the AI subarea is equal to 19,000 mt (§ 679.20(a)(5)(iii)(B)(*1*)). Pursuant to § 679.20(a)(5)(iii)(B)(*2*), the annual AI subarea pollock TAC, after subtracting first for the CDQ DFA (10 percent) and second for the ICA (4,500 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated up to 40 percent of the AI subarea pollock ABC.

[2] In the BS subarea, pursuant to § 679.20(a)(5)(i)(C), no more than 28 percent of each sector's annual DFA may be taken from the SCA before noon, April 1. The SCA is defined at § 679.22(a)(7)(vii).

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), 8.5 percent of the DFA allocated to listed C/Ps shall be available for harvest only by eligible catcher vessels with a C/P endorsement delivering to listed C/Ps, unless there is a cooperative contract for the year.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted C/Ps are limited to harvesting not more than 0.5 percent of the C/P sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.4(m), prior to harvesting or processing pollock in the AI directed pollock fishery, a participant must be selected by the Aleut Corporation and approved by the Regional Administrator. Annual allocation for vessels 60 feet (18.3 m) LOA or less participating in the AI directed pollock fishery is 50 percent of the AI directed pollock fishery allocation (§ 679.20(a)(5)(iii)(B)(*5*)).

[8] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the AI subarea pollock ABC.

[9] Pursuant to § 679.22(a)(7)(B), the Bogoslof District is closed to directed fishing for pollock. The amounts specified are therefore for incidental catch only and are not apportioned by season or sector (§ 679.20(a)(5)(ii)).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data on pollock catch in a timely fashion, and would delay the reallocation of unharvested Aleutian Islands pollock to the Bering Sea, where sectors have the current capacity to harvest this reallocated pollock. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on pollock catch only became available as of March 14, 2026.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: April 1, 2026.

David R. Blankinship,

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

[FR Doc. 2026–06566 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 260305–0067; RTID 0648–XF463]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2026 total allowable catch (TAC) of pollock for Statistical Area 620 in the GOA.

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

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared and recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2026 TAC of pollock in Statistical Area 620 of the GOA is 46,510 metric tons (mt) as established by the final 2026 and 2027 harvest specifications for groundfish in the GOA (91 FR 11902, March 11, 2026).

In accordance with §§ 679.20(d)(1)(i) and 679.20(d)(1)(ii)(B), the Regional Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2026 A season allowance of pollock TAC in Statistical Area 620 of the GOA will be or has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 46,310 mt and is setting aside the remaining 200 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be or has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA to prevent exceeding the A season allowance of pollock TAC in Statistical Area 620 of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data on pollock catch in a timely fashion and would delay the closure of directed fishing for pollock in the A season in Statistical Area 620 in the GOA, which could result in an exceedance of the A season allowance of the pollock TAC in Statistical Area 620. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on pollock catch only became available as of March 31, 2026.

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

publication. This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: April 1, 2026.

David R. Blankinship,

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

[FR Doc. 2026–06514 Filed 4–1–26; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 64

Friday, April 3, 2026

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

DEPARTMENT OF THE TREASURY

12 CFR Chapter XV

[TREAS–DO–XX]

RIN 1505–AC90

GENIUS Act Broad-Based Principles for Determining Whether a State-Level Regulatory Regime Is Substantially Similar to the Federal Regulatory Framework

AGENCY: Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury (Treasury) proposes to implement section 4(c) of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act by establishing broad-based principles for determining when a State-level regulatory regime is substantially similar to the Federal regulatory framework.

DATES: Comments on the notice of proposed rulemaking (NPRM) must be received on or before June 2, 2026.

ADDRESSES: Written comments may be submitted through one of two methods:

- *Electronic Submission:* Comments may be submitted electronically through the Federal Government eRulemaking portal at *https://www.regulations.gov*.
- *Mail:* Send to U.S. Department of the Treasury, Attention: Office of the General Counsel, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Given potential delays in the receipt of comments by mail, we strongly encourage comments to be submitted via *https://www.regulations.gov*. All comments should be captioned with ''GENIUS Act State Similarity.'' Please include your name, organizational affiliation, address, email address, and telephone number in your comment. In general, all comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Daniel Borman, Brendan Costello, and Carol Rodrigues, Attorney-Advisors, Office of the General Counsel, Treasury, at *OGC_GeniusAct@Treasury.gov* or 202–622–0480.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The GENIUS Act, enacted on July 18, 2025, provides a comprehensive framework for the regulation of payment stablecoins.[1] As defined in the GENIUS Act, a payment stablecoin is a digital asset[2] (i) that is, or is designed to be, used as a means of payment or settlement and (ii) the issuer of which is obligated to convert, redeem, or repurchase for a fixed amount of monetary value and represents or creates the reasonable expectation that it will maintain a stable value relative to a fixed amount of monetary value.[3]

Under the GENIUS Act, only permitted payment stablecoin issuers may issue a payment stablecoin in the United States, subject to certain exceptions and safe harbors.[4] The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC) (collectively, the primary Federal payment stablecoin regulators) are generally tasked with establishing a process and framework for the licensing, regulation, examination, and supervision of permitted payment stablecoin issuers.[5]

However, State qualified payment stablecoin issuers (with a consolidated total outstanding issuance of payment stablecoins of no more than $10 billion) generally may opt for State regulation so long as the State-level regulatory regime is substantially similar to the Federal regulatory framework and the Stablecoin Certification Review Committee[6] has approved the State-level regulatory regime upon determining that it meets or exceeds the standards and requirements described in section 4(a) of the GENIUS Act (12 U.S.C. 5903(a)).[7] To effectuate this process, the GENIUS Act tasks Treasury with establishing broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework under the GENIUS Act.[8]

On September 19, 2025, Treasury published in the **Federal Register** an advance notice of proposed rulemaking (ANPRM) to solicit public comment on questions relating to the implementation of the GENIUS Act.[9] In drafting this NPRM, Treasury considered comments received on the ANPRM that were material and relevant to the subjects contained herein.

II. Description of the Proposed Broad-Based Principles

A. Overview of the Rule

Proposed part 1520 sets forth the authority, purpose, and scope of Subchapter C, while proposed part 1521 sets forth the broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework.

Proposed § 1521.1 defines key terms for use in the part and provides that terms are otherwise used consistently with the definitions in the GENIUS Act. In particular, the proposed rule defines the term ''Federal regulatory framework'' to include both the relevant provisions of the Act as well as a limited scope of interpretations and

[1] Public Law 119–27. 12 U.S.C. 5901 *et seq*.

[2] The term ''digital asset'' means any digital representation of value that is recorded on a cryptographically secured distributed ledger. *Id*. at section 2(6) (12 U.S.C. 5901(6)).

[3] *See* section 2(22) of the GENIUS Act (12 U.S.C. 5901(22)) for the full definition of a payment stablecoin. National currencies, deposits as defined in 12 U.S.C. 1813 (including deposits recorded using distributed ledger technology), and securities are not payment stablecoins.

[4] Section 3(a) of the Act (12 U.S.C. 5902(a)).

[5] *See, e.g., id*. at section 4(b); 4(h)(1); 5(a)(1)(B); 5(a)(2); 5(g). (12 U.S.C. 5903(b), (h)(1);12 U.S.C. 5904(a)(1)(B), (a)(2), (g)).

[6] Under the GENIUS Act, the Secretary of the Treasury chairs the Stablecoin Certification Review Committee, an interagency committee that also includes the Chair of the FRB (or the Vice Chair for Supervision, if delegated by the FRB Chair) and the Chair of the FDIC. *See id*. at section 2(27) (12 U.S.C. 5901(27).

[7] *See id*. at section 4(c) (12 U.S.C. 5903(c)).

[8] *Id*. at section 4(c)(2) (12 U.S.C. 5903(c)(2)). The GENIUS Act also vests Treasury with general authority to issue regulations to carry out the GENIUS Act. *Id*. at section 13 (12 U.S.C. 5913).

[9] 90 FR 45159 (September 19, 2025). Comments on the ANPRM were originally due on October 20, 2025, but Treasury later extended the comment period by 15 days to November 4, 2025. 90 FR 47251 (October 1, 2025).

regulations issued by Federal agencies to implement the Act. As described further below, the proposed rule recognizes that the Act provides States with broad discretion to design many aspects of their own unique regulatory regimes and accordingly provides wide latitude for States to deviate from certain Federal regulations while remaining ''substantially similar'' to the Federal regulatory framework. Similarly, the term ''State-level regulatory regime'' is defined broadly to provide States with discretion to design their regimes using a mix of legislation, regulation, and enforceable guidance as they deem appropriate.

Proposed § 1521.2 sets out the overall broad-based principles explaining how the statutory provisions of the Act apply to State qualified payment stablecoin issuers and how State-level regulatory regimes may be considered substantially similar to the Federal regulatory framework. The proposed principles reflect that the Act requires the Stablecoin Certification Review Committee to determine that States ''meet or exceed'' the core prudential standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), while providing more flexibility for States to design their own regimes for other topics covered by the Act, such as applications, licensing, supervision, and enforcement.

Within section 4(a) (12 U.S.C. 5903(a)), the Act provides that States retain relatively more discretion in certain areas, such as capital standards (which we refer to as ''State-calibrated requirements''), while setting uniform standards that should be consistent across Federal and State regimes in other areas, such as reserve requirements and anti-money laundering and sanctions program requirements (which we refer to as ''uniform requirements''). Proposed §§ 1521.3 and 1521.4 provide additional broad-based principles for the uniform requirements and State-calibrated requirements, respectively.

With respect to provisions of the Act other than section 4(a) (12 U.S.C. 5903(a)), proposed § 1521.5 identifies broad-based principles for several sections of the Act that are relevant to State-level regulatory regimes: sections 4(d) (on transition to Federal oversight), 5 (on applications and licensing), 6 (on supervision and enforcement), 10 (on custody), and 11 (on insolvency) (12 U.S.C. 5903(d), 5904, 5905, 5909–5911). Proposed § 1521.6 recognizes that States may impose requirements beyond what is included in the Federal regulatory framework and provides that such additional requirements are permissible so long as they do not conflict with the Act, part 1521, or other Federal law, and they do not modify the State-level regulatory regime such that it can no longer be reasonably viewed as substantially similar to the Federal regulatory framework. Finally, proposed § 1521.7 includes a severability provision.

B. Proposed Part 1520

1. Authority, Purpose, and Scope (Proposed § 1520.1)

Proposed § 1520.1 sets forth the authority, purpose, and scope of proposed Subchapter C.

Paragraph (a) describes the authority for Subchapter C, which derives from the Act, including sections 4(c) and 13 (12 U.S.C. 5903(c), 5913). Paragraph (b) states the purpose and scope of Subchapter C, stating that the Act tasks Treasury with issuing regulations concerning payment stablecoins and that Subchapter C contains Treasury's rules implementing certain sections of the Act.

C. Scope, Applicability, and Definitions (Proposed § 1521.1)

Proposed § 1521.1 sets forth the scope and applicability of part 1521. Paragraph (a) provides that part 1521 is issued by Treasury to implement section 4(c) of the GENIUS Act (12 U.S.C. 5903(c)), establishing broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework.

Proposed § 1521.1(b) provides that unless otherwise defined in part 1521, the terms used in this part have the same meaning as in section 2 of the Act (12 U.S.C. 5901). Paragraph (c) defines the following terms for purposes of part 1521.

Act or GENIUS Act. Treasury is proposing to define ''Act'' or ''GENIUS Act'' to mean the Guiding and Establishing National Innovation for U.S. Stablecoins Act (12 U.S.C. 5901 *et seq.*).

Federal regulatory framework. The Act left the term ''Federal regulatory framework'' undefined. Some commenters to the ANPRM suggested that States should be measured only against the statutory requirements of the Act (*i.e.,* the Federal regulatory framework should be defined to only include the Act's provisions), rather than any implementation of the Act by the primary Federal payment stablecoin regulators. Others suggested that complete consistency between States and the Federal government, including with respect to Federal agencies' implementing regulations and guidance, was necessary to promote a unified and consistent regulatory framework for payment stablecoins.

Treasury believes that the best interpretation of the term ''Federal regulatory framework'' is that it encompasses not only the statutory text of the Act but also the core regulatory framework set up by Federal agencies to implement the statute. The plain text of the Act, by referring to the ''regulatory'' framework, supports this interpretation.[10] Further, for several of the most critical requirements at the heart of the payment stablecoin regulatory framework—such as capital, liquidity, and reserve asset diversification—the statute does not include a specific and detailed framework that States could be measured against.[11] If only the text of the Act itself were relevant, it would be unclear how to evaluate State-level regulatory regimes against the statutory text, potentially rendering the statutory substantial similarity test difficult to administer, and State and Federal standards might starkly deviate from one another, potentially undermining the safety and soundness, financial stability, and consumer protection purposes of the Act.

Other uses of the term ''Federal regulatory framework'' throughout the Act confirm this interpretation. For example, section 4(d)(1) of the Act (12 U.S.C. 5903(d)(1)), dealing with the transition of State chartered depository institutions to Federal oversight, provides that the institutions must ''transition to the Federal regulatory framework of the primary Federal payment stablecoin regulator'' of the institution. If the ''Federal regulatory framework'' were referring to only the statute (and not implementing regulations promulgated by the Federal regulators), it would make little sense for Congress to refer to the Federal regulatory framework ''of the primary Federal payment stablecoin regulator.''

[10] *See e.g., Regulatory,* Black's Law Dictionary (12th ed. 2024) (defining ''regulatory'' as ''[o]f, relating to, or involving one or more regulations'').

[11] *See, e.g.,* section 4(a)(4)(A)(i) (12 U.S.C. 5903(a)(4)(A)(i)) (providing only that capital requirements be tailored to business models and risk profiles and do not exceed requirements that are sufficient to ensure ongoing operations); section 4(a)(4)(A)(ii) (12 U.S.C. 5903(a)(4)(A)(ii)) (requiring only that liquidity standards be consistent with the list of reserve assets and the one-to-one backing requirement in section 4(a)(1)(A)); section 4(a)(4)(A)(iii) (12 U.S.C. 5903(a)(4)(A)(iii)) (providing only that reserve asset diversification, deposit concentration, and interest rate risk management requirements be tailored to business models and risk profiles of permitted payment stablecoin issuers and do not exceed requirements that are sufficient to ensure ongoing operations).

Based on this rationale, for purposes of evaluating a State-level regulatory regime under section 4(c) of the Act (12 U.S.C. 5903(c)), Treasury is proposing to define ''Federal regulatory framework'' to mean (i) the text of all relevant provisions of the Act, (ii) any interpretations thereof, or regulations thereunder issued by the OCC and published in the **Federal Register** (including those codified in title 12 of the Code of Federal Regulations); (iii) with respect to sections 4(a)(5) and 4(a)(6) of the Act (12 U.S.C. 5903(a)(5)–(6)), any regulations, interpretations, or orders issued by the Department of the Treasury (including those codified in titles 12 or 31 of the Code of Federal Regulations); and (iv) with respect to section 4(a)(8) of the Act (12 U.S.C. 5903(a)(8)), any interpretations, regulations, or orders issued by the FRB (including those codified in title 12 of the Code of Federal Regulations).

Treasury is proposing that, except for sections 4(a)(5), (a)(6), and (a)(8) of the Act (12 U.S.C. 5903(a)(5), (a)(6), and (a)(8)), for purposes of defining the Federal regulatory framework, the OCC's interpretations and regulations published in the **Federal Register** should be the baseline for comparison to a State-level regulatory regime.

Among Federal implementing agencies, there are a number of reasons for the term ''Federal regulatory framework'' to be based on the OCC. First, outside of section 4(c) (12 U.S.C. 5903(c)), the Act uses the term ''Federal regulatory framework'' without qualifiers only once—in section 4(d)(2) of the Act (12 U.S.C. 5903(d)(2)), where it refers to the transition of State qualified payment stablecoin issuers to oversight by the OCC.[12]

A broader examination of the statutory structure strongly supports the use of the OCC's interpretations and regulations for this purpose. Under the GENIUS Act, a State qualified payment stablecoin issuer is an entity legally established under the laws of a State that is not an uninsured national bank chartered by the OCC, a Federal branch, an insured depository institution, or a subsidiary of such national bank, Federal branch, or insured depository institution (section 2(31) (12 U.S.C. 5901(31))). For most States, this most clearly leaves nonbanks as eligible State qualified payment stablecoin issuers; however, in some States, State law may also permit certain uninsured depository institutions or other types of State-chartered entities to issue payment stablecoins. Nonbank entities that opt for a Federal charter are regulated by the OCC.[13] Additionally, absent a waiver, State qualified payment stablecoin issuers that are nonbank entities transition to regulation by the OCC, in coordination with the State payment stablecoin regulator, once the issuer has a payment stablecoin with a consolidated total outstanding issuance of more than $10 billion.[14] Similarly, any State banks that are licensed as State qualified payment stablecoin issuers must, per section 2(31)(B) of the Act (12 U.S.C. 5901(31)(B)), be uninsured State banks, and thus are closely analogous to uninsured national banks—which are also regulated at the Federal level by the OCC. Thus, Treasury is proposing to define the ''Federal regulatory framework'' for purposes of part 1521 to include any of the OCC's interpretations of the Act or regulations issued thereunder that are published in the **Federal Register**, including those codified in title 12 of the Code of Federal Regulations.

Treasury has considered whether the regulatory frameworks promulgated by the other primary Federal payment stablecoin regulators should also be included in the part 1521 definition of ''Federal regulatory framework'' in addition to or in lieu of the OCC's framework. The FRB, FDIC, and NCUA play a vital role in shaping the Federal framework by issuing interpretations and regulations as well as acting as primary Federal payment stablecoin regulators to supervise the entities under their respective jurisdictions. The definition of ''Federal regulatory framework'' for the limited purpose of part 1521 does not diminish the crucial role of these regulators in implementing the GENIUS Act. Rather, the definition is intended to ensure that State qualified payment stablecoin issuers can rely on a framework that largely accounts for their entity type and allows for, absent a waiver, a seamless transition to OCC supervision for most State qualified payment stablecoin issuers with an outstanding payment stablecoin issuance that exceeds $10 billion. By contrast, we expect the regulatory frameworks promulgated by the FRB, FDIC, and NCUA to be predominantly calibrated to issuers that are subsidiaries of insured member banks, insured nonmember banks, or insured credit unions, respectively, which are categorically ineligible to be State qualified payment stablecoin issuers under Section 2(31)(B) of the Act (12 U.S.C. 5901(31)(B)).

The proposed definition of ''Federal regulatory framework'' also includes any regulations, interpretations, or orders issued by Treasury (including those codified in chapters V or X in title 31 of the Code of Federal Regulations) with respect to sections 4(a)(5) and (a)(6) of the Act (12 U.S.C. 5903(a)(5), (a)(6)), which address Bank Secrecy Act (BSA) and sanctions compliance requirements, as well as the technological capabilities to comply with lawful orders. Similarly, the definition includes interpretations, regulations, or orders issued by the FRB related to the anti-tying provisions in section 4(a)(8) of the Act (12 U.S.C. 5903(a)(8)). Treasury and the FRB are included with respect to these provisions because these Federal agencies, rather than the OCC, will likely issue the primary Federal regulations concerning these sections.

Treasury recognizes that Federal agencies' issuance of interpretations and guidance can be voluminous and take various forms, some of which are more binding, authoritative, or readily available than others. Because the substantial similarity of a State-level regulatory regime is evaluated relative to the Federal regulatory framework, changes to the Federal regulatory framework by Federal agencies may affect how substantial similarity is assessed under Treasury's broad-based principles.[15] Treasury does not believe it would be efficient to require States continuously to search for informal regulatory actions such as FAQs, interpretive letters, and other guidance that are not published in the **Federal**

[12] This suggests that references to ''the Federal regulatory framework'' without the qualifying phrase ''of the primary Federal payment stablecoin regulator'' (as the term is used in section 4(d)(1)) is best read to mean the OCC's regulatory framework.

[13] *See* section 2(11)(A) of the Act (12 U.S.C. 5901(11)(A)) (defining ''Federal Qualified Payment Stablecoin Issuer'' to include ''a nonbank entity, other than a State qualified payment stablecoin issuer, approved by the Comptroller, pursuant to section 5, to issue payment stablecoins'').

[14] *Id.* at section 4(d)(2)(A) (12 U.S.C. 5903(d)(2)(A)).

[15] The OCC has proposed its GENIUS Act implementing regulations at 91 FR 10202 (March 2, 2026). Changes to the OCC's regulations between proposal and final adoption may affect the Federal regulatory framework against which State-level regulatory regimes are evaluated under part 1521. In that event, Treasury may adjust the final version of part 1521 to ensure that the substantial similarity principles appropriately reflect the Federal regulatory framework. Treasury also may change the substantial similarity principles, including by adjusting the degree to which State-level regulatory regimes must incorporate provisions of the Federal regulatory framework, based on Treasury's determination of, among other things, whether the OCC's final rules are practicable for State implementation. Treasury therefore encourages the public to carefully review and comment on the proposed implementing regulations making up the Federal regulatory framework, including those issued by the OCC or other primary Federal payment stablecoin regulators, with due consideration to potential implications for State-level regulatory regimes.

Register and incorporate them into their own State frameworks, nor would such granular mirroring appear to be consistent with the degree of flexibility the statute contemplates that States will have. Therefore, Treasury's proposed definition of ''Federal regulatory framework'' does not include any guidance or interpretation issued by a primary Federal payment stablecoin regulator that is not published in the **Federal Register**.[16]

State-Calibrated Requirement. Treasury proposes to define ''State-calibrated requirement'' to mean a requirement under section 4(a) of the Act (12 U.S.C. 5903(a)) that is applicable to a State qualified payment stablecoin issuer and for which the Act grants substantive discretion to a State payment stablecoin regulator to develop the State-level regulatory regime. These requirements are distinct from the uniform requirements, which are defined below. Appendix A to part 1521 lists the State-calibrated requirements.

State-level Regulatory Regime. With respect to a particular State, Treasury proposes to define ''State-level regulatory regime'' as: (i) all statutes enacted by the State regarding payment stablecoins; (ii) any regulations regarding payment stablecoins or that apply to a State qualified payment stablecoin issuer issued by a State payment stablecoin regulator of the State or another regulator of the State; and (iii) any interpretations thereof or guidance thereunder, only to the extent they are enforceable against State qualified payment stablecoin issuers. Treasury proposes to include relevant State regulations in the definition of ''State-level regulatory regime'' because this interpretation is supported by the text and purpose of the Act, as described above.[17] Additionally, Treasury is proposing to include related interpretations or guidance that are enforceable against a State qualified payment stablecoin issuer, to provide States with additional flexibility on how to best design and codify their State-level regulatory regime, as discussed below.

Uniform Requirement. Treasury is proposing to define ''uniform requirement'' as a requirement in section 4(a) of the Act (12 U.S.C. 5903(a)) that is applicable to a State qualified payment stablecoin issuer and for which the Act does not grant substantive discretion to a State payment stablecoin regulator. These requirements are distinct from the State-calibrated requirements, which are discussed above. Appendix A to part 1521 lists the uniform requirements.

Question 1: Are there any additional statutory terms that should be defined in part 1521?

Question 2: Is the proposed definition of Federal regulatory framework appropriately scoped? Should the definition differ for purposes of section 4(a) (12 U.S.C. 5903(a)) and other sections of the Act? Should the definition be limited to the Act's statutory text? Should the definition be based on the regulations and interpretations of more primary Federal payment stablecoin regulators rather than primarily the OCC's (and in limited circumstances, Treasury's and the FRB's)? If so, should States be permitted to choose among the primary Federal payment stablecoin regulators' frameworks for substantial similarity purposes? How would such an approach best achieve the purposes of the Act? Are there discrete sections or subsections of the Act for which another Federal agency's regulations and interpretations should control? Should the definition of ''Federal regulatory framework'' be expanded to include guidance and other subregulatory documents that are not published in the ***Federal Register?*** *Should the determination of what is included in the Federal regulatory framework instead be based on whether a document represents final agency action? Is it sufficiently clear what an ''interpretation'' is under the definition of ''Federal regulatory framework''?*

Question 3: With respect to sections 4(a)(5) and 4(a)(6) of the Act (12 U.S.C. 5903(a)(5) and (a)(6)), which interpretations, regulations, and orders should be included in the Federal regulatory framework? Are there other guidance documents or interpretations that should be included?

Question 4: Is it appropriate to distinguish between uniform requirements and State-calibrated requirements of section 4(a) (12 U.S.C. 5903(a)) as proposed? Are there other ways in which the provisions of section 4(a) (12 U.S.C. 5903(a)) should be classified? Should each provision instead be addressed separately in part 1521? How would an alternative approach best achieve the purposes of the Act? Are the provisions of section 4(a) of the Act (12 U.S.C. 5903(a)) correctly classified in Appendix A as uniform requirements or State-calibrated requirements? If not, which requirements should be re-classified?

Question 5: Is the proposed definition of ''State-level regulatory regime'' appropriately scoped? Should the definition differ for purposes of section 4(a) (12 U.S.C. 5903(a)) and other sections of the Act? Should the definition be limited to the State's statutory text? Should the definition be expanded to include guidance and other such documents that are not published and enforceable, or alternatively should it be narrowed to exclude subregulatory documents? Should part 1521 require that certain aspects of the State-level regulatory regime be codified in statute or regulations, or omit such a requirement to preserve maximum flexibility for the State to structure its regulatory regime?

Question 6: Should the definition of State-level regulatory regime include any statutes, regulations, interpretations, or guidance related to foreign payment stablecoin issuers? If a State statute or regulation includes a prohibition on foreign payment stablecoin issuers from issuing payment stablecoins in the State (or to persons in the State) absent a State license, whether or not such foreign payment stablecoin issuer is registered with the Comptroller, should such a prohibition be considered part of the State-level regulatory regime?

D. Overall Broad-Based Principles (Proposed § 1521.2)

Proposed § 1521.2 sets forth the overall broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework under the Act. These principles provide context for the additional broad-based principles discussed in proposed §§ 1521.3 through 1521.6.

Question 7: What broad-based principles should be considered in determining whether a State-level

[16] By contrast, the proposed definition of ''Federal regulatory framework'' does not limit Treasury or FRB regulations, interpretations, or orders implementing sections 4(a)(5),(a)(6), and (a)(8) of the Act (12 U.S.C. 5903(a)(5), (a)(6), and (a)(8)) to those published in the **Federal Register**. As a longstanding matter of practice, many key documents governing the BSA/anti-money laundering and sanctions frameworks are issued outside of the **Federal Register**. Treasury believes that excluding such documents would effectively nullify BSA/anti-money laundering and sanctions compliance and therefore be in tension with the goal of the Act to subject State qualified payment stablecoin issuers to these critical Federal frameworks. Similarly, the Act expressly contemplates that the FRB may implement the anti-tying provisions via orders in addition to regulations, section (a)(8)(B) of the Act (12 U.S.C. 5903(a)(8)(B), and those orders may not, by practice, be published in the **Federal Register**. As described below, Treasury generally does not expect States to reproduce such BSA/anti-money laundering, sanctions, or anti-tying frameworks in their State-level regulatory regimes, and therefore the burden of expanding the scope of covered documents is more limited, and generally in accord with existing practice.

[17] *See supra* note 10.

regulatory regime is ''substantially similar'' to the Federal regulatory framework? Are the principles in proposed part 1521 appropriate? Should any additional principles be added? Are there any principles that should be excluded from consideration?

1. Application of Statutory Provisions (Proposed § 1521.2(a))

Section 2(23) of the Act (12 U.S.C. 5901(23)) defines ''permitted payment stablecoin issuers'' to include State qualified payment stablecoin issuers, and therefore statutory requirements that apply to permitted payment stablecoin issuers generally apply as a matter of law to State qualified payment stablecoin issuers, unless the Act provides otherwise.[18] Several comments on the ANPRM align with this reading.

Accordingly, proposed § 1521.2(a) provides that except as otherwise provided in part 1521 or the Act, a State qualified payment stablecoin issuer is subject to all requirements under Federal statutes, including the Act, applicable to permitted payment stablecoin issuers. State-level regulatory regimes may not conflict with any Federal statutory requirements. For example, section 4(a)(1)(C) of the Act (12 U.S.C. 5903(a)(1)(C)) requires certain information to be disclosed by a permitted payment stablecoin issuer each month. That disclosure requirement applies to State qualified payment stablecoin issuers to the same extent that it applies to Federal issuers, so State-level regulatory regimes may not purport to permit disclosure less frequently than monthly. Similarly, section 4(a)(9)(A)(i) of the Act (12 U.S.C. 5903(a)(9)(A)(i)) provides that permitted payment stablecoin issuers may not use certain terms in the name of a payment stablecoin. This prohibition applies to State qualified payment stablecoin issuers to the same extent that it applies to Federal issuers, so State-level regulatory regimes may not purport to permit use of those terms.

Additionally, if Congress in the future enacts legislation that applies to permitted payment stablecoin issuers outside of the GENIUS Act, such legislation would also apply to State qualified payment stablecoin issuers unless Congress specifies otherwise, and State-level regulatory regimes may not conflict with those Federal statutory requirements.

Question 8: What, if any, other Federal laws that apply to State qualified payment stablecoin issuers should Treasury consider with respect to the substantial similarity analysis?

Question 9: For substantial similarity purposes, what should be the effect if Congress in the future amends that Act or passes a law that does not amend the Act but nonetheless expressly imposes new requirements on State qualified payment stablecoin issuers or permitted payment stablecoin issuers more generally?

2. ''Substantial Similarity'' and ''Meet or Exceed'' the Standards and Requirements Described in Section 4(a) of the Act (Proposed § 1521.2(b)(1))

Proposed § 1521.2(b) establishes overall broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework. The first principle, in proposed § 1521.2(b)(1), is that (i) the State-level regulatory regime must meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)) such that (A) implementation of each of the uniform requirements in the State-level regulatory regime is consistent with the Federal regulatory framework in all substantive respects, in accordance with the requirements of part 1521; and (B) implementation of each of the State-calibrated requirements is consistent with the applicable provisions of the Act and leads to regulatory outcomes that are at least as stringent and protective as the Federal regulatory framework.

By requiring that a State-level regulatory regime ''meet or exceed'' the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)) to be considered ''substantially similar'' to the Federal regulatory framework, Treasury is seeking to clarify how these broad-based principles relate to the Stablecoin Certification Review Committee's review. Specifically, each of sections 4(c)(1), 4(c)(2), 4(c)(4)(A), and 4(c)(4)(B) of the Act (12 U.S.C. 5903(c)(1), (c)(2), (c)(4)(A), and (c)(4)(B)) refer to a State-level regulatory regime being substantially similar to the Federal regulatory framework under the GENIUS Act. However, under section 4(c)(5)(A) (12 U.S.C. 5903(c)(5)(A)), the Stablecoin Certification Review Committee may only approve a State's initial certification or recertification if it ''unanimously determines that the State-level regulatory regime meets or exceeds the standards and requirements described in [section 4(a) of the Act].''

Treasury believes that the two terms refer to overlapping but distinct subsets of the Act. While the Stablecoin Certification Review Committee's review for meeting or exceeding Federal standards is limited to only those standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), a State's certification of substantial similarity is not limited to section 4(a) (12 U.S.C. 5903(a)) and rather must take into account the entire ''Federal regulatory framework under this Act.'' Therefore, Treasury has carefully considered what substantial similarity means in the context of (i) section 4(a) of the Act (12 U.S.C. 5903(a)), which is the focus of Stablecoin Certification Review Committee review and (ii) relevant provisions of the Act other than section 4(a) (12 U.S.C. 5903(a)). Treasury proposes to interpret ''substantial similarity'' to mean that the State and Federal frameworks must bear a close resemblance to each other and that the State-level regulatory regime must meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), including as implemented through the Federal regulatory framework.

With respect to section 4(a) (12 U.S.C. 5903(a)), Treasury believes that ''substantial similarity'' should be understood in the context of a State-level regulatory regime ''meet[ing] or exceed[ing]'' the standards and requirements described in section 4(a) (12 U.S.C. 5903(a)). Standing alone, the words ''substantial similarity'' could be interpreted to imply that the State and Federal frameworks must closely resemble one another, but not necessarily that the Federal standards act as a floor (*i.e.,* State standards could be either more or less stringent than Federal standards to some extent while remaining substantially similar to the Federal standards). However, the statutory context makes that interpretation untenable. Interpreting the statute to allow for a State-level regulatory regime to have requirements that fall below the Federal floor would preserve State flexibility, but would lead to an incoherent regime in which a State could accurately certify that its regulatory regime is ''substantially similar'' to the Federal regulatory framework but the Stablecoin Certification Review Committee would be required to reject the certification because the State's regulatory regime

[18] While section 4(c) of the Act (12 U.S.C. 5903(c)) provides for the option of State regulation ''[n]otwithstanding the Federal regulatory framework established under this Act,'' the same clause makes clear that the State-level regulatory regime must remain substantially similar to the Federal regulatory framework. Given the overall context of the Act, as described above with respect to the definition of ''Federal regulatory framework,'' the best reading of that clause is that it does not displace the generally applicable statutory requirements, which were carefully crafted by Congress to apply to both State and Federal issuers.

does not meet or exceed the standards and requirements described in section 4(a) (12 U.S.C. 5903(a)). Therefore, Treasury proposes to interpret the Act to align the standard in State certifications with the Stablecoin Certification Review Committee's standard of review for those certifications. Treasury interprets the phrase ''the standards and requirements described in [section 4(a) of the Act]'' to mean the Federal regulatory framework implementing section 4(a) of the Act (12 U.S.C. 5903(a)), and not just the statutory provisions in section 4(a) of the Act (12 U.S.C. 5903(a)).[19]

Requiring State-level regulatory regimes to meet or exceed the standards and requirements described in section 4(a) (12 U.S.C. 5903(a)), but only to be substantially similar to the requirements under other provisions of the Act, is consistent with the statutory context, where the most important, foundational, and prudential requirements (*e.g.,* 1:1 reserves) are contained within section 4(a) (12 U.S.C. 5903(a)).[20]

Accordingly, proposed § 1521.2(b)(1)(i) provides that implementation of each of the uniform requirements in a State-level regulatory regime must be consistent with the Federal regulatory framework in all substantive respects, in accordance with the requirements of part 1521. As noted above, Treasury is proposing to group the standards and requirements described in section 4(a) (12 U.S.C. 5903(a)) into two distinct categories: uniform requirements and State-calibrated requirements. The latter are requirements for which section 4(a) (12 U.S.C. 5903(a)) grants some degree of discretion to a State payment stablecoin regulator to develop the State-level regulatory regime, and the former are the remaining requirements described in section 4(a) (12 U.S.C. 5903(a)).

To meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), a State must not interpret the uniform requirements in a way that substantively deviates from their meanings reflected in the Federal regulatory framework. Doing so would both risk an unworkable nationwide regulatory regime where the same statutory terms have been interpreted by regulators in multiple different and potentially inconsistent ways,[21] and would allow for State-level regulatory regimes that do not meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)). For instance, if a State were to interpret section 4(a) (12 U.S.C. 5903(a)) to allow State qualified payment stablecoin issuers to hold as reserves digital assets other than those permitted under section 4(a)(1)(A)(viii) of the Act (12 U.S.C. 5903(a)(1)(A)(viii)), the State-level regulatory regime would likely fail to be consistent with the Federal regulatory framework in all substantive respects, as required in proposed § 1521.2(b)(1)(i). The broad-based principles for uniform requirements and how States can incorporate those principles into their State-level regulatory regimes are discussed at length in section II.E below.

Proposed § 1521.2(b)(1)(ii) requires that in order to meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), implementation of each of the State-calibrated requirements must also be consistent with the applicable provisions of the Act and lead to regulatory outcomes that are at least as stringent and protective as the Federal regulatory framework. While some provisions of section 4(a) of the Act (12 U.S.C. 5903(a)) provide the States with discretion to implement such requirements,[22] that discretion must be considered in connection with the ''meets or exceeds'' standard and the substantial similarity requirement. Therefore, it is important that a State's implementation of State-calibrated requirements does not deviate from the Federal regulatory framework in a way that would undermine the purpose of such provisions. For example, with respect to the capital requirements in section 4(a)(4) of the Act (12 U.S.C. 5903(a)(4)), it is clear that Congress contemplated that State payment stablecoin regulators would issue their own capital rules. However, if a State were to adopt capital provisions in its State-level regulatory regime by providing that a State qualified payment stablecoin issuer need only hold a *de minimis* amount of capital, regardless of the size or scope of its operations, such an approach would likely not produce regulatory outcomes that are at least as stringent and protective as those under the Federal regulatory framework and would not be substantially similar to the Federal regulatory framework. Proposed § 1521.4, discussed in section II.F below, outlines the broad-based principles for the State-calibrated requirements to provide States with a better understanding of how they can exercise their discretion under the Act while also meeting or exceeding the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)).

Question 10: Should substantial similarity be assessed on a section-by-section basis or a holistic basis? That is, can a State-level regulatory regime be substantially similar to the Federal regulatory framework even if it is not substantially similar with respect to certain discrete requirements under section 4(a) of the Act (12 U.S.C. 5903(a))? Should there be a numerical score or other weighting system to determine substantial similarity?

Question 11: How do the standards of substantial similarity and ''meet or exceed'' relate to one another? Is it appropriate to conclude, as in the proposed principles, that the State-level regulatory regime is substantially similar to the Federal regulatory framework only if it meets or exceeds the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a))?

Question 12: When evaluating whether a State-level regulatory regime meets or exceeds the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)), is it appropriate to consider the entire Federal regulatory framework relating to section 4(a) of the Act (12 U.S.C. 5903(a)), as proposed, or only the

[19] Treasury considered, in the alternative, whether to consider Federal regulations for the purpose of ''substantial similarity'' but consider only the statutory text when evaluating whether a State-level regulatory regime ''meets or exceeds'' the standards and requirements described in section 4(a) (12 U.S.C. 5903(a)). However, while such an approach may reflect the requirements expressly imposed by section 4(a), it would not fully take into account the standards and requirements ''described in'' section 4(a), which include, for example, ''regulations implementing capital requirements applicable to permitted payment stablecoin issuers'' that must be issued by primary Federal payment stablecoin regulators. Further, Treasury believes that this bifurcated approach would create similar unworkable and absurd inconsistencies between the two standards in section 4(c) (12 U.S.C. 5903(c)) and frustrate the administrability of the State certification review process, for the reasons described above. In addition, the core prudential standards that require looking at the full Federal regulatory framework for any meaningful comparison (*e.g.,* capital and liquidity) are all contained in section 4(a).

[20] One commenter to the ANPRM noted that using ''meets or exceeds'' as the governing test for section 4(a) (12 U.S.C. 5903(a)) creates a Federal floor and ensures commonality across all U.S. regimes on the prudential elements most correlated with run risk and consumer harm. By contrast, that commenter noted that relying on a more permissible ''substantially similar'' standard would invite interpretive drift and regulatory arbitrage that at a national and global level can produce significant flight-to-safety dynamics and price dislocations during stress as well as complicate the U.S. government's ability to advocate for a single global standard.

[21] *Cf. Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369, 400 (2024) (''Courts instead understand that such statutes, no matter how impenetrable, do—in fact, must—have a single, best meaning.'').

[22] *Cf. Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369, 394 (2024) (''the statute's meaning may well be that the agency is authorized to exercise a degree of discretion'').

statutory text? If only the statutory text, how will it be determined that a State ''meets or exceeds'' the standards in section 4(a) (12 U.S.C. 5903(a))?

Question 13: Is the appropriate standard for meeting or exceeding the standards and requirements described in section 4(a) of the Act whether the State-level regulatory regime leads to outcomes that are at least as ''stringent and protective'' as the Federal regulatory framework? Would a different standard be more appropriate, such as whether the outcomes of the State-level regulatory regime ''meet or exceed'' the outcomes of the Federal regulatory framework, or whether the regime itself is ''functionally equivalent or superior to,'' the Federal regulatory framework?

Question 14: Is the proposed standard for meeting or exceeding the uniform requirements appropriate and clear? Are there any cases in which a State should be able to adopt a materially different interpretation of a Federal statute or rule than the Federal regulatory framework?

Question 15: Is the proposed standard for meeting or exceeding the State-calibrated requirements appropriate and clear? Does it provide an appropriate amount of discretion to States compared to the uniform provisions?

Question 16: Should substantial similarity be measured based on the Federal regulatory framework in effect at the time of finalization of these broad-based principles, or at the time of each State's certification, or at some other time? What should be the effective date of any final rule for part 1521 relative to final regulations issued as part of the Federal regulatory framework? How should Treasury's principles account for any future changes to the Federal regulatory framework?

Question 17: How should any provisions in the State-level regulatory regime relating to foreign payment stablecoin issuers be compared to the Federal regulatory framework for purposes of substantial similarity?

3. Sections of the Act Other Than 4(a) (Proposed § 1521.2(b)(2) and (b)(3))

With respect to sections of the Act other than section 4(a) (12 U.S.C. 5903(a)), ''substantial similarity'' is not constrained by the requirement that the State standards ''meet or exceed'' the Federal standards. Treasury believes that additional flexibility for States with respect to those sections would be appropriate and consistent with the Act. Accordingly, proposed § 1521.2(b)(2) provides that in order to be considered substantially similar to the Federal regulatory framework, a State-level regulatory regime must include frameworks addressing other relevant provisions of the Act (transition to Federal oversight, applications and approval, and supervision and enforcement, under sections 4(d), 5, and 6 (12 U.S.C. 5903(d), 5904, and 5905)) that (i) are consistent with those provisions of the Act, and (ii) provide for similar levels of authority and oversight over payment stablecoin issuers as provided under the Federal regulatory framework.

The Act provides States with discretion to shape frameworks regarding transition to Federal oversight, applications and approval, and supervision and enforcement in ways that may differ from rules adopted by the OCC or the other primary Federal payment stablecoin regulators, as a State payment stablecoin regulator only needs to certify that its regime is substantially similar to the Federal regulatory framework. Nevertheless, to be substantially similar to the Federal regulatory framework, States should provide similar levels of authority and oversight over payment stablecoin issuers as under the Federal regulatory framework. For example, section 6(a)(3) of the Act (12 U.S.C. 5905(a)(3)) grants the primary Federal payment stablecoin regulators examination authority over certain permitted payment stablecoin issuers. Treasury expects that a State-level regulatory regime would confer upon the State payment stablecoin regulator examination authority over State qualified payment stablecoin issuers that is consistent with this authority under the Act. A State-level regulatory regime that nominally provides examination authority but limits its exercise—for example, by permitting examinations only upon the request or consent of a State qualified payment stablecoin issuer—would likely not satisfy proposed § 1521.2(b)(2).

Section 10 of the Act (12 U.S.C. 5909), relating to custody, establishes limitations on who can be a custodian, limits the commingling of certain assets, and provides that certain assets are treated as customer property. Section 11 of the Act (12 U.S.C. 5910 and 5911), relating to insolvency, among other things, establishes priority for claims of a person holding payment stablecoins issued by a permitted payment stablecoin issuer. Proposed § 1521.2(b)(3) requires that a State-level regulatory regime must include frameworks for custody and insolvency that (i) are consistent with sections 10 and 11 of the Act (12 U.S.C. 5909, 5910, and 5911); and (ii) provide substantially similar protections for payment stablecoin holders as provided for under the Federal regulatory framework.

For example, if a State-level regulatory regime expands potential custodians to unsupervised entities in contravention of section 10(a)(1) of the Act (12 U.S.C. 5909(a)(1)), the regime likely would not comply with proposed § 1521.2(b)(3). Similarly, if a State-level regulatory regime treated payment stablecoin holders as general unsecured creditors in an insolvency proceeding, with no priority over other classes of claim holders, the regime would likely not comply with proposed § 1521.2(b)(3).

Section II.G below, which discusses proposed § 1521.5, provides further detail on how State-level regulatory regimes can include frameworks addressing sections of the Act other than section 4(a) (12 U.S.C. 5903(a)) and be considered substantially similar to the Federal regulatory framework.

Question 18: Which sections of the Act, beyond section 4(a) (12 U.S.C. 5903(a)), are appropriate to consider when evaluating whether a State-level regulatory regime is substantially similar to the Federal regulatory framework? Is the proposed list (sections 4(d), 5, 6, 10, and 11 of the Act (12 U.S.C. 5903(d), 5904, 5905, 5909–5911)) appropriate or under- or over-inclusive? For example, should the Federal regulatory framework as defined in part 1521 reflect any of the following sections of the Act: section 3 (12 U.S.C. 5902) (e.g., regarding issuance, offer, and sale of payment stablecoins or the treatment of payment stablecoins not issued by a permitted payment stablecoin issuer), section 4(e) (12 U.S.C. 5903(e)) (e.g., regarding marketing and misrepresentations), section 4(f) (12 U.S.C. 5903(f)) (regarding officers and directors convicted of certain felonies), sections 8 or 9 (12 U.S.C. 5907 or 5908) (anti-money laundering), section 16 (12 U.S.C. 5915) (regarding authority of banking institutions), section 17 (amendments to clarify that payment stablecoins are not securities or commodities and that permitted payment stablecoin issuers are not investment companies), section 18 (12 U.S.C. 5916) (regarding certain foreign payment stablecoin issuers), or section 19 (regarding certain disclosure)?

Question 19: With respect to sections of the Act beyond section 4(a) (12 U.S.C. 5903(a)), are the standards required for being substantially similar appropriately scoped and clear? Are the standards set forth related to sections 4(d), 5, and 6 (12 U.S.C. 5903(d), 5904, and 5905) sufficiently clear? If not, how

could they be clarified? Similarly, are the standards related to sections 10 and 11 of the Act (12 U.S.C. 5909–5911) sufficiently clear?

Question 20: Are there portions of the Federal regulatory framework that States will be unable to replicate in a substantially similar manner?

4. Deviations in Form or Procedure

Treasury believes that substantial similarity refers to the substantive standards that apply to permitted payment stablecoin issuers. Accordingly, proposed § 1521.2(c) provides that, except as provided in the Act, a State-level regulatory regime may deviate from the Federal regulatory framework with respect to nonsubstantive matters of form or procedure while remaining substantially similar to the Federal regulatory framework. Requiring rigid adherence to Federal procedure or form that is not mandated by the Act would likely cause undue burdens and costs for States and conflict with the statutory purpose of providing an appropriate degree of flexibility to States to implement their own regulatory regimes. For example, to the extent that the OCC requires the reserve composition report mandated by section 4(a)(1)(C) of the Act (12 U.S.C. 5903(a)(1)(C)) to be uploaded in a specified data format, the States may not have the infrastructure to be able to process such reports in the same or similar format. A State could instead specify a different data format while remaining substantially similar to the Federal regulatory framework.

Question 21: Are there any areas in which the State-level regulatory regime should be required to match the Federal regulatory framework in terms of form or procedure? For example, should the State-level regulatory regime require the monthly composition report of an issuer's reserves in the same format (e.g., including the same required fields) as the OCC or another primary Federal payment stablecoin regulator? Would there be benefits of uniform data reporting standards under Federal and State regulatory requirements?

Question 22: Are the distinctions between the substantive and procedural aspects of the Federal regulatory framework likely to be sufficiently clear in practice? Is there additional guidance that would be appropriate to distinguish between substance and procedure?

E. Broad-Based Principles for Uniform Requirements Under Section 4(a) of the Act (Proposed § 1521.3)

Proposed § 1521.3 establishes the broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework with respect to the uniform requirements under section 4(a) of the Act (12 U.S.C. 5903(a)). First, proposed § 1521.3(a) provides that each of the uniform requirements listed in Appendix A to part 1521 must be fully enforceable by the State payment stablecoin regulators against State qualified payment stablecoin issuers. While the statutory requirements of the Act apply to State qualified payment stablecoin issuers as a matter of law, a State-level regulatory regime that fails to establish how State regulators will enforce the uniform requirements would not be substantially similar to the Federal regulatory framework. Such a lack of enforceability could encourage a race to the bottom where State qualified payment stablecoin issuers seek to operate in States that signal that they will not enforce the requirements of the Act. In addition, because Treasury proposes to define ''State-level regulatory regime'' such that it excludes non-enforceable guidance, such guidance would not be considered when determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework.

Proposed § 1521.3(b) provides that the implementation of each of the uniform requirements in the State-level regulatory regime must be consistent with the Federal regulatory framework in all substantive respects, including that (i) there are no material deviations in definitions or interpretations of statutory terms between the Federal regulatory framework and the State-level regulatory regime; and (ii) each of the uniform requirements is applied and construed in the State-level regulatory regime in a manner that does not materially narrow, condition, or limit its scope compared to the Federal regulatory framework.

While the statutory requirements apply as a matter of law, Treasury believes that incorporating relevant requirements into State law will reduce confusion among State qualified payment stablecoin issuers regarding which requirements apply to them. Additionally, Treasury expects that States will incorporate interpretations of the Act and regulations issued by the OCC (or the FRB or Treasury in certain circumstances) that are published in the **Federal Register**. Recognizing the variations in legal authorities and practices among States, and consistent with certain requests submitted in response to the ANPRM, Treasury is not proposing to mandate a single path for States to incorporate the statutory and regulatory requirements and proposes instead to provide States with flexibility to determine the most efficient and effective procedural mechanism for doing so. For example, States may find it more efficient to incorporate the uniform requirements by reference. To the extent States incorporate by reference, it should be made clear that all of the individual uniform requirements are accounted for. In other words, merely stating generally that the requirements of section 4(a) (12 U.S.C. 5903(a)) of the Act apply, without any reference to the relevant Federal regulations, would likely be insufficient to comply with proposed § 1521.3(b).

Treasury is proposing that the implementation of the uniform requirements must be consistent with the Federal regulatory framework such that there are no material deviations in definitions or interpretations of statutory terms between the Federal regulatory framework and the State-level regulatory regime. For example, if a State-level regulatory regime adds a definition of ''rehypothecation'' that greatly narrows its meaning compared to the Federal regulatory framework, such that it waters down the prohibition on rehypothecation in section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)), the State standard would likely not be substantially similar to the Federal regulatory framework.

Similarly, the State-level regulatory regime must not materially narrow, condition, or limit the scope of the uniform requirements compared to the Federal regulatory framework. For example, if a State-level regulatory regime requires State qualified payment stablecoin issuers to publicly disclose the issuer's redemption policy under section 4(a)(1)(B) of the Act (12 U.S.C. 5903(a)(1)(B)), but does not require that the issuer publicly, clearly, and conspicuously disclose in plain language all fees associated with purchasing or redeeming payment stablecoins, the State-level regulatory regime would materially diverge from the Federal regulatory framework.

One important application of this principle is the BSA and sanctions compliance provisions [23] in section 4(a)(5) of the Act (12 U.S.C. 5903(a)(5)) and the provision in section 4(a)(6)(B) (12 U.S.C. 5903(a)(6)(B)) regarding compliance with lawful orders.

[23] Since permitted payment stablecoin issuers are limited to ''a person formed in the United States,'' under section 2(23) of the Act (12 U.S.C. 5901(23)), permitted payment stablecoin issuers will be ''U.S. persons'' under existing OFAC regulations once the Act takes effect and will be subject to the same U.S. sanctions obligations that currently to apply to all other U.S. persons. *See, e.g.,* 31 CFR 510.326; 31 CFR 555.313; 31 CFR 583.314.

Treasury expects to address these provisions in a forthcoming rulemaking, and such rules will necessarily apply to State qualified payment stablecoin issuers. Specifically, for all BSA, anti-money laundering and combating the financing of terrorism, and sanctions program requirements as directed by the GENIUS Act, State qualified payment stablecoin issuers will be subject to Federal regulation by Treasury's Financial Crimes Enforcement Network (FinCEN) or the Office of Foreign Assets Control, respectively.[24] It is therefore particularly important that the State-level regulatory regime avoids deviation and ensures that the requirements are uniform with the Federal requirements for BSA and sanctions program requirements with the exception of technical, non-substantive amendments. Treasury generally expects that States would cross-reference these requirements rather than reproduce them in their own State-level regulatory regime. Treasury does not expect States to reproduce BSA/anti-money laundering or sanctions compliance interpretations or guidance in their State-level regulatory regimes, though States must also enforce these rules. Similarly, because under section 4(a)(8) (12 U.S.C. 5903(a)(8)), the FRB's anti-tying regulations and orders directly apply to all permitted payment stablecoin issuers, including State qualified payment stablecoin issuers, Treasury generally expects that States would cross-reference the FRB's anti-tying requirements, rather than reproduce them in their own State-level regulatory regime, though States must also enforce these rules. If a State or State-level regulatory regime indicates that the State will not enforce federal rules implementing sections 4(a)(5), 4(a)(6)(B), or 4(a)(8) of the Act (12 U.S.C. 5903(a)(5), (a)(6)(B), or (a)(8)) or it otherwise becomes clear that the State is not enforcing such rules, the State-level regulatory regime would not be considered substantially similar to the Federal regulatory framework.[25]

Question 23: Are there any uniform requirements for which the States would need to materially deviate from the definitions or interpretations of the Federal regulatory framework? Similarly, are there any uniform requirements where the State-level regulatory regime would be unworkable unless the States could materially narrow, condition, or limit the scope of certain uniform requirements compared to the Federal regulatory framework?

Question 24: For purposes of section 4(a)(12) of the Act (12 U.S.C. 5903(a)(12)), relating to certain non-financial companies, should the Federal regulatory framework include any interpretive rules issued by the Stablecoin Certification Review Committee pursuant to section 4(a)(12)(D) (12 U.S.C. 5903(a)(12)(D)) or any related procedural rules? Should these principles otherwise make clear that State payment stablecoin regulators must ensure that the Stablecoin Certification Review Committee has made the findings required under section 4(a)(12) (12 U.S.C. 5903(a)(12)) before the State licenses any State qualified payment stablecoin issuers that would be covered under section 4(a)(12) of the Act (12 U.S.C. 5903(a)(12))?

Question 25: Are there challenges to implementing or complying with a BSA and sanctions compliance framework that references Federal requirements as a part of a State-level regulatory regime?

F. Broad-Based Principles for State-Calibrated Requirements Under Section 4(a) of the Act (Proposed § 1521.4)

The State-calibrated requirements are the requirements of the Act that provide discretion to the State payment stablecoin regulator to develop the State-level regulatory regime. However, such discretion is cabined by the requirement that the Stablecoin Certification Review Committee must determine whether the regime meets or exceeds the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)) and that the State-level regulatory regime must be substantially similar to the Federal regulatory framework. Proposed § 1521.4 establishes the broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework with respect to the State-calibrated requirements. Treasury expects that a State's implementation of the State-calibrated requirements will lead to regulatory outcomes that are at least as stringent and protective as the Federal regulatory framework. The principles described below took into consideration the OCC's proposed rule that was published in the **Federal Register** on March 2, 2026.[26] The OCC's rule may change at the final rule stage, and Treasury may modify the final text of part 1521 to account for such changes or may choose not to implement such changes when Treasury finalizes this proposal. Treasury encourages stakeholders to read and comment on the OCC's proposed rule because it will inform the final form of part 1521, including the extent to which State-level regulatory regimes will be responsible for incorporating the uniform and State-calibrated requirements.

Question 26: In general, to the extent the Federal regulatory framework or State-level regulatory regimes include specific consequences associated with specific regulatory requirements (e.g., automatic limitations triggered when breaching reserve or capital requirements), are those aspects best viewed as components of the requirements (e.g., reserve requirements or capital) to be evaluated using the standards applicable to requirements under section 4(a) of the Act (12 U.S.C. 5903(a)), or instead as enforcement mechanisms to be evaluated using the standards for supervision and enforcement under section 6 of the Act (12 U.S.C. 5905)?

1. Reserve Assets

Section 4(a)(1)(A) of the Act (12 U.S.C. 5903(a)(1)(A)) outlines the list of permissible reserve assets for permitted payment stablecoin issuers. Under section 4(a)(1)(A)(vii) of the Act (12 U.S.C. 5903(a)(1)(A)(vii)), the primary Federal payment stablecoin regulator, in consultation with the State payment stablecoin regulator, if applicable, may approve ''any other similarly liquid Federal Government-issued asset'' as a permissible reserve asset for permitted payment stablecoin issuers. The Act's language indicates that the primary Federal payment stablecoin regulators make the final determination of which assets are similarly liquid Federal Government-issued assets and that they may consult the State payment stablecoin regulators, if applicable.

Therefore, proposed § 1521.4(a) provides that a State-level regulatory regime may allow, or may permit the State payment stablecoin regulator to allow, assets not listed in section 4(a)(1)(A) of the Act (12 U.S.C. 5903(a)(1)(A)) only if such assets have been approved by the OCC as similarly liquid Federal Government-issued assets in accordance with section

[24] Section 4(a)(5)(A) (12 U.S.C. 5903(a)(5)(A)) of the GENIUS Act subjects permitted payment stablecoin issuers, including State qualified payment stablecoin issuers, to all Federal laws applicable to a financial institution relating to economic sanctions prevention of money laundering, and due diligence. Section 4(a)(5) (12 U.S.C. 5903(a)(5)) also requires Treasury to adopt rules to implement this provision.

[25] State examiners currently refer violations of the BSA to FinCEN and share examination findings that identify willful violations of the BSA. Nothing in this proposal is intended to interfere with States' ability to refer violations or share examination findings with FinCEN or OFAC regarding potential or identified violation of the BSA or sanctions, respectively.

[26] 91 FR 10202.

4(a)(1)(A)(vii) of the Act (12 U.S.C. 5903(a)(1)(A)(vii)). Treasury expects that, when relevant, the OCC will consult with the States when making determinations on which reserve assets would qualify. Since the Act does not contemplate independent State determinations of similarly liquid Federal Government-issued assets, States may only allow additional reserve assets if such assets have been approved by the OCC. The OCC's approval of such assets may be conveyed through guidance and interpretive materials that are not published in the **Federal Register**; to the extent such materials are current, States may rely on them in determining which assets the OCC has approved under section 4(a)(1)(A)(vii) of the Act (12 U.S.C. 5903(a)(1)(A)(vii)). For the avoidance of doubt, a State may also choose not to allow such a similarly liquid Federal Government-issued asset allowed by the OCC.

Question 27: Should States be permitted to allow a reserve asset that has been approved by a primary Federal payment stablecoin regulator other than the OCC?

Question 28: Should States be permitted to narrow the set of permissible reserve assets for State qualified payment stablecoin issuers?

Question 29: Should States be permitted to allow a reserve asset that has not been approved by any primary Federal payment stablecoin regulator?

Question 30: Should States be required to allow, for their State qualified payment stablecoin issuers, a reserve asset that has been approved by the OCC?

2. Redemption

Section 4(a)(1)(B)(i) of the Act (12 U.S.C. 5903(a)(1)(B)(i)) provides that permitted payment stablecoin issuers shall publicly disclose the issuer's redemption policy, which ''shall establish clear and conspicuous procedures for timely redemption . . . provided that any discretionary limitations on timely redemptions can only be imposed by a State qualified payment stablecoin regulator, the [FDIC], the [OCC], or the [FRB], consistent with section 7.'' Treasury interprets this provision as allowing a State payment stablecoin regulator to set its own discretionary limitations on timely redemption. Specifically, proposed § 1521.4(b)(1) states that the State-level regulatory regime may set, or may permit the State payment stablecoin regulator to set, discretionary limitations on timely redemptions in accordance with section 4(a)(1)(B)(i) of the Act (12 U.S.C. 5903(a)(1)(B)(i)), provided that those limitations are (i) appropriately disclosed by the State qualified payment stablecoin issuer and (ii) consistent with section 7 of the Act (12 U.S.C. 5906).

A State-level regulatory regime might describe only the general circumstances under which a State payment stablecoin regulator may impose such limitations. For example, a State-level regulatory regime could provide that a State payment stablecoin regulator may impose a temporary limitation on timely redemptions in the event of a technological disruption preventing the State qualified payment stablecoin issuer from effectuating redemptions. If a discretionary limitation is included in the State-level regulatory regime, proposed § 1521.4(b)(1) would require the State or the State payment stablecoin regulator to ensure that the State qualified payment stablecoin issuer clearly discloses the possibility of such a limitation.

Additionally, the text of the Act makes clear that any discretionary limitations on timely redemption imposed must be consistent with section 7 (12 U.S.C. 5906). Accordingly, such limitations may not interfere with, restrict, or otherwise impair the ability of the FRB or the OCC, pursuant to their respective statutory authorities, to take appropriate action with respect to a State qualified payment stablecoin issuer in the event of unusual or exigent circumstances. Treasury notes that section 7(a) of the Act (12 U.S.C. 5906(a)) provides State payment stablecoin regulators with supervisory, examination, and enforcement authority over all State qualified payment stablecoin issuers of such State. Accordingly, a State exercising its authority over State qualified payment stablecoin issuers consistent with section 7(a) of the Act (12 U.S.C. 5906(a)) is not interfering with, restricting, or otherwise impairing the ability of the FRB or the OCC to exercise their enforcement authority under unusual and exigent circumstances pursuant to section 7(e) of the Act (12 U.S.C. 5906(e)).

Question 31: Should States be required to incorporate the OCC's proposed interpretation of timely redemption, which the OCC has proposed may not exceed two business days following the date of requested redemption? Should the States also be required to incorporate the OCC's proposed provision that would extend timely redemption if redemption demands exceed a certain threshold?

Question 32: Should State-level regulatory regimes be required to include the same information the OCC's proposal requires for redemption disclosures, including the name of the permitted payment stablecoin issuer and a link to the monthly composition report of the issuer's reserves? Should other specific information requirements be mandated?

3. Rehypothecation

Section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)) prohibits permitted payment stablecoin issuers from pledging, rehypothecating, or reusing reserve assets, with limited exceptions. One such exception, under section 4(a)(2)(C) of the Act (12 U.S.C. 5903(a)(2)(C)), provides that this prohibition does not apply if the rehypothecation of the reserve asset is for the purpose of creating liquidity to meet reasonable expectations of requests to redeem payment stablecoins, such that reserves in the form of Treasury bills may be sold as purchased securities for repurchase agreements, provided that either (i) the repurchase agreements are cleared by a clearing agency registered with the Securities and Exchange Commission; or (ii) the permitted payment stablecoin issuer receives the prior approval of its primary Federal payment stablecoin regulator or State payment stablecoin regulator, as applicable.

Proposed § 1521.4(c)(1) provides that the State-level regulatory regime must prohibit rehypothecation in accordance with section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)) and consistent with any prohibition in the Federal regulatory framework. Since the Act does not provide the States with discretion for this prohibition, the State-level regulatory regime must be consistent and not substantively deviate from the Act.

With respect to the exception in section 4(a)(2)(C)(ii) of the Act (12 U.S.C. 5903(a)(2)(C)(ii)), the OCC has proposed to deem any repurchase agreement as approved under section 4(a)(2)(C) of the Act (12 U.S.C. 5903(a)(2)(C)), provided that the Treasury bills sold as purchased securities have a maturity date of 93 days or less and the maturity of the repurchase agreement is overnight.[27] Treasury reviewed the reasoning contained in the OCC's proposal carefully and determined that it agreed with the OCC's assessment that such pre-approval is consistent with the Act and will enhance the ability of issuers to obtain liquidity quickly and facilitate the timely redemption of payment stablecoins. Accordingly, proposed § 1521.4(c)(2) similarly provides that the State-level regulatory regime may pre-approve, or may permit a State payment

[27] 91 FR 10202, 10213 (March 2, 2026).

stablecoin regulator to pre-approve, the use of repurchase agreements under section 4(a)(2)(C)(ii) of the Act (12 U.S.C. 5903(a)(2)(C)(ii)) consistent with the Federal regulatory framework. Recognizing that the Act provides discretion to State qualified payment stablecoin issuers to determine whether to approve such repurchase agreements, a State-level regulatory regime need not provide for the pre-approval of such repurchase agreements. States may also develop their own pre-approval process, so long as it is consistent with the conditions under the Act.

Question 33: Should States be allowed to pre-approve the use of repurchase agreements under section 4(a)(2)(C)(ii) (12 U.S.C. 5903(a)(2)(C)(ii))? Should States be required to preapprove such repurchase agreements, rather than having the option to approve them?

Question 34: Should States be required to substantively adopt any OCC interpretations of or limitations on the rehypothecation provision?

4. Certifications Related to Monthly Report

Under section 4(a)(3)(B) of the Act (12 U.S.C. 5903(a)(3)(B)), the Chief Executive Officer and Chief Financial Officer of a permitted payment stablecoin issuer are required to submit a monthly certification as to the accuracy of the monthly report on the composition of its reserves to, as applicable, its primary Federal payment stablecoin regulator or State payment stablecoin regulator. Proposed § 1521.4(d) provides that a State-level regulatory regime must require and accept monthly certifications from State qualified payment stablecoin issuers in accordance with section 4(a)(3) of the Act (12 U.S.C. 5903(a)(3)) as to the accuracy of the monthly report required under section 4(a)(1)(C) (12 U.S.C. 5903(a)(1)(C)), but the form of those certifications may deviate from those promulgated by the primary Federal payment stablecoin regulators. Treasury believes that the statutory direction to provide certifications to a State payment stablecoin regulator gives some discretion to the State payment stablecoin regulator to set the form of the certification that they expect to receive.

Question 35: Should States be required to accept certifications in the exact form required by the Federal regulatory framework? Would there be benefits of requiring States to accept the form required under the Federal regulatory framework? Does allowing States to accept certifications in a different form compared to the Federal regulatory framework indicate that the State regime is not substantially similar to the Federal framework?

5. Capital

Under section 4(a)(4)(A)(i) of the Act (12 U.S.C. 5903(a)(4)(A)(i)), the primary Federal payment stablecoin regulators, or in the case of a State qualified payment stablecoin issuer, the State payment stablecoin regulator, shall, consistent with section 13 of the Act (12 U.S.C. 5913), issue capital requirements that are tailored to the business model and risk profile of permitted payment stablecoin issuers and do not exceed requirements that are sufficient to ensure the ongoing operations of such issuers. However, under proposed § 1521.2(b), Treasury expects that in order for a State-level regulatory regime to be substantially similar to the Federal regulatory framework, the State's implementation of the State-calibrated requirements, including the capital provision, must lead to regulatory outcomes that are at least as stringent and protective as the Federal regulatory framework. Accordingly, Treasury believes that while States have discretion to develop their capital rules, there are some aspects of the OCC's capital framework a State must implement to be considered substantially similar to the Federal regulatory framework.

Specifically, proposed § 1521.4(e)(1) provides that the State-level regulatory regime must require, in accordance with section 4(a)(4)(A)(i) of the Act (12 U.S.C. 5903(a)(4)(A)(i)), that a State qualified payment stablecoin issuer maintains common equity tier 1 capital and additional tier 1 capital (as defined in the Federal regulatory framework) [28] that is commensurate with the nature of all risks to which the issuer is exposed, including risks for off-balance sheet activities. This requirement is consistent with the OCC's language in its proposed 12 CFR 15.41(a)(2)(i) and also reiterates the language in section 4(a)(4)(A)(i)(I) of the Act (12 U.S.C. 5903(a)(4)(A)(i)(I)) that requires capital requirements to be tailored to the business model and risk profile of permitted payment stablecoin issuers and must not exceed requirements that are sufficient to ensure the ongoing operations of a State qualified payment stablecoin issuer. While States have discretion to set their own capital rules, for the purpose of substantial similarity, the definition of the eligible capital elements and the quality of those elements should be uniform to ensure comparability between the State-level regulatory regime and the Federal regulatory framework.

Proposed § 1521.4(e)(2), similar to the OCC's requirement in its proposed 12 CFR 15.41(a)(2), states that a State-level regulatory regime must require State qualified payment stablecoin issuers to have a process for assessing their overall capital adequacy in relation to their business model and risk profile and a comprehensive strategy for maintaining an appropriate level of capital to maintain operations. Without this requirement, a State-level regulatory regime would lack a core component of the Federal regulatory framework and could allow for State qualified payment stablecoin issuers to engage in little or no capital planning, compared to permitted payment stablecoin issuers regulated by the OCC.

In its proposed rule, the OCC is proposing to require an operational backstop to help ensure that during a business disruption that impacts operations of a payment stablecoin issuer, a liquid pool of identifiable assets exists to allow the issuer to meet short-term liquidity needs, stabilize the issuer after the disruption, and continue or resume normal operations.[29] In proposed § 1521.4(e)(3), Treasury is similarly proposing that a State-level regulatory regime must require that a State qualified payment stablecoin issuer maintain an operational backstop that has assets equal or greater than the amount required under the operational backstop in the Federal regulatory framework. By mandating that States require an operational backstop equal to or greater than the amount required under the Federal regulatory framework, Treasury seeks to establish a clear baseline for determining that a State-level regulatory regime is substantially similar to the Federal regulatory framework.

In § 1521.4(e)(4), Treasury is also proposing to require that the State-level regulatory regime must include provisions that establish consequences for issuers failing to meet the minimum capital or operational backstop requirements that meet or exceed the standard in the Federal regulatory framework. For example, the OCC's proposed 12 CFR 15.41(c) includes consequences for failing to meet minimum capital and operational backstop requirements that (i) prohibit permitted payment stablecoin issuers that fail to meet minimum capital or

[28] These terms are currently defined in the OCC's proposed 12 CFR part 15, subpart E. 91 FR 10202, 10300–301 (March 2, 2026).

[29] 91 FR 10202, 10242 (March 2, 2026). In the proposal, that backstop requires that an issuer maintain assets equal to 12 months of total expenses. *Id.*

operational backstop requirements at the end of a quarter from issuing any new payment stablecoins, except in limited circumstances; (ii) require a permitted payment stablecoin issuer that fails to meet its minimum capital or operational backstop requirements at the end of two consecutive quarters to (A) begin liquidation of reserve assets and redemption of outstanding payment stablecoins; (B) not charge customers a fee to redeem their payment stablecoins; and (C) not issue any new payment stablecoins going forward.[30] Treasury believes that absent the ability to enforce the relevant capital and operational backstop requirements, a State-level regulatory regime's capital standards would be significantly less meaningful than those in the Federal regulatory framework.

Treasury acknowledges that States may seek to establish additional capital thresholds or metrics beyond those in the Federal regulatory framework, which may include additional types of capital or risk-based requirements. Proposed § 1521.4(e)(5) would allow States to do so, but only if the State-level regulatory regimes also comply with the requirements described in proposed § 1521.4(e)(1) through (e)(4). To comply with section 4(a)(4)(A)(i) of the Act (12 U.S.C. 5903(a)(4)(A)(i)), any such requirements must be tailored to the business model and risk profile of State qualified payment stablecoin issuers and not exceed requirements that are sufficient to ensure the ongoing operations of such issuers.

Question 36: To the extent that the OCC adopts alternate capital requirements, such as those described in Questions 177–190 of its proposed rule (e.g., a minimal capital requirement based on a set percentage of outstanding issuance value, a minimal operational risk capital charge that scales with issuer size, or a charge for credit risk such as a 2 percent capital charge for uninsured deposits),[31] to what extent should part 1521 incorporate or reflect those alternate capital requirements for purposes of assessing the substantial similarity of State-level regulatory regimes? Regardless of whether the OCC adopts those alternate capital requirements as mandatory, should part 1521 incorporate or reflect any of them as a safe harbor, for instance such that their adoption in State-level regulatory regimes will be deemed substantially similar to the Federal regulatory framework?

Question 37: Should States be required to adopt standards for common equity tier 1 capital and additional tier 1 capital as defined in the Federal regulatory framework? Are there issues that adopting these definitions could create for States or State qualified payment stablecoin issuers?

Question 38: Is it sufficiently clear how States may deviate from the capital requirements in the Federal regulatory framework?

Question 39: Should State-level regulatory regimes be required to mandate that State qualified payment stablecoin issuers have a process for assessing their overall capital adequacy in relation to their business model and risk profile? How should a State-level regulatory regime be compared to the Federal regulatory framework on capital sufficiency if the former permits permitted payment stablecoin issuers to engage in a broader variety of activities than the latter?

Question 40: Should State-level regulatory regimes be required to have an operational backstop? If yes, should they be required to adopt the same or greater required operational backstop levels as the OCC? If not, should there be any quantitative measures from the Federal regulatory framework that a State-level regulatory regime should be required to adopt? Is it sufficiently clear how a State would calculate expenses under the operational backstop as proposed? If the OCC determines that it will not adopt an operational backstop, should any other capital standards from the Federal regulatory framework be required to be adopted in State-level regulatory regimes?

Question 41: If the OCC adopts a capital framework that requires minimum capital levels set using certain objective quantitative requirements, should State-level regulatory regimes be required to adopt the same quantitative requirements?

Question 42: If the Federal regulatory framework largely sets capital requirements on an individualized, issuer-by-issuer basis, rather than fixed standards, how should the State-level regulatory regime be measured against the requirements and outcomes of the Federal regulatory framework? What data or methodology should be used to make these comparisons? For example, should a range or average of expected capital amounts under a State-level regulatory regime be measured against a range or average of expected or actual capital amounts imposed by the OCC?[32] What would be the positive and negative effects of taking such an approach?

Question 43: Should part 1521 provide any safe harbors for being substantially similar with respect to capital requirements? If so, what should the safe harbors be? For example, should a State-level regulatory regime be deemed substantially similar if it mirrors a capital regime that has been promulgated by any primary Federal payment stablecoin regulator?

Question 44: If a State-level regulatory regime adopts capital requirements that the State has applied to other State-regulated institutions (such as State banks), how should the substantial similarity assessment consider the actual historical capital levels of those State-regulated institutions?

6. Liquidity, Reserve Asset Diversification, and Interest Rate Risk Management

Under section 4(a)(4)(A)(ii) of the Act (12 U.S.C. 5903(a)(4)(A)(ii)), the primary Federal payment stablecoin regulators and State payment stablecoin regulators are required to issue regulations implementing liquidity standards applicable to permitted payment stablecoin issuers. Additionally, section 4(a)(4)(A)(iii) of the Act (12 U.S.C. 5903(a)(4)(A)(iii)) requires those Federal and State regulators to issue regulations implementing ''reserve asset diversification, including deposit concentration at banking institutions, and interest rate risk management standards applicable to permitted payment stablecoin issuers.'' Just as the Act provides States with discretion to develop capital rules, the Act also provides the States with discretion to develop liquidity, reserve asset diversification, and interest rate risk management standards. For the reasons described above, Treasury believes that a State-level regulatory regime must meet or exceed these aspects of the Federal regulatory framework, including the OCC's liquidity and interest rate risk management framework, to be considered substantially similar to the Federal regulatory framework.

In its proposed rule, the OCC proposed two options for its liquidity requirements: Option A includes a principles-based general requirement with an optional safe harbor containing quantitative requirements, and Option B would make those quantitative requirements mandatory for all issuers.[33] Because States have discretion

[30] 91 FR 10202, 10302 (March 2, 2026).

[31] 91 FR 10202, 10265–66 (March 2, 2026).

[32] *See, e.g.,* 91 FR 10202, 10240 (''The OCC's experience with chartering de novo national trust banks seeking to provide stablecoin programs determined that minimum capital amounts ranging from $6.05 million to $25 million would be necessary to establish a viable business model.'').

[33] 91 FR 10202, 10216 (March 2, 2026).

to devise their liquidity standards, Treasury sets out a high-level requirement in proposed § 1521.4(f)(1) that would mirror the OCC's proposed 12 CFR 15.11(c)(1) and mandate that the State-level regulatory regime must require, in accordance with section 4(a)(4)(A)(ii) of the Act (12 U.S.C. 5903(a)(4)(A)(ii)), a State qualified payment stablecoin issuer to maintain its reserve assets in a way that is sufficiently diverse to manage potential credit, liquidity, interest rate, and price risks.

To provide additional clarity to States on how their liquidity frameworks can be substantially similar to the Federal regulatory framework, Treasury proposes that a State-level regulatory regime would satisfy proposed § 1521.4(f)(1) if the regime requires State qualified payment stablecoin issuers to follow the quantitative requirements from the OCC's regulations. Specifically, proposed § 1521.4(f)(2) provides that a State-level regulatory regime satisfies the requirement in proposed § 1521.4(f)(1) if the State qualified payment stablecoin issuer is required to (i) maintain the same or greater percentage of its reserve assets for each minimum threshold in the Federal regulatory framework; (ii) maintain the same or lower percentage of its reserve assets for each maximum threshold in the Federal regulatory framework; and (iii) maintain reserve assets with a weighted average maturity equal to or lower than the threshold in the Federal regulatory framework. While States may adopt liquidity frameworks consistent with proposed § 1521.4(f)(1) that do not incorporate the OCC's quantitative requirements, such frameworks will only be substantially similar to the Federal regulatory framework if they result in outcomes that are at least as stringent and protective as (*i.e.,* meet or exceed) the regulatory outcomes under the OCC's regulations.

Proposed § 1521.4(f)(3) provides that a State-level regulatory regime, in accordance with section 4(a)(4)(A)(iii) of the Act (12 U.S.C. 5903(a)(4)(A)(iii)), must require that a State qualified payment stablecoin issuer has standards for interest rate risk management that are consistent with the Federal regulatory framework. Accordingly, consistent with the OCC's proposal, the State-level regulatory regime must require that a State qualified payment stablecoin issuer (i) manage interest rate risk in a manner that is appropriate to the size and complexity of the permitted payment stablecoin issuer and the complexity of its assets and liabilities and (ii) provide for periodic reporting to management and the board of directors regarding interest rate risk with adequate information for management and the board of directors to assess the level of risk.[34]

Proposed § 1521.4(f)(4) requires that the State-level regulatory regime must establish consequences for State qualified payment stablecoin issuers that fail to meet the reserve asset requirements, which meet or exceed the standard in the Federal regulatory framework. For example, the OCC's proposed 12 CFR 15.11(g) provides various consequences for when a permitted payment stablecoin issuer fails to meet the minimum reserve asset requirements, including that the issuer is prohibited from issuing any new payment stablecoins, except in limited circumstances and that the issuer may not resume issuance until it satisfies the reserve requirements.[35] The OCC also addresses consequences for permitted payment stablecoin issuers that fail to satisfy the minimum reserve asset requirements for 15 consecutive business days and includes a provision by which the OCC may request the permitted payment stablecoin issuer to submit a plan describing how the issuer will attain compliance with certain liquidity-related requirements.[36] To be considered substantially similar to the Federal regulatory framework, a State-level regulatory regime would be required to establish consequences for State qualified payment stablecoin issuers that fail to meet the reserve requirements, which meet or exceed those in the OCC's regulations.

Proposed § 1521.4(f)(5) operates similarly to the treatment of additional capital requirements under proposed § 1521.4(e)(5). As with capital requirements, States may elect to establish other liquidity, diversification, or interest rate risk thresholds or metrics, but such requirements are permissible only if the State-level regulatory framework also complies with the requirements in proposed § 1521.4(f)(1) through (f)(4).

Question 45: Should the specific quantitative requirements described in proposed §§ 1521.4(f)(2)(i)–(iii) be strict requirements for substantial similarity or instead a safe harbor? If the latter, should the metrics function as a safe harbor for substantial similarity (i) if the State-level regulatory regime offers those metrics as a safe harbor to State qualified payment stablecoin issuers or (ii) only if the State-level regulatory regime mandates the metrics for all State qualified payment stablecoin issuers?

Question 46: To the extent that some of the OCC's metrics (e.g., requirements to maintain certain amounts in insured deposits) apply only to issuers with outstanding issuances greater than $10 billion, should State regulatory frameworks reflect such metrics, to account for possible waivers of larger State qualified payment stablecoin issuers? Or should the State regulatory framework be permitted not to address those elements while remaining substantially similar?

Question 47: Should the States be able to devise their own liquidity, reserve asset diversification, and interest rate risk management standards that are not tied to the OCC's rules for these provisions?

Question 48: To the extent that the FDIC or NCUA establish limitations on demand deposits or insured shares at an insured depository institution pursuant to section 4(a)(1)(A)(ii) of the Act (12 U.S.C. 5903(a)(1)(A)(ii)), should these limitations be considered part of the Federal regulatory framework, such that States would need to include these limitations in their State-level regulatory regimes?

7. Operational, Compliance, and Information Technology Risk Management

Under section 4(a)(4)(A)(iv) of the Act (12 U.S.C. 5903(a)(4)(A)(iv)), Federal and State regulators are required to issue regulations implementing ''appropriate operational, compliance, and information technology risk management principles-based requirements and standards, including Bank Secrecy Act and sanctions compliance standards.'' This requirement contemplates that States would have discretion to design their own such standards. Proposed § 1521.4(g) requires that a State-level regulatory regime must, in accordance with section 4(a)(4)(A)(iv) of the Act (12 U.S.C. 5903(a)(4)(A)(iv)), include appropriate operational, compliance, and information technology risk management principles-based requirements and standards, including BSA and sanctions compliance standards that (i) lead to regulatory outcomes that are at least as stringent and protective as the principles-based requirements and standards in the Federal regulatory framework; (ii) are tailored to the business model and risk profile of State qualified payment stablecoin issuers; (iii) are consistent with applicable law; and (iv) address, at a minimum, internal controls, information security, information

[34] 91 FR 10202, 10222 (March 2, 2026).

[35] *Id.* at 10290.

[36] *Id.*

systems, an internal audit system, asset growth, earnings, insider and affiliate transactions, and service provider arrangements.

With respect to the requirement in proposed § 1521.4(g)(1) that the State-level regulatory regime have principles-based requirements and standards that lead to regulatory outcomes that are at least as stringent and protective as the principles-based requirements and standards in the Federal regulatory framework, Treasury expects that States will look to the Federal regulatory framework, including the OCC's rules, for determining the level of prescriptiveness of their requirements and standards. The OCC states that its proposed standards are designed to be flexible based on the nature, scope, and risk of a permitted payment stablecoin issuer's activities.[37] Accordingly, States should have discretion to develop principles-based requirements and standards that apply to State qualified payment stablecoin issuers. However, for BSA and sanctions compliance standards, given the evolving nature of these Federal requirements (*e.g.,* the designation of new sanctioned entities or changes to sanction programs), Treasury again generally expects that States would cross-reference Treasury's rules regarding BSA and sanctions program requirements. Proposed § 1521.4(g)(2) and (3) merely restate the requirement from sections 4(a)(4)(A)(iv)(I) and (II) of the Act (12 U.S.C. 5903(a)(4)(A)(iv)(I) and (II)) that any such standards are tailored to the business model and risk profile of the State qualified payment stablecoin issuers and are consistent with applicable law. As it relates to BSA and sanctions standards, the regulations issued by Treasury through the Financial Crimes Enforcement Network and the Office of Foreign Assets Control are also required to be tailored to the size and complexity of permitted payment stablecoin issuers under the GENIUS Act. Accordingly, beyond cross-referencing Treasury's rules, no further tailoring by States would be required.

Proposed § 1521.4(g)(4) provides the topics (other than BSA and sanctions standards) that States must address through principles-based requirements and standards, while preserving discretion for States to develop additional standards that are tailored to the business model and risk profile of State qualified payment stablecoin issuers. Specifically, the State-level regulatory regime must have standards that cover, at a minimum, internal controls, information security, information systems, internal audit, asset growth, earnings, insider and affiliate transactions, and service provider arrangements. The categories of requirements and standards align with those required by the OCC under its proposed rule, ensuring that at a high level, the State-level regulatory regime and Federal regulatory framework are substantially similar because they address the same categories of risk.[38]

8. Activities

Section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)) sets out permissible activities for permitted payment stablecoin issuers, including issuing and redeeming payment stablecoins, and managing related reserves. Further, section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)) provides, ''Nothing in subparagraph (A) shall limit a permitted payment stablecoin issuer from engaging in payment stablecoin activities or digital asset service provider activities specified by this Act, and activities incidental thereto, that are authorized by the primary Federal payment stablecoin regulator or the State payment stablecoin regulator, as applicable, consistent with all other Federal and State laws, provided that the claims of payment stablecoin holders rank senior to any potential claims of non-stablecoin creditors with respect to the reserve assets, consistent with section 11.''

This provision of the Act provides Federal and State regulators with independent discretion to approve (or disapprove) the activities of their State qualified payment stablecoin issuers. Importantly, however, Treasury concurs with the interpretation in the OCC's proposed rule that section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)) does not by itself authorize permitted payment stablecoin issuers to engage in digital asset service provider activities; it is merely a savings clause that permits such activities to the extent that they are authorized under other applicable law.[39]

Further, there are limitations on the scope of activities that States may authorize. Treasury interprets the reference in section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)) to ''payment stablecoin activities or digital asset service provider activities specified by this Act'' to refer only to the activities listed in the preceding paragraph, section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)), as well as the activities listed in the definition of digital asset service provider in section 2(7) of the Act (12 U.S.C. 5901(7)). Those two provisions list the activities that permitted payment stablecoin issuers and digital asset service providers may engage in. Under section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)), permissibly authorized activities also include activities that are ''incidental'' to those enumerated activities although certain activities may fall so clearly beyond the scope of the Act that they cannot be reasonably considered to be incidental thereto.

Sections 16(a) and 16(d) of the Act (12 U.S.C. 5915(a), (d)) provide that nothing in the Act may be construed to limit the authority of certain institutions to engage in certain enumerated activities. Thus, Treasury believes that it is permissible for State-level regulatory regimes to permit those institutions to engage in those activities even if they are licensed as State qualified payment stablecoin issuers. However, Treasury believes that the same limitations in section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)) apply to such activities, namely that they must be authorized by another State or Federal law.

Accordingly, proposed § 1521.4(h)(1) provides that, subject to proposed § 1521.4(h)(2), a State-level regulatory regime may not authorize a State qualified payment stablecoin issuer to engage in any activities that are not specified under section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)). Furthermore, proposed § 1521.4(h)(2)(i) provides that a State-level regulatory regime may authorize State qualified payment stablecoin issuers to engage in activities not specified in Section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)), only to the extent that: (i) such activities are: (A) incidental to the activities specified in section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)); (B) digital asset service provider activities specified in section 2(7) of the Act (12 U.S.C. 5901(7)) or activities incidental thereto; or (C) activities specified in sections 16(a) or 16(d) of the Act (12 U.S.C. 5915(a), (d)). Additionally, proposed § 1521.4(h)(2)(ii) through (iii) requires that such activities must be authorized by Federal or State law other than the Act and that they be consistent with all other Federal and State law. Proposed § 1521.4(h)(2)(iv) restates the requirement in section 4(a)(7)(B) of the Act (12 U.S.C. 5903(a)(7)(B)) that the claims of payment stablecoin holders rank senior to any potential claims of non-stablecoin creditors with respect to reserve assets, consistent with section 11 of the Act (12 U.S.C. 5910 and 5911).

[37] 91 FR 10202, 10222 (March 2, 2026).

[38] 91 FR 10202, 10221 (March 2, 2026).

[39] *See* 90 FR 10202, 10211 (March 2, 2026).

Proposed § 1521.4(h)(3) provides that for the avoidance of doubt, a State-level regulatory regime must prohibit State qualified payment stablecoin issuers from engaging in any activities prohibited under the Act, including the prohibition on rehypothecation in section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)), the prohibition on the use of deceptive names in section 4(a)(9) of the Act (12 U.S.C. 5903(a)(9)), the prohibition against misrepresenting insured status in section 4(e) of the Act (12 U.S.C. 5903(e)), and the prohibition on paying interest or yield in section 4(a)(11) of the Act (12 U.S.C. 5903(a)(11)).

Question 49: Are ''payment stablecoin activities or digital asset service provider activities specified by this Act'' correctly scoped? Are all of the activities listed in section 2(7) (12 U.S.C. 5901(7)) of the Act permissible for State qualified payment stablecoin issuers or only a subset (e.g., only the activities listed in section 2(7)(A) but not 2(7)(B))? Should the activities in section 16(a) or 16(d) of the Act (12 U.S.C. 5915(a) or (d)) be further qualified for State qualified payment stablecoin issuers? Should the principles reference section 10 of the Act (12 U.S.C. 5909)?

Question 50: Should there be additional limitations on the activities that a State-level regulatory regime can authorize beyond what is proposed herein? For example, should there be additional limitations or guidance on what constitutes incidental activities? Should the activities in the State-level regulatory regime be limited to activities authorized by the OCC or the other primary Federal payment stablecoin regulators?

Question 51: Is there a point at which a State qualified payment stablecoin issuer could engage in permissible digital asset service provider activities or incidental activities that, while legally permissible in the abstract, are done in combination or at such scale that they functionally defeat the Act's protective provisions relating to reserves and insolvency and would expose payment stablecoin holders to an unintended degree of risk? For example, what if 99% of a State qualified payment stablecoin issuer's business was exchanging digital assets for other digital assets, and only 1% was related to issuing payment stablecoins? Should part 1521 reserve the possibility of State-authorized activities that, when considered in context, render the State-level regulatory regime no longer substantially similar to the Federal regulatory framework?

Question 52: Should Treasury include a provision that provides that State qualified payment stablecoin issuers can engage in the activities under section 16(b) of the Act (12 U.S.C. 5915(b)) (e.g., acting as principal or agent with respect to any payment stablecoin and payment of fees to facilitate customer transactions)? Should State qualified payment stablecoin issuers not be able to engage in such activities because section 16(b) (12 U.S.C. 5915(b)) applies to ''entities regulated by the primary Federal payment stablecoin regulators?''

G. Other Provisions of the GENIUS Act (Proposed § 1521.5)

1. Transition to Federal Oversight

Section 4(d) of the Act (12 U.S.C. 5903(d)) provides that State qualified payment stablecoin issuers (other than State chartered depository institutions) that reach an outstanding issuance of more than $10 billion shall either (i) transition to the Federal regulatory framework administered by the relevant State payment stablecoin regulator and the OCC, acting in coordination,[40] or (ii) cease issuing new payment stablecoins until they fall below the $10 billion threshold.[41]

At a minimum, Treasury expects that a substantially similar State-level regulatory regime would need to address the transition to Federal oversight contemplated by section 4(d) of the Act (12 U.S.C. 5903(d)), in order to notify State qualified stablecoin issuers of the relevant threshold and the existence of Federal requirements. However, because Treasury expects that the Federal regulatory framework would generally provide for direct engagement between the relevant State qualified payment stablecoin issuer and the primary Federal payment stablecoin regulator,[42] the State-level regulatory regime need not either provide for the State payment stablecoin regulator to intermediate between them or reproduce the Federal regulatory framework's procedures or requirements. Each State therefore has flexibility on the extent to which it wishes to reproduce the Federal regulatory framework's procedure or requirements in its State-level regulatory regime, and the extent to which it will impose parallel requirements that do not impede the Federal regulatory framework's requirements, such as advance or parallel notifications to the State payment stablecoin regulator. Proposed § 1521.5(a) provides simply that to be substantially similar to the Federal regulatory framework in this regard, any portions of the State-level regulatory regime that address the transition to Federal oversight must be consistent with the Federal regulatory framework.

For the transition to Federal oversight to function effectively, the State-level regulatory regime must not impede the operation of the Federal regulatory framework and the transition of State qualified payment stablecoin issuers to Federal oversight. A State-level regulatory regime that, for example, could delay or condition the submission by the State qualified payment stablecoin issuer of information required by the Federal regulatory framework would not be consistent with, and therefore not substantially similar to, the Federal regulatory framework. Similarly, a State-level regulatory regime that precluded or limited the ability of a State qualified payment stablecoin issuer to comply with capital requirements imposed by the Federal regulatory framework would not be substantially similar.

Question 53: Should a State-level regulatory regime be required to reproduce some or all of the portions of the Federal regulatory framework, such as the OCC's regulations in its proposed 12 CFR 15.15, relating to the transition to Federal oversight?

Question 54: For depository institutions, should part 1521 reference regulations promulgated by primary Federal payment stablecoin regulators other than the OCC? For example, should the Federal regulatory framework include regulations of other primary Federal payment stablecoin regulators for purposes of section 4(d) of the Act (12 U.S.C. 5903(d))?

Question 55: Should a State-level regulatory regime be required to address procedures for joint or coordinated supervision of State qualified payment stablecoin issuers that transition to Federal oversight?

Question 56: To what extent, if at all, should a State-level regulatory regime be able to impose requirements on State qualified payment stablecoin issuers that have transitioned to Federal oversight, beyond what is contained in the primary Federal payment stablecoin regulator's regulatory framework?

[40] If the State qualified payment stablecoin issuer is a State chartered depository institution, it shall either (i) transition to the Federal regulatory framework of the primary Federal payment stablecoin regulator of the depository institution, administered by the State payment stablecoin regulator and the primary Federal payment stablecoin regulator acting jointly, or (ii) cease issuing new payment stablecoins until it falls below the $10 billion threshold. *See* section 4(d)(1) of the Act (12 U.S.C. 5903(d)(1)).

[41] These requirements can be waived by the relevant primary Federal payment stablecoin regulator if certain conditions are met as set out in section 4(d)(3) of the Act (12 U.S.C. 5903(d)(3)).

[42] *See* 91 FR 10202, 10227 (March 2, 2026).

2. Applications and Licensing

Section 5 of the Act (12 U.S.C. 5904) addresses applications and licensing of subsidiaries of insured depository institutions and Federal qualified payment stablecoin issuers, but does not address applications and licensing of State qualified payment stablecoin issuers. Instead, Treasury believes that the Act intended to leave applications and licensing of State qualified payment stablecoin issuers largely in the discretion of State payment stablecoin regulators, recognizing the long history of States in chartering and licensing financial institutions.[43] Therefore, Treasury believes that it would be inappropriate and inconsistent with the Act to require States to mirror the specific practices, timeframes, procedures, or forms in the Federal regulatory framework.

At the same time, Treasury believes that to be substantially similar to the Federal regulatory framework, a State-level regulatory regime must generally provide prospective State qualified payment stablecoin issuers with a pathway to licensure that is similarly fair, transparent, and viable to the Federal regulatory framework. To that end, proposed § 1521.5(b) states that the State-level regulatory regime must provide a framework for accepting applications from potential State qualified payment stablecoin issuers that addresses, at a minimum, the content required in an application and the factors upon which the State payment stablecoin regulator will render a decision on the application. Similar to the process under the Federal regulatory framework, providing applicants with clear rules of the road in advance on what is required in an application and how the application will be evaluated promotes a fair, transparent, and viable pathway to licensure for State qualified payment stablecoin issuers. In contrast, if a State-level regulatory regime left applicants uncertain of the information they will be required to submit, or enabled the State payment stablecoin regulator to reject the application on unclear or unknown grounds, the regime would not enable a viable path for licensure and therefore would not be substantially similar to the Federal regulatory framework.

For the avoidance of doubt, the proposal reiterates that the State-level regulatory regime must also require the post-application and annual certifications required under section 5(i) of the Act (12 U.S.C. 5904(i)).

Question 57: Is it appropriate to measure substantial similarity of a State-level regulatory regime by focusing on the transparency, fairness, and viability of the application process, as opposed to the content of the application or evaluation factors, or other aspects of the State-level regulatory regime? Should the State-level regulatory regime instead be required to adopt some or all of the factors set out in Section 5(c) of the Act (12 U.S.C. 5904(c))?

Question 58: How, if at all, should substantial similarity consider the resources, capacity to evaluate applications, or past practices of a State payment stablecoin regulator? How, if at all, should part 1521 address a State where licenses are routinely denied or delayed, or conversely, routinely approved as a matter of course without appropriate review?

3. Supervision and Enforcement

Section 7 of the Act (12 U.S.C. 5906) provides that State payment stablecoin regulators (i) shall have supervisory, examination, and enforcement authority over all State qualified payment stablecoin issuers of such State, and (ii) may issue orders and rules under section 4 of the Act (12 U.S.C. 5903) applicable to State qualified payment stablecoin issuers to the same extent as the primary Federal payment stablecoin regulators do for permitted payment stablecoin issuers under their jurisdiction.[44] Treasury interprets the Act to provide State payment stablecoin regulators with substantial latitude in the supervision and enforcement of State qualified payment stablecoin issuers, consistent with their important co-equal role as payment stablecoin regulators in the dual Federal-State regime established by the Act and their long history of regulating State-chartered financial institutions. Treasury believes it would be inappropriate and inconsistent with the Act to narrowly limit the discretion of State payment stablecoin regulators in engaging in their supervision and regulation activities or require them to mirror the supervisory or enforcement practices, timeframes, procedures, or reporting in the Federal regulatory framework.

At the same time, Treasury believes that to be substantially similar to the Federal regulatory framework, the State-level regulatory regime must empower their State regulators with sufficient tools and ability to supervise and examine State qualified payment stablecoin issuers. Therefore, proposed § 1521.5(c) provides that a State-level regulatory regime must appropriately provide the State payment stablecoin regulator with similar authority over State qualified payment stablecoin issuers as provided over Federal qualified payment stablecoin issuers under the Federal regulatory framework, consistent with section 6 of the Act (12 U.S.C. 5905), to license, supervise, examine, obtain reports, impose conditions, and take enforcement actions. In general, we would expect a substantially similar State-level regulatory regime to provide a State payment stablecoin regulator with sufficient authority to take any of the actions contemplated by section 6 of the Act (12 U.S.C. 5905). The proposal further provides that except as provided in the Act or elsewhere in part 1521, the State-level regulatory regime and State payment stablecoin regulators do not need to mirror the specific timeframes, procedures, or reporting in the Federal regulatory framework.

Question 59: Should the substantial similarity of a State-level regulatory regime be assessed by focusing on the authority it grants to a State payment stablecoin regulator, or instead on practices, procedures, or other aspects of the State-level regulatory regime or State payment stablecoin regulators?

Question 60: How, if at all, should substantial similarity take into account the resources, capacity to supervise, or past practices of the State payment stablecoin regulators? How, if at all, should part 1521 address a State where supervision and enforcement are not robust in practice?

Question 61: How, if at all, should a State-level regulatory regime address the enforcement authority of the FRB or the OCC provided in section 7(e) of the Act (12 U.S.C. 5906(e))?

Question 62: Are there timeframes, procedures, or reporting in the Federal regulatory framework related to supervision and enforcement that State-level regulatory regimes should be required to implement to be considered substantially similar to the Federal regulatory framework? For example, should a State-level regulatory regime be required to examine State qualified payment stablecoin issuers at the same intervals as in the OCC's rule?

4. Custody

Section 10 of the Act (12 U.S.C. 5909) imposes certain requirements on any person seeking to provide custodial or safekeeping services for payment stablecoin reserves, payment stablecoins used as collateral, or the private keys used to issue payment stablecoins.

[43] *See generally* sections 7(a), (d) of the Act (12 U.S.C. 5906(a), (d)).

[44] *See* sections 7(a), (d) of the Act (12 U.S.C. 5906(a), (d)).

Among other things, section 10 (12 U.S.C. 5909) requires such custodians to be subject to the supervision or regulation of a Federal or State supervisor, to treat certain assets as customer property, to separately account for and not commingle certain assets unless permitted under a listed exception, and to provide certain regulatory information as determined by their supervisor. Proposed § 1521.5(d) provides that the State-level regulatory regime must place conditions on custody that are consistent with section 10 of the Act (12 U.S.C. 5909). While States have discretion to impose restrictions on custodians, such restrictions should not weaken the requirements of the Act, for example, by expanding the pool of potential custodians or narrowing the categories of property that custodians must treat as customer property.

Question 63: Should these principles require closer alignment between the custody requirements in a State-level regulatory regime and the Federal regulatory framework, such as by requiring the former to incorporate certain provisions of Federal rules on custody?

Question 64: Should part 1521 only require that a State-level regulatory regime mandate that State qualified payment stablecoin issuers use custodians that are allowed under the Act?

Question 65: Are there protections that will be instituted under the Federal regulatory framework for custody that States will be unable to replicate in a substantially similar manner?

Question 66: Should the requirement regarding making certain information available to the FRB in section 10(a)(1)(B) of the Act (12 U.S.C. 5909(a)(1)(B)) be explicitly included as a requirement for the State-level regulatory regime?

5. Insolvency

Section 11 of the Act (12 U.S.C. 5910 and 5911) sets forth certain requirements for the treatment of payment stablecoin issuers in insolvency proceedings. For example, section 11(a)(1) of the Act (12 U.S.C. 5910(a)(1)) provides that subject to the Act's amendments to the U.S. Bankruptcy Code, in any insolvency proceeding of a permitted payment stablecoin issuer under Federal or State law, including in any proceeding under the Bankruptcy Code and in any insolvency proceeding administered by a State payment stablecoin regulator with respect to a permitted payment stablecoin issuer, ''the claim of a person holding payment stablecoins issued by the permitted payment stablecoin issuer shall have priority, on a ratable basis with the claims of other persons holding such payment stablecoins, over the claims of the permitted payment stablecoin issuer and any other holder of claims against the permitted payment stablecoin issuer, with respect to required payment stablecoin reserves.''

In proposed § 1521.5(e), Treasury provides that to the extent that State qualified payment stablecoin issuers may be subject to State insolvency proceedings, a State-level regulatory regime must be consistent with section 11 of the Act (12 U.S.C. 5910 and 5911). Accordingly, in addition to being consistent with the rest of section 11 (12 U.S.C. 5910 and 5911), a State-level regulatory regime would be required to ensure that the claim of a person holding payment stablecoins issued by a permitted payment stablecoin issuer has priority in an insolvency proceeding consistent with the priority outlined in the Act.

Question 67: Should these principles require closer alignment between the insolvency requirements in a State-level regulatory regime and the Federal regulatory framework, such as by requiring the former to incorporate certain provisions of Federal rules on insolvency?

Question 68: Are there protections under the Federal regulatory framework for insolvency that States will be unable to replicate in a substantially similar manner?

Question 69: Are there issues that States will face related to incorporating the Act's insolvency provisions?

H. Additional State Requirements (Proposed § 1521.6)

States may choose to add certain additional restrictions or requirements to their State-level regulatory regimes beyond those included in the Federal regulatory framework. Section 4(a)(14) of the Act (12 U.S.C. 5903(a)(14)) provides that compliance with section 4 (12 U.S.C. 5903) ''does not alter or affect any additional requirement of a State payment stablecoin regulator that may apply relating to the offering of payment stablecoins.'' [45] In addition, the requirement that a State-level regulatory regime ''meet or exceed'' the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)) inherently contemplates that States may exceed the requirements of the Federal regulatory framework. Therefore, proposed § 1521.6 provides that States may impose additional restrictions or requirements on State qualified payment stablecoin issuers, so long as (i) such restrictions or requirements do not conflict with any provision of the GENIUS Act, part 1521, or other applicable Federal law, and (ii) the restrictions or requirements do not modify the State-level regulatory regime such that it can no longer be reasonably viewed as substantially similar to the Federal regulatory framework. Treasury believes that the limitation on direct conflicts with Federal law is appropriate because (i) State qualified payment stablecoin issuers remain permitted payment stablecoin issuers subject to the Act, as described above; (ii) the State-level regulatory regime must remain substantially similar to the Federal regulatory framework in accordance with this part; and (iii) State law yielding to Federal law in the case of direct conflicts is a longstanding principle of law.

Question 70: What, if any, limitations should be placed on the ability of States to impose restrictions or requirements on State qualified payment stablecoin issuers in addition to those in the Federal regulatory framework? Should there be limitations on aspects of State-level regulatory regimes other than the restrictions or requirements that govern State qualified payment stablecoin issuers?

Question 71: Is conflict with Federal law the appropriate standard for when a State may not impose additional restrictions or requirements? Is the appropriate scope of such potentially conflicting Federal law the Act and part 1521, or should the standard encompass potential conflicts with other Federal statutes or rules? Should the standard expressly provide further guidance on preemption of State law or the application of State consumer protection laws, in particular given section 7(f)(4) of the Act (12 U.S.C. 5906(f)(4))?

Question 72: When, if at all, may additional restrictions imposed by a State on State qualified payment stablecoin issuers cause the State-level regulatory regime to differ so much from the Federal regulatory framework that the former could no longer be considered substantially similar to the latter? What standards should be used to judge whether that limit has been reached? Should the limit differ based on whether the additional restrictions are issues covered by the Federal regulatory framework (e.g., reserve requirements) or instead are not

[45] In addition, section 7(f)(4) of the Act (12 U.S.C. 5906(f)(4)) provides, ''Except for State laws relating to the chartering, licensure, or other authorization to do business as a permitted payment stablecoin issuer, nothing in this Act shall preempt State consumer protection laws, including common law, and the remedies available thereunder.''

addressed by the Federal regulatory framework?

Question 73: Is the ''reasonably viewed'' standard appropriate and sufficiently clear? If not, how should it be changed or clarified?

I. Severability (Proposed § 1521.7)

Proposed § 1521.7 provides that the provisions of part 1521 are separate and severable from one another. If any provision, clause, or phrase of part 1521, or the application thereof to any person, entity, or circumstance, is stayed or deemed to be invalid, unlawful, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity, lawfulness, or enforceability of the remaining provisions or applications of this regulation, which shall remain in full force and effect to the maximum extent permitted by law.

Treasury is proposing to include a severability clause so that in the event any particular provision of the proposed rule is held to be invalid, the remainder of the rule would remain in effect, providing clarity for State payment stablecoin regulators and State qualified payment stablecoin issuers. This regulation would have been proposed independently of any provision or application that may be declared invalid.

III. Regulatory Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[46] requires an agency to consider the impact of its proposed rules on small entities. In connection with a proposed rule, the RFA generally requires an agency to prepare an Initial Regulatory Flexibility Analysis (IRFA) describing the impact of the rule on small entities, unless the head of the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes such certification along with a statement providing the factual basis for such certification in the **Federal Register**.

As described throughout this proposal, this proposed rule does not directly regulate any small entities, including permitted payment stablecoin issuers that may be small entities. While States may choose to regulate such small entities in accordance with the principles set out in this proposed rule, it is difficult to know at this time how many States will opt to regulate such entities, or how many entities may be affected. Further, the effects on small entities will depend on the details of each State-level regulatory regime, which may vary widely, given the discretion provided to States under the Act and this proposal. Therefore, at this time, Treasury does not expect that part 1521 would have a significant impact on a substantial number of small entities under the RFA. However, Treasury invites comment on any effects on small entities.

B. Unfunded Mandates Reform Act

Treasury has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA).[47] Under this analysis, Treasury considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation). Pursuant to section 202 of the UMRA,[48] if a proposed rule meets this UMRA threshold, Treasury would need to prepare a written statement that includes, among other things, a cost-benefit analysis of the proposal. This requirement does not apply to regulations to the extent they incorporate requirements specifically set forth in law.[49]

Treasury has determined that the proposed rule would not result in a covered unfunded mandate within the meaning of UMRA. As described throughout this proposal, the Act and this proposal provide States the option to administer a State-level regulatory regime that complies with the principles set out in this proposal. However, if a State chooses not to administer such a regime, States need not comply with any portion of this proposal. In addition, as described throughout this proposal, this proposal is generally based directly on standards set forth in the Act. To the extent that States must expend resources to meet the standards set out in these principles, such costs are generally attributable to the Act itself.

C. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023, 5 U.S.C. 553(b)(4), requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the website *www.regulations.gov.*

Treasury is proposing to issue broad-based principles to implement section 4(c) of the Act (12 U.S.C. 5903(c)) regarding substantial similarity between State-level regulatory regimes and the Federal regulatory framework for permitted payment stablecoin issuers. The proposal and the required summary can be found at *https://www.regulations.gov.*

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. This proposed rule does not contain any information collections within the meaning of the Paperwork Reduction Act. While this proposed rule provides broad-based principles for States to use to certify substantial similarity to the Stablecoin Certification Review Committee, this rule does not prescribe the form of such certifications, which will be prescribed separately by the Stablecoin Certification Review Committee pursuant to section 4(c)(4) of the Act (12 U.S.C. 5903(c)(4)).

E. Regulatory Planning and Review

OIRA has determined that this proposed rule is a significant regulatory action under Executive Order 12866 and, therefore, is subject to review under Executive Order 12866. Treasury's analysis conducted in connection with Executive Order 12866 is set forth below. This proposed rule is not anticipated to be an E.O. 14192 regulatory action.

Given the relative novelty of the payment stablecoin ecosystem, it is challenging to precisely quantify the costs and benefits of this proposal. In addition, Treasury's proposal seeks to apply the best interpretations of the statutory text, which limits the range of potential implementing approaches. Treasury believes that the costs of the proposal are outweighed by the benefits, as described further below, but invites comments that would help quantitatively or qualitatively analyze costs and benefits of the proposal, as well as any alternatives and their associated costs and benefits.

1. Affected Parties

Parties directly affected by this proposal are States seeking to regulate State qualified stablecoin issuers under State-level regulatory regimes. For the limited purpose of this analysis of costs and benefits, Treasury assumes that all

[46] 5 U.S.C. 601 *et seq.*

[47] 2 U.S.C. 1531 *et seq.*

[48] 2 U.S.C. 1532.

[49] 2 U.S.C. 1532.

States will seek to implement State-level regulatory regimes, though some States may choose not to do so.

This proposal does not directly affect entities other than States. Entities indirectly affected by the application of this proposal's broad-based principles include State qualified payment stablecoin issuers, parties that seek to become State qualified payment stablecoin issuers, and individuals or entities that acquire payment stablecoins issued by State qualified payment stablecoin issuers. It is difficult to know at this time how many State qualified payment stablecoin issuers may be affected. Further, the effects of these proposed broad-based principles will depend on the details of each State-level regulatory regime, which may vary widely, given the discretion provided to States under the Act and this proposal.

2. Baseline

Treasury has assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated behavior in the absence of the proposed regulations. Once the Act becomes effective, persons will not be able to issue payment stablecoins in the United States without becoming permitted payment stablecoin issuers. The offer and sale of unlicensed stablecoins to persons located in the United States by digital asset service providers will also be unlawful starting July 18, 2028. To provide a State-level license and regulation option for payment stablecoin issuers with a consolidated total outstanding issuance of not more than $10 billion, a State must certify that its State-level regulatory regime is substantially similar to the Federal regulatory framework and must be approved by the Stablecoin Certification Review Committee on the basis that the State's regime ''meets or exceeds the standards and requirements described in [section 4(a) of the Act].''

If a State is unable to certify to substantial similarity, or unable to achieve Stablecoin Certification Review Committee approval, all payment stablecoin issuers in the State will be required either to (i) cease issuing payment stablecoins, or (ii) obtain a Federal license and comply with regulation and supervision by the primary Federal payment stablecoin regulators.

In the absence of these proposed principles, Treasury expects that States and market participants would face significant uncertainty over whether a State-level regulatory regime is substantially similar to the Federal regulatory framework. States would potentially expend significant costs through trial and error in designing regimes intended to achieve Stablecoin Certification Review Committee approval. Issuers that have, or would otherwise desire, a State license may instead expend considerable resources to obtain a Federal license. Treasury expects that the attendant uncertainty would likely significantly stifle payment stablecoin markets and innovation in the States.

3. Costs

Some States may choose not to implement State-level regulatory regimes, and this proposal will not impose any direct costs on those States.[50] States that choose to implement State-level regulatory regimes will face implementation costs including staff time to analyze the Act, the Federal regulatory framework, and part 1521 in order to understand their requirements, and regulatory and/or legislative time to write statutes, regulations, or enforceable guidance to conform to the Act, the Federal regulatory framework, and part 1521.

For a limited number of States that already have State-level regulatory regimes for payment stablecoins, the States may incur these costs to revise their State-level regulatory regimes to better align with the Act, the Federal regulatory framework, and part 1521. Most States do not currently have a State-level regulatory regime for payment stablecoins, and if these States choose to regulate payment stablecoins, they would need to incur costs in designing and implementing their State-level regulatory regime to comply with the Act, regardless of the principles set forth in proposed part 1521.

For many of these States, Treasury believes that part 1521 will alter the substance of the State-level regulatory regime but not materially increase the implementation costs, because the States would need to pass legislation and issue rules and guidance independent of these proposed principles. For example, in the absence of these principles, States seeking to regulate payment stablecoin issuers would still need to issue rules to implement capital requirements on State qualified payment stablecoin issuers, and incur the associated policy formulation and drafting costs, such as staff time and potentially expenditures to outside counsel or consultants. Treasury expects that its proposed principles will help narrow the issues under review and the range of options available to the State when designing a substantially similar State-level regulatory regime. For example, States will not need to expend significant time drafting regulations on reserve assets, because these principles provide that reserve requirements are a uniform requirement that must be consistent with the Federal regulatory framework in all substantive respects. More generally, the table included in Appendix A to proposed Part 1521 provides a roadmap that is expected to aid States in organizing their State-level regulatory regimes and determining which areas will require more substantive State policymaking and drafting. In this way, this proposal may result in a modest cost savings for these States, as the staff, counsel, or consultant time may be reduced.

4. Benefits

A key benefit of part 1521 is the transparency it provides regarding whether a State-level regulatory regime is substantially similar to the Federal regulatory framework. Treasury expects that this will reduce potential frictions and concerns that could otherwise impede market activity by payment stablecoin issuers and third parties offering services to payment stablecoin providers. Therefore, Treasury expects that part 1521 will create a more favorable environment for digital asset innovation in many States, with potential economic benefits from increased innovation and payment stablecoin commercial activity. Consumers and institutions engaging with payment stablecoins may view State qualified payment stablecoin issuers operating under a ''substantially similar'' State-level regulatory regime more favorably than the status quo. In turn, those States may attract payment stablecoin issuers, which may contribute to more investment, jobs, and innovation.

In addition, Treasury expects that this proposal would provide benefits to both States and State qualified payment stablecoin issuers through deregulation. With the exception of certain uniform requirements under the Act, this proposal provides States with significant discretion to design their regimes in ways that are appropriately tailored for issuers in their State, including to account for the business models and size of State issuers, which may differ materially from those of Federal qualified payment stablecoin issuers. This may result in regulatory

[50] Any costs associated with the inability of States to regulate permitted payment stablecoin issuers if they choose not to implement a substantially similar State-level regulatory regime are generally attributable to the Act and the State's choice not to implement a State-level regulatory regime, rather than to these proposed principles.

outcomes that are less burdensome than the otherwise applicable Federal regulatory framework.

5. Discretion and Alternatives

Treasury expects that the proposal's inclusion of certain regulations and interpretations in the definition of ''Federal regulatory framework'' will increase compliance costs for States relative to a definition that relied solely on the text of the Act. Similarly, the level of similarity required for the uniform provisions might increase costs for the States relative to providing more flexibility with respect to those provisions. However, as noted above, the Act effectively requires States to meet or exceed the requirements described in section 4(a) of the Act, and Treasury believes that the best interpretation of the Act is that the Federal regulatory framework extends beyond the statutory text of the Act itself.

Even if alternative statutory interpretations were available, Treasury believes, including based on information provided in certain comments to the ANPRM, that harmonization of the prudential elements most correlated with run risk and consumer harm will produce benefits in terms of market integrity, financial stability, and consumer protection. Treasury further agrees with one commenter on the ANPRM that relying on a more permissible ''substantially similar'' standard would invite interpretive drift and regulatory arbitrage that at a national and global level could produce significant flight-to-safety dynamics and price dislocations during stress periods and also complicate the U.S. government's ability to advocate for a single global standard.

Treasury does believe that the Act provides discretion on the extent to which subregulatory documents are included in the Federal regulatory framework, and Treasury believes that the costs of requiring States to monitor for and harmonize with a wide array of subregulatory guidance documents issued by the primary Federal stablecoin regulators (but not published in the **Federal Register**) would exceed any benefits from marginally increased harmonization. Treasury believes that including in the definition of ''Federal regulatory framework'' only those documents from the primary Federal stablecoin regulators that are published in the **Federal Register** strikes an appropriate middle ground.

Question 74: What are the potential costs and benefits, if any, of the implementation of section 4(c) (12 U.S.C. 5903(c)) as proposed in part 1521, beyond costs and benefits imposed by the Act itself? To what extent does Treasury have discretion within the boundaries of the Act to further reduce costs or increase benefits?

Question 75: What are the potential advantages or disadvantages of registering under State regimes compared to Federal regimes, particularly in terms of administrative efficiency and support for innovation?

Question 76: The Act establishes federal safeguards to protect consumers. How should the economic benefits of consumer protection be measured quantitatively and qualitatively?

Question 77: What are the benefits and costs, including for implementation, compliance efficiency, and payment stablecoin market participation, from the proposed broad-based principles providing relatively clear guidance for States?

Question 78: What is the projected impact of regulatory clarity for payment stablecoins on startup formation, market investment, and product innovation?

F. Executive Order 13132

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal 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. This proposed rule does not have federalism implications within the meaning of the Executive Order, including for the reasons described above. Notwithstanding the above, Treasury has engaged in efforts to consult with affected State government officials and associations in the process of developing this proposed rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

List of Subjects

12 CFR Part 1520

Banks, Banking, Consumer protection, Digital assets, Non-bank entity, Payment stablecoins, Permitted payment stablecoin issuer, State and local governments, State qualified payment stablecoin issuer.

12 CFR Part 1521

Banks, Banking, Consumer protection, Digital assets, Non-bank entity, Payment stablecoins, Permitted payment stablecoin issuer, State and local governments, State qualified payment stablecoin issuer.

For the reasons stated in the preamble, the Department of the Treasury proposes to amend 12 CFR chapter XV by adding subchapter C, consisting of parts 1520 and 1521 to read as follows:

SUBCHAPTER C—REGULATION OF PAYMENT STABLECOINS

PART 1520—GENERAL PROVISIONS

Sec.

1520.1 Authority, purpose, and scope.

Authority: 12 U.S.C. 5901 *et seq.*

§ 1520.1 Authority, purpose, and scope.

(a) *Authority.* This subchapter is issued by the U.S. Department of the Treasury (Treasury) pursuant to various sections of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act, including section 4(c) and section 13, 12 U.S.C. 5903(c) and 5913.

(b) *Purpose and scope.* The GENIUS Act tasks Treasury with issuing regulations concerning payment stablecoins. This subchapter contains Treasury's rules implementing certain provisions of the Act.

PART 1521—BROAD-BASED PRINCIPLES FOR STATE SIMILARITY

Sec.

1521.1 Scope, Applicability, and Definitions.
1521.2 Overall Broad-Based Principles.
1521.3 Broad-Based Principles for Uniform Requirements under Section 4(a) of the Act.
1521.4 Broad-Based Principles for State-Calibrated Requirements under Section 4(a) of the Act.
1521.5 Broad-Based Principles for Other Provisions of the Act.
1521.6 Broad-Based Principles for Additional State Requirements.
1521.7 Severability.

Authority: 12 U.S.C. 5901 *et seq.*

§ 1521.1 Scope, Applicability, and Definitions.

(a) This part is issued by the U.S. Department of the Treasury to implement section 4(c) of the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act (12 U.S.C. 5903(c)), establishing broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework.

(b) Unless otherwise defined in this part, the terms used in this part have the same meaning as in section 2 of the GENIUS Act (12 U.S.C. 5901).

(c) For purposes of this part, the following definitions apply:

Act or *GENIUS Act* means the Guiding and Establishing National Innovation for U.S. Stablecoins Act (12 U.S.C. 5901 *et seq.*).

Federal regulatory framework means, for purposes of evaluating a State-level regulatory regime under section 4(c) of the Act (12 U.S.C. 5903(c)):

(i) The text of all relevant provisions of the Act;

(ii) Any interpretations thereof, or regulations thereunder, issued by the Office of the Comptroller of the Currency and published in the **Federal Register***;*

(iii) With respect to sections 4(a)(5) and 4(a)(6) of the Act (12 U.S.C. 5903(a)(5) and (6)), any interpretations thereof, regulations thereunder, or orders issued by the Department of the Treasury; and

(iv) With respect to section 4(a)(8) of the Act (12 U.S.C. 5903(a)(8)), any interpretations thereof, regulations thereunder, or orders issued by the Board of Governors of the Federal Reserve System;

State-calibrated requirement means a requirement under section 4(a) of the Act (12 U.S.C. 5903(a)) that is applicable to a State qualified payment stablecoin issuer and for which the Act grants substantive discretion to a State payment stablecoin regulator to develop the State-level regulatory regime, as listed in Appendix A to this part.

State-level regulatory regime means, with respect to a particular State:

(i) All statutes enacted by the State regarding payment stablecoins;

(ii) Any regulations regarding payment stablecoins or that apply to a State qualified payment stablecoin issuer issued by a State payment stablecoin regulator of the State or another regulator of the State; and

(iii) Any interpretations thereof or guidance thereunder, only to the extent they are enforceable against State qualified payment stablecoin issuers.

Uniform requirement means a requirement under section 4(a) of the Act (12 U.S.C. 5903(a)) that is applicable to a State qualified payment stablecoin issuer and for which the Act does not grant substantive discretion to a State payment stablecoin regulator, as listed in Appendix A to this part.

§ 1521.2 Overall Broad-Based Principles.

(a) Except as otherwise provided in this part or the Act, a State qualified payment stablecoin issuer is subject to all requirements under Federal statutes, including the Act, applicable to permitted payment stablecoin issuers.

(b) To be considered substantially similar to the Federal regulatory framework, a State-level regulatory regime must:

(1) Meet or exceed the standards and requirements described in section 4(a) of the Act (12 U.S.C. 5903(a)) such that:

(i) Implementation of each of the uniform requirements in the State-level regulatory regime is consistent with the Federal regulatory framework in all substantive respects, in accordance with the requirements of this part; and

(ii) Implementation of each of the State-calibrated requirements is consistent with the applicable provisions of the Act and leads to regulatory outcomes that are at least as stringent and protective as the Federal regulatory framework;

(2) Include frameworks for transition to Federal oversight, applications and approval, and supervision and enforcement, in each case that:

(i) Are consistent with sections 4(d), 5, and 6 of the Act (12 U.S.C. 5903(d), 5904, and 5905); and

(ii) Provide for similar levels of authority and oversight over payment stablecoin issuers as provided under the Federal regulatory framework; and

(3) Include frameworks for custody and insolvency that:

(i) Are consistent with sections 10 and 11 of the Act (12 U.S.C. 5909, 5910, and 5911); and

(ii) Provide substantially similar protections for payment stablecoin holders as the Federal regulatory framework.

(c) Except as provided in the Act, a State-level regulatory regime may deviate from the Federal regulatory framework with respect to nonsubstantive matters of form or procedure while remaining substantially similar to the Federal regulatory framework.

§ 1521.3 Broad-Based Principles for Uniform Requirements under Section 4(a) of the Act.

Following are broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework with respect to the uniform requirements under section 4(a) of the Act (12 U.S.C. 5903(a)).

(a) Each of the uniform requirements listed in Appendix A to this part must be fully enforceable by the State payment stablecoin regulator against State qualified payment stablecoin issuers; and

(b) Implementation of each of the uniform requirements in the State-level regulatory regime must be consistent with the Federal regulatory framework in all substantive respects, including that:

(1) There are no material deviations in definitions or interpretations of statutory terms between the Federal regulatory framework and the State-level regulatory regime; and

(2) Each of the uniform requirements is applied and construed in the State-level regulatory regime in a manner that does not materially narrow, condition, or limit its scope compared to the Federal regulatory framework.

§ 1521.4 Broad-Based Principles for State-Calibrated Requirements under Section 4(a) of the Act.

Following are broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework with respect to the State-calibrated requirements under Section 4(a) of the Act (12 U.S.C. 5903(a)).

(a) *Reserve Assets.* The State-level regulatory regime may allow, or may permit the State payment stablecoin regulator to allow, reserve assets not listed in section 4(a)(1)(A) of the Act (12 U.S.C. 5903(a)(1)(A)) only if such assets have been approved by the OCC as similarly liquid Federal Government-issued assets in accordance with section 4(a)(1)(A)(vii) of the Act (12 U.S.C. 5903(a)(1)(A)(vii)).

(b) *Redemption.* (1) The State-level regulatory regime may set, or may permit the State payment stablecoin regulator to set, discretionary limitations on timely redemption in accordance with section 4(a)(1)(B)(i) of the Act (12 U.S.C. 5903(a)(1)(B)(i)) only so long as those limitations are:

(i) Appropriately disclosed by the State qualified payment stablecoin issuer; and

(ii) Consistent with section 7 of the Act (12 U.S.C. 5906).

(c) *Rehypothecation.* (1) The State-level regulatory regime must prohibit rehypothecation in accordance with section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)) and consistent with the Federal regulatory framework.

(2) The State-level regulatory regime may pre-approve, or may permit a State payment stablecoin regulator to pre-approve, the use of repurchase agreements under section 4(a)(2)(C)(ii) of the Act (12 U.S.C. 5903(a)(2)(C)(ii)).

(d) *Certifications Related to Monthly Report.* The State-level regulatory regime must require and accept monthly certifications from State qualified payment stablecoin issuers in accordance with section 4(a)(3) of the Act (12 U.S.C. 5903(a)(3)) as to the accuracy of the monthly report required under section 4(a)(1)(C) of the Act (12 U.S.C. 5903(a)(1)(C)), but the form of those certifications may deviate from

those promulgated by the primary Federal payment stablecoin regulators.

(e) *Capital.* (1) The State-level regulatory regime must require, in accordance with section 4(a)(4)(A)(i) of the Act (12 U.S.C. 5903(a)(4)(A)(i)), that a State qualified payment stablecoin issuer maintain common equity tier 1 capital and additional tier 1 capital, as each is defined in the Federal regulatory framework, commensurate with the level and nature of all risks to which the issuer is exposed, including risks for off-balance sheet activities, provided that any such requirement must be tailored to the business model and risk profile of a State qualified payment stablecoin issuer and must not exceed requirements that are sufficient to ensure the ongoing operations of a State qualified payment stablecoin issuer.

(2) The State-level regulatory regime must require State qualified payment stablecoin issuers to have a process for assessing their overall capital adequacy in relation to their business model and risk profile and a comprehensive strategy for maintaining an appropriate level of capital to maintain operations.

(3) The State-level regulatory regime must require that a State qualified payment stablecoin issuer maintain an operational backstop to help ensure that during a business disruption that impacts operations, a liquid pool of identifiable assets exists to allow the issuer to meet short-term liquidity needs, stabilize the issuer after the disruption, and continue or resume normal operations. The operational backstop must require assets equal to or greater than the amount required under the Federal regulatory framework.

(4) The State-level regulatory regime must include provisions that establish consequences for issuers failing to meet the minimum capital or operational backstop requirements that meet or exceed the standard in the Federal regulatory framework.

(5) The State-level regulatory regime may establish other required capital thresholds or metrics, including additional types of capital or risk-based capital requirements, provided that it also complies with the capital requirements described in paragraphs (e)(1) through (4) of this section.

(f) *Liquidity, reserve asset diversification, and interest rate risk management.* (1) The State-level regulatory regime must require, in accordance with section 4(a)(4)(A)(ii) of the Act (12 U.S.C. 5903(a)(4)(A)(ii)), a State qualified payment stablecoin issuer to maintain its reserve assets in a way that is sufficiently diverse to manage potential credit, liquidity, interest rate, and price risks.

(2) The State-level regulatory regime will be deemed to satisfy the reserve asset diversification requirement provided in paragraph (f)(1) of this section if the State qualified payment stablecoin issuer is required to:

(i) Maintain the same or greater percentage of its reserve assets for each minimum threshold in the Federal regulatory framework;

(ii) Maintain the same or lower percentage of its reserve assets for each maximum threshold in the Federal regulatory framework; and

(iii) Maintain reserve assets with a weighted average maturity equal to or lower than the threshold in the Federal regulatory framework.

(3) The State-level regulatory regime must require, in accordance with section 4(a)(4)(A)(iii) of the Act (12 U.S.C. 5903(a)(4)(A)(iii)), that a State qualified payment stablecoin issuer has standards for interest rate risk management that are consistent with the Federal regulatory framework.

(4) The State-level regulatory regime must include provisions that establish consequences for State qualified payment stablecoin issuers that fail to meet the reserve asset requirements that meet or exceed the standard in the Federal regulatory framework.

(5) The State-level regulatory regime may establish other required liquidity, diversification, or interest rate risk thresholds or metrics, provided that it also complies with the requirements described in paragraphs (f)(1) through (4) of this section.

(g) *Operational, compliance, information technology risk management.* The State-level regulatory regime must, in accordance with section 4(a)(4)(A)(iv) of the Act (12 U.S.C. 5903(a)(4)(A)(iv)), establish appropriate operational, compliance, and information technology risk management principles-based requirements and standards, including Bank Secrecy Act and sanctions compliance standards, that:

(1) Lead to regulatory outcomes that are at least as stringent and protective as the principles-based requirements and standards in the Federal regulatory framework;

(2) Are tailored to the business model and risk profile of State qualified payment stablecoin issuers;

(3) Are consistent with applicable law; and

(4) Address, at a minimum, internal controls, information security, information systems, an internal audit system, asset growth, earnings, insider and affiliate transactions, and service provider arrangements.

(h) *Activities.* (1) Subject to paragraph (h)(2) of this section, a State-level regulatory regime may not authorize State qualified payment stablecoin issuers to engage in any activities that are not specified in section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)).

(2) A State-level regulatory regime may authorize State qualified payment stablecoin issuers to engage in activities not specified in section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A)), only to the extent that:

(i) Such activities are:

(A) Incidental to the activities specified in section 4(a)(7)(A) of the Act (12 U.S.C. 5903(a)(7)(A));

(B) Digital asset service provider activities specified in section 2(7) of the Act (12 U.S.C. 5901(7)) or activities incidental thereto; or

(C) Activities specified in sections 16(a) or 16(d) of the Act (12 U.S.C. 5915(a), (d));

(ii) Such activities are authorized by Federal or State law other than the Act;

(iii) Such activities are consistent with all other Federal and State law; and

(iv) The claims of payment stablecoin holders rank senior to any potential claims of non-stablecoin creditors with respect to the reserve assets, consistent with section 11 of the Act (12 U.S.C. 5910 and 5911).

(3) For the avoidance of doubt, a State-level regulatory regime must prohibit State qualified payment stablecoin issuers from engaging in any activities prohibited under the Act, including the prohibition on rehypothecation in section 4(a)(2) of the Act (12 U.S.C. 5903(a)(2)), the prohibition on the use of deceptive names in section 4(a)(9) of the Act (12 U.S.C. 5903(a)(9)), the prohibition against misrepresenting insured status in section 4(e) of the Act (12 U.S.C. 5903(e)), and the prohibition on paying interest or yield in section 4(a)(11) of the Act (12 U.S.C. 5903(a)(11)).

§ 1521.5 Broad-Based Principles for Other Provisions of the GENIUS Act.

Following are broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework with respect to sections 4(d), 5, 6, 10, and 11 of the Act (12 U.S.C. 5903(d), 5904, 5905, 5909, 5910, and 5911).

(a) *Transition to Federal Oversight.* The State-level regulatory regime must include provisions regarding the transition by State qualified payment stablecoin issuers to Federal oversight contemplated by section 4(d) of the Act

(12 U.S.C. 5903(d)) that are consistent with the Federal regulatory framework.

(b) *Applications and licensing.* The State-level regulatory regime must establish a framework similar to section 5 of the Act (12 U.S.C. 5904) for accepting applications from potential State qualified payment stablecoin issuers that addresses, at a minimum, the content required in an application and the factors upon which the State payment stablecoin regulator will render a decision on the application. Except as provided in the Act or elsewhere in this part, the State-level regulatory regime for applications and licensing may deviate from the timeframes, forms, reporting requirements, and other procedures in the Federal regulatory framework. The State-level regulatory regime must also require the post-application and annual certifications required under section 5(i) of the Act (12 U.S.C. 5904(i)).

(c) *Supervision and enforcement.* The State-level regulatory regime must appropriately provide the State payment stablecoin regulator with similar authority over State qualified payment stablecoin issuers as the Federal regulatory framework provides over Federal qualified payment stablecoin issuers, consistent with section 6 of the Act (12 U.S.C. 5905), to license, supervise, examine, obtain reports, impose conditions, and take enforcement actions. Except as provided in the Act or elsewhere in this part, the State-level regulatory regime for supervision and enforcement may deviate from the timeframes, forms, reporting requirements, and other procedures in the Federal regulatory framework.

(d) *Custody.* The State-level regulatory regime must establish conditions on custody that are consistent with section 10 of the Act (12 U.S.C. 5909).

(e) *Insolvency.* To the extent that State qualified payment stablecoin issuers may be subject to insolvency proceedings under State law, the State-level regulatory regime must be consistent with section 11 of the Act (12 U.S.C. 5910 and 5911).

§ 1521.6 Broad-Based Principles for Additional State Requirements.

Following are broad-based principles for determining whether a State-level regulatory regime is substantially similar to the Federal regulatory framework to the extent that the State-level regulatory regime imposes additional requirements on State qualified payment stablecoin issuers beyond those in the Federal regulatory framework.

(a) *Additional State Requirements.* The State-level regulatory regime may impose additional restrictions or requirements on State qualified payment stablecoin issuers, so long as:

(1) such restrictions or requirements do not conflict with any provision of the GENIUS Act, this part, or other applicable Federal law;

(2) the restrictions or requirements do not modify the State-level regulatory regime such that it can no longer be reasonably viewed as substantially similar to the Federal regulatory framework.

(b) [Reserved]

§ 1521.7 Severability.

The provisions of this part are separate and severable from one another. If any provision, clause, or phrase of this part, or the application thereof to any person, entity, or circumstance, is stayed or determined to be invalid, unlawful, or unenforceable by a court of competent jurisdiction, such determination shall not affect the validity, lawfulness, or enforceability of the remaining provisions or applications of this regulation, which shall remain in full force and effect to the maximum extent permitted by law.

Appendix A to Part 1521—Mapping of GENIUS Act Sections to Part 1521 Principles

GENIUS Act section	Topic	Uniform or State-calibrated requirement	Corresponding part 1521 principles
4(a)(1)(A), except as noted below	Reserve assets	Uniform	§ 1521.3
4(a)(1)(A)(vii)	Additional reserve assets	State-calibrated	§ 1521.4(a)
4(a)(1)(B), except as noted below	Redemption	Uniform	§ 1521.3
4(a)(1)(B)(i)	Discretionary limitations on timely redemptions	State-calibrated	§ 1521.4(b)
4(a)(1)(C)	Monthly publication of reserves	Uniform	§ 1521.3
4(a)(2), except as noted below	Prohibition on rehypothecation of reserves	Uniform	§ 1521.3
4(a)(2)(C)(ii)	Approval for rehypothecation of reserves	State-calibrated	§ 1521.4(c)
4(a)(3)(A), (C)	Independent accountant examination of reports	Uniform	§ 1521.3
4(a)(3)(B)	Monthly CEO/CFO certification of accuracy of reserve report.	State-calibrated	§ 1521.4(d)
4(a)(4)	Capital, liquidity, reserve asset diversification, and risk-management standards.	State-calibrated	§ 1521.4(e)–(g)
4(a)(5)	Bank Secrecy Act/sanctions compliance program requirements.	Uniform	§ 1521.3
4(a)(6)(B)	Technological capability to comply with, and obligation to comply with, terms of lawful orders.	Uniform	§ 1521.3
4(a)(7)(A)	Limitation on permitted payment stablecoin activities	Uniform	§ 1521.3
4(a)(7)(B)	Additional permitted payment stablecoin activities	State-calibrated	§ 1521.4(h)
4(a)(8)	Prohibition on tying	Uniform	§ 1521.3
4(a)(9)	Prohibition on deceptive names	Uniform	§ 1521.3
4(a)(10)	Audits and reports	Uniform	§ 1521.3
4(a)(11)	Prohibition on paying interest/yield on stablecoins	Uniform	§ 1521.3
4(a)(12)	Limits on non-financial public companies (and certain foreign companies) issuing stablecoins.	Uniform	§ 1521.3
4(d)	Transition to Federal oversight	N/A	§ 1521.5(a)
5	Application and approval	N/A	§ 1521.5(b)
6	Supervision and enforcement	N/A	§ 1521.5(c)
10	Custody	N/A	§ 1521.5(d)
11	Insolvency	N/A	§ 1521.5(e)

Rachel Miller,

Executive Secretary.

[FR Doc. 2026–06489 Filed 4–2–26; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3475; Project Identifier MCAI–2025–01561–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by a manufacturing investigation that found improper application of the fastener retorque process at the center wing box (CWB) and belly fairing (BF) junctions could lead to insufficient clamping. This proposed AD would require replacing each affected part and applying additional head nut cap protection. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 18, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–3475; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.* It is also available at *regulations.gov* under Docket No. FAA–2026–3475.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Anthony DeCaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (562) 627–5374; email: *anthony.d.decaro@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–3475; Project Identifier MCAI–2025–01561–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Anthony DeCaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (562) 627–5374; email: *anthony.d.decaro@faa.gov.*

Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0209, dated September 24, 2025 (EASA AD 2025–0209) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 airplanes. The MCAI states that during manufacturing investigation of an early production A350–941 airplane, it was found that improper application of the fastener retorque process at the CWB and BF junctions could lead to insufficient clamping. Fasteners with part number EN6115 code B were particularly susceptible to rotation, and if not torqued correctly, could potentially compromise structural integrity and compliance with the electromagnetic hazard requirements of the airplane. This condition, if not corrected, could, in the case of a fuel leak, create a source of ignition, possibly resulting in an uncontrolled fire.

The FAA is proposing this AD to address the unsafe condition of these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–3475.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0209 specifies procedures for replacing affected fasteners installed on the left-hand (LH) and right-hand (RH) sides of the CWB and BF junctions and applying additional head nut cap protection. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0209 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0209 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0209 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0209 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2025–0209. Material required by EASA AD 2025–0209 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3475 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 2 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 68 work hours × $85 per hour = $5,780	Up to $940	Up to $6,720	Up to $13,440.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–3475; Project Identifier MCAI–2025–01561–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0209, dated September 24, 2025 (EASA AD 2025–0209).

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a manufacturing investigation that found improper application of the fastener retorque process at the center wing box (CWB) and belly fairing (BF) junctions could lead to insufficient clamping. The FAA is issuing this AD to address improperly torqued fasteners that could lead to insufficient clamping and potentially compromise the airplane's structural integrity and compliance with electromagnetic hazard requirements. The unsafe condition, if not addressed, could, in case of a fuel leak, create a source of ignition and possibly result in an uncontrolled fire.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0209.

(h) Exceptions to EASA AD 2025–0209

(1) Where EASA AD 2025–0209 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the definition of ''Affected parts'' in EASA AD 2025–0209 specifies ''as

specified in the SB'', this AD requires replacing that text with ''Airbus Service Bulletin A350–57–P093, dated June 17, 2025''.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0209.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (i) of this AD and email to: *AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Anthony DeCaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: (562) 627–5374; email: *anthony.d.decaro@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0209, dated September 24, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on April 1, 2026.

Victor Wicklund,

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

[FR Doc. 2026–06563 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–3473; Project Identifier MCAI–2025–01221–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by a determination that certain primary flight control actuators have been exposed to mechanical overloads during the acceptance test procedure. This proposed AD would require replacing affected parts with serviceable parts and would also prohibit the installation of affected parts. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 18, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–3473; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu*. It is also available at *regulations.gov* under Docket No. FAA–2026–3473.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *Dan.Rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–3473; Project Identifier MCAI–2025–01221–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *Dan.Rodina@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0152, dated July 18, 2025 (EASA AD 2025–0152) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states that during production, certain primary flight control actuators (servo controls, electrical backup hydraulic actuators, and electro-hydrostatic actuators) have been exposed to mechanical overloads during the acceptance test procedure, leading to reduced fatigue life of the affected actuators. This condition, if not corrected, could potentially result in actuator failure, leading to loss of control of control surfaces or to hydraulic system loss, and consequently result in reduced control of the airplane.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–3473.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0152 specifies procedures for replacing affected parts with serviceable parts. EASA AD 2025–0152 also prohibits the installation of affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2025–0152 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2025–0152 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0152 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0152 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2025–0152. Material required by EASA AD 2025–0152 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–3473 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 38 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
10 work-hours × $85 per hour = $850	$0	$850	$32,300

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2026–3473; Project Identifier MCAI–2025–01221–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 18, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Unsafe Condition

This AD was prompted by a determination that certain primary flight control actuators have been exposed to mechanical overloads during the acceptance test procedure. The FAA is issuing this AD to address actuator failure. The unsafe condition, if not addressed, could result in loss of control of control surfaces or hydraulic system loss, and consequently result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0152, dated July 18, 2025 (EASA AD 2025–0152).

(h) Exceptions to EASA AD 2025–0152

(1) Where EASA AD 2025–0152 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0152 defines a serviceable part as ''Primary flight control actuator eligible for installation in accordance with Airbus instructions, which is not an affected part'', this AD requires replacing that text with ''Primary flight control actuator eligible for installation, which is not an affected part''.

(3) Where EASA AD 2025–0152 specifies replacing an affected part ''in accordance with the instructions of the AOT'', this AD requires replacing that text with ''in accordance with the instructions in paragraph 5.6.1 of the AOT''.

(4) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0152.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dan Rodina, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3225; email: *Dan.Rodina@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0152, dated July 18, 2025.

(ii) [Reserved]

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on March 31, 2026.

Victor Wicklund,

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

[FR Doc. 2026–06492 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 11–42, 17–287, 09–197, 21–450, 20–445; FCC No. 26–8; FR ID 338251]

Lifeline and Link Up Reform and Modernization; Bridging the Digital Divide for Low-Income Consumers; Telecommunications Carriers Eligible for Universal Service Support; Affordable Connectivity Program; Emergency Broadband Benefit Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks to ensure that Lifeline services are used to benefit and support eligible low-income Americans, that the program's funding is protected from waste, fraud, and abuse, and that service providers are in compliance with Commission rules. The

Commission also seeks to update and streamline Lifeline and related rules.

DATES: Comments are due on or before May 4, 2026 and reply comments are due on or before June 2, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document. You may submit comments identified by WC Docket No. 11–42, 17–287, 09–197, 21–450, and 20–445, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
  - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Contact Eric Wu, *eric.wu@fcc.gov* Wireline Competition Bureau (WCB), 202–418–7400 or TTY: 202–418–0484. Requests for accommodations should be made as soon as possible in order to allow the agency to satisfy such requests whenever possible. Send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Lifeline and Link Up Reform and Modernization et al., Notice of Proposed Rulemaking (NPRM) in WC Docket Nos. 11–41, 17–287, 09–197, 21–450, and 20–445; FCC No. 26–8; adopted February 18, 2026 and released February 23, 2026. The full text of this document is available for public inspection during regular business hours at Commission's headquarters 45 L Street NE, Washington, DC 20554 or at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-26-8A1.pdf.*

Synopsis

I. Discussion

In the NPRM, the Commission takes a comprehensive look at the Lifeline program and proposes reforms to enhance program integrity and combat waste, fraud, and abuse. First, the Commission seeks comments on changes to ensure that Lifeline support is used to benefit qualifying low-income Americans consistent with section 254 of the Telecommunications Act of 1996 (the Act), through enhanced requirements to ensure that program participants are legal beneficiaries of Lifeline discounts, improved verification of household eligibility, an improved enrollment and transfer experience for households, predictable minimum service standards, ending the voice support phase-down, and preventing duplicative support. Second, the Commission seeks comments on rule changes that would optimize Lifeline program processes for integrity and efficiency, including reforms applicable to the states that have been permitted to opt out of using the NLAD and reduced reporting burdens for ETCs. Third, the Commission seeks comments on changes that would promote more principled service provider conduct, thereby increasing program integrity protections and ensuring that ETCs that participate in the Lifeline program comply with all rules. Finally, the Commission seeks comments on changes to the Lifeline rules to streamline them and minimize stakeholder confusion.

Ensuring Lifeline Services Are Used To Benefit Only Qualifying Low-Income Americans Consistent With Section 254 of the Act

The Lifeline program was established to help ensure that low-income Americans are able to receive affordable communications service. In this section, the Commission seeks comments on proposals to ensure that federal Lifeline benefits are only provided to the eligible recipients permitted by federal law, to improve verification of household eligibility, to ensure that consumers are enrolled with their preferred provider, and changes to minimum service standards and voice service phase-down. The Commission also seeks comments on additional program integrity improvements concerning duplicative support.

Ensuring Federal Dollars Go to Their Intended Recipients

Today, all Lifeline program applicants must submit the last four digits of their SSNs to participate in the federal Lifeline program. This is a requirement designed to operate in a manner that limits the program to U.S. citizens and qualified aliens that have lawfully valid SSNs. However, there has been an increase in the number of SSNs illegally obtained or assigned in recent years, with more than 2 million non-citizens illegally assigned SSNs in 2024 alone.

Consistent with the goal of ensuring taxpayer-funded benefits are provided only to eligible recipients, the Commission seeks comments on several steps to safeguard the Lifeline program. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) is an important safeguard that protects federal funding by limiting support for federal programs to qualified aliens. The Commission tentatively concludes that Lifeline program support is a ''federal public benefit'' that is available only to U.S. citizens and immigrants with ''qualified alien'' status under the PRWORA, and the Commission seeks comments on this tentative conclusion. The Commission notes that the Lifeline benefit already is available only to citizens and qualified aliens, but the Commission seeks comments on other implications of a finding that Lifeline is a ''federal public benefit,'' including that ''qualified aliens'' would be subject to a five-year waiting period to participate in the Lifeline program if it is also determined to be a ''means-tested public benefit.''

Section 401 of the PRWORA mandates that, ''[n]otwithstanding any other provision of law,'' outside certain narrow exceptions, ''an alien who is not

a qualified alien . . . is not eligible for any Federal public benefit.'' ''Qualified aliens'' are subject to additional eligibility requirements before they may receive benefits. For example, they may not obtain ''any Federal means-tested public benefit'' until they have been in the United States for five years with a qualified status. The definition of ''qualified alien'' includes persons with a number of immigration statuses allowing them to reside in the United States legally; it does not include individuals who are here illegally. The term ''financial means'' includes the ''income and resources'' of an alien's spouse or sponsor in its calculation of the alien's total assets.

The PRWORA broadly defines a ''Federal public benefit'' to include: ''(A) any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States or by appropriated funds of the United States.'' The United States Department of Justice, Office of Legal Counsel (OLC) has explained that this definition of ''Federal public benefit'' bars non-qualified aliens from receiving ''[1] benefit[s] for which payments or assistance are provided to [2] an individual, household, or family eligibility unit by [3] an agency of the United States or by appropriated funds of the United States.''

The PRWORA does not define the term ''Federal means-tested public benefit.'' Nevertheless, OLC instructs the best reading of this term means any federal public benefit for which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both, are determined on the basis of the income, resources, or financial need of the individual, household, or unit—regardless of the funding sources for that federal public benefit.

Applying OLC's guidance, the Commission tentatively concludes that Lifeline benefits constitute ''Federal public benefits'' and ''Federal means-tested public benefits'' for purposes of the PRWORA. As such, Lifeline is not available to non-qualified aliens and will only be available to qualified aliens on a means-tested basis. The Commission seeks comments on this assessment.

The Commission tentatively concludes that Lifeline program reimbursements paid to service providers are nonetheless ''[1] benefit[s] for which payments or assistance are provided to [2] an individual, household, or family eligibility unit by [3] an agency of the United States or by appropriated funds of the United States.'' The PRWORA provides that benefits may include ''payments'' *or* ''assistance.'' Thus, it is the Commission's current view that nothing in the PRWORA requires that payments be made directly to individuals for a program to qualify as a ''federal public benefit.'' In fact, some programs that have been determined to be ''federal public benefits'' under the PRWORA provide payments directly to third parties or other intermediaries on behalf of the beneficiary, including Section 8 housing assistance paid directly to property owners and federal student assistance paid directly to educational institutions. The Commission seeks comments on what effect, if any, the fact that Lifeline program reimbursements are paid to service providers has on the applicability of the PRWORA.

Does the fact that Lifeline benefits are already limited to citizens and qualified aliens affect the PRWORA analysis? Would a specific finding that Lifeline program support is a ''federal public benefit'' under the PRWORA further protect the program against the possibility of improper payments? If the Commission concludes that Lifeline program support is a ''federal public benefit'' under the PRWORA, would additional verifications beyond collection of the SSN be necessary to ensure compliance with the PRWORA? If so, what verifications would be needed?

The Commission also seeks comments on its tentative conclusion that the Lifeline benefit qualifies as a ''means-tested public benefit'' under the PRWORA. As noted, the PRWORA does not define ''means-tested public benefit,'' so the Commission applies the guidance from OLC that a means-tested public benefit ''is best understood as any federal public benefit for which the eligibility of an individual, household, or family eligibility unit for benefits, or the amount of such benefits, or both, are determined on the basis of the income, resources, or financial need of the individual, household, or unit.'' The Lifeline program readily satisfies the plain meaning of this definition. Tentatively concluding that the program is a federal public benefit and eligibility plainly is determined based on, among other things, income, resources, and financial need, the Commission seeks comments on this analysis and whether there are other factors to be considered. Are there reasons not to consider OLC's interpretation of the term ''Federal means-tested public benefit'' controlling here and, if not, what standard should be applied? Under this definition or others, does the Lifeline program qualify as a means-tested public benefit? Does the Lifeline program fall within any of the ''Federal means-tested public benefits'' to which exemptions from the five-year waiting period apply? If the program is determined to be a ''Federal means-tested public benefit,'' should there be a transition period before the de-enrollment of subscribers who have not completed the five-year waiting period? If so, what would that transition period be?

If the Lifeline benefit is a ''means-tested public benefit'' under the PRWORA, then with certain exceptions, qualified aliens would not be eligible for Lifeline program benefits until five years after entry in the United States as a qualified alien. The Commission seeks comments on the best way to determine whether five years have passed since a qualified alien's entry into the United States. Would resources from the Systematic Alien Verification for Entitlements (SAVE) program assist with these verifications? Are there other methods that could be used to confirm whether five years have passed since entry as a qualified alien into the United States?

The Commission also seeks comments on whether its tentative conclusion that the Lifeline benefit is a Federal public benefit under the PRWORA implicates other existing statutory or regulatory obligations. For example, would such a holding suggest other statutory or regulatory obligations rest with the Commission, program providers, or Lifeline beneficiaries once Lifeline is determined to be a Federal public benefit? Similarly, the Commission asks the same question to the extent that it determines the Lifeline benefit is a ''means-tested public benefit'' under the PRWORA. Do Lifeline program eligibility requirements sufficiently account for spouse or immigration sponsor income and resources as required for ''means-tested public benefits'' for qualified aliens under the PRWORA? Would restrictions under the PRWORA apply only to the Lifeline applicant, or would they also apply to a benefit qualifying person, that is, a dependent whose enrollment in a government assistance program makes the applicant's household eligible for the Lifeline program, associated with the applicant?

Finally, the Commission seeks comments on other potential changes regarding who should be eligible for Lifeline program support. Should eligibility for the Lifeline program be otherwise changed? Should the Commission adopt eligibility requirements in line with the Working Families Tax Cut Act's Medicaid eligibility requirements for non-citizens, under which the only non-citizens eligible were certain lawfully admitted permanent residents, certain Cuban and Haitian entrants, or individuals lawfully residing in the U.S. in accordance with the Compact of Free Association? Are there other standards for Lifeline eligibility that the Commission should consider applying?

The Commission seeks comments on additional measures that can be taken to enhance protections to ensure that program participants are qualified to receive Lifeline program discounts, including whether there are resources that can be used to combat waste, fraud and abuse.

Enhancing Identity Verification and Lawful Status of Applicants

The Commission seeks comments on ways to enhance the integrity of the identity verification process for Lifeline program applicants, including potentially collecting the full nine-digit SSN from applicants and ensuring that the Commission takes advantage of all available resources to verify the identity and lawful status of Lifeline program applicants. Verifying an applicant's identity is an integral step to confirming eligibility.

Full Social Security Number Verification. Currently, Lifeline applicants must provide the last four digits of their SSN (or Tribal Identification number, for those who lack a SSN and are a member of a Tribal nation) along with their full name, address, and date of birth for identity verification. The Commission seeks comments on whether to change the verification process to require the full nine digits of applicants' SSNs, rather than only the last four digits. What impact would this change have on the Lifeline program's goals of reducing waste, fraud, and abuse? Is collecting the full SSN necessary for identity verifications? What should be considered when balancing such potential reductions in waste, fraud, and abuse against the increased privacy and security considerations (including any increased security costs) of collecting and protecting full SSNs? Would this change bring Lifeline into greater or lesser alignment with similar programs, including those that can form the basis for eligibility for Lifeline, and what impact would the change have on administrative efficiencies and cross-agency data matching? What other programs require the full SSN? Are there deficiencies in verifying identity based on name, address, date of birth, and last four digits of the SSN that would be cured by collecting the full SSN; are there alternatives to collecting the full SSN that would address those deficiencies that present fewer privacy concerns? For example, should a four digit SSN be collected from all subscribers and a full SSN only be collected if USAC is unable to confirm the applicant's identity with the four digit SSN? Have any other such programs undergone a change from requiring four to nine digits of applicant SSNs, and what lessons can be learned from those transitions? What legal considerations would impact this potential collection of full SSNs? The Federal Information Security Modernization Act (coupled with the specific requirements of NIST 800–53), the E-Government Act of 2002, and related OMB guidance and Executive Orders related to those two acts address processes for protecting highly-sensitive, personally identifiable information such as full SSNs; are there other federal laws or guidance that should be considered in collecting full SSNs? As these laws already apply to the collection and use of partial SSNs, what impact would they have on the collection of a full SSN?

The Commission also seeks comments from Lifeline providers on compliance with this potential collection and enhanced security measures needed to safeguard consumer data. How much time should be provided to carriers to come into compliance with the changed requirement? Would carriers need to collect and store SSNs and if so, why? Should carriers be allowed to enroll subscribers using enrollment representatives' devices? What information or documents are retained by the representative or the marketing company if that means that these entities and persons (who may be unknown to the government) may be left with even more personally identifiable information (PII) of the enrollees? What can the Commission do so that providers and their agents do not retain and illegally use applicants' PII? Are there other ways that full SSNs could be used or checked that would not require carriers to collect and store that information, including some form of a verifier program? What security standards, if any, should the Commission impose on carriers or others collecting full SSNs to ensure SSNs are appropriately protected? In addition, the Commission seeks comments on the impact of this potential change on Lifeline applicants, including whether there are any groups that may be disproportionately affected. What are the costs in terms of applicant privacy and security considerations compared to the current practice of requiring the last four digits of the applicant's SSN? Are there special privacy concerns unique to Lifeline applicants that need to be considered? What might be the impact on customer enrollment in Lifeline due to potential applicant reluctance to provide full SSNs? Are there any additional costs, benefits, or legal issues the Commission should consider before also applying the full SSN requirement, as described, to individuals applying for Tribal Link Up or Lifeline emergency support for survivors of domestic violence? How are these potential concerns weighed against the potential benefits to program integrity and safeguarding public funds?

Resources for Verification of Identity and Lawful Status. To ensure that identity verifications are as thorough as possible, and to ensure that applicants satisfy the FCC's eligibility criteria, the Commission proposes requiring USAC to use the SAVE program to conduct sufficiently thorough identity verifications to ensure that the Lifeline program has the most up to date and valid information on the identity of potential Lifeline subscribers and seeks comment on this approach.

The Commission also seeks comments on other resources available to conduct identity verifications of Lifeline program applicants, including the U.S. Department of Treasury's Do Not Pay system and other available federal government resources. How does the accuracy of identity verifications under federal government resources compare to identity verifications using commercial databases? The Commission seeks comments on the cost-effectiveness of these resources and whether benefits of using them outweigh the potential costs to USF. How would administrative costs to implement these programs compare with costs to use commercial services?

Are there data points other than the applicant's name, address, date of birth and SSN (or Tribal identification number for Tribal applicants that lack an SSN) that should be collected to facilitate identity verifications? Could collecting the alien registration number, arrival/departure record number, or naturalization/citizenship certificate number facilitate identity verifications for certain immigrants?

Consumer Choice During Enrollment and Transfer

The Commission proposes changes to enhance the Lifeline program's requirements regarding consumer consent for enrollment and transfers to a different service provider and seeks comment on other ways to protect consumers and prevent fraud during the transfer process.

Consent requirements. The Commission proposes to require secondary verification of a consumer's consent to enroll in the Lifeline program or transfer to a new service provider and seeks comment on other ways that the Commission can protect consumers in the enrollment and transfer processes, such as specifying the methods by which consumers can provide consent. In the Lifeline program, providers are required to obtain consumer consent prior to submitting a subscriber's personal information to the NLAD when enrolling or transferring the subscriber. When enrolling a prospective subscriber, ETCs must provide prospective subscribers with an eligibility certification form that, in part, requires each prospective subscriber to initial his or her acknowledgement of certain certifications. For example, prospective subscribers must certify that they meet the income-based or program-based eligibility criteria for receiving Lifeline, that the subscriber will notify the carrier if for any reason he or she no longer satisfies the criteria for receiving Lifeline, and the subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law.

The Commission proposes to require a secondary verification of consent, that is, confirmation of consent via a method separate from the application or transfer request, from a consumer before an enrollment or transfer is effectuated. Current rules for enrollment require providers to obtain completed application certification forms from subscribers. Current procedures for benefit transfers require providers to obtain a new, completed application form; review proof of eligibility; and send the subscriber either a paper or electronic consent request. The FCC OIG recommended that the Commission require households to independently verify their new enrollment or transfer requests through an affirmative response to a text or email in the FCC's temporary Affordable Connectivity Program (ACP) and Emergency Broadband Benefit (EBB) program. FCC OIG investigations have shown that too many consumers were enrolled in the Commission's affordability programs without their knowledge or consent and without receiving service. The enrollment of consumers who do not actually receive services wastes limited universal service funds, and a transfer to a new ETC without the consumer's consent violates principles of consumer choice.

The Commission seeks comments on whether the Commission should require households to independently verify their new enrollment and transfer requests through an affirmative response to a text or email. Would secondary verification of consent better protect consumers against enrollments or transfers against their will? What privacy considerations would be germane to requiring secondary verifications of consent?

The Commission also seeks comments on processes for secondary verifications of consent. Should USAC contact the consumer to confirm that the consumer consented to the enrollment or transfer before an enrollment or transfer is effectuated in the NLAD? In the alternative, should the ETC contact the consumer and maintain records of the secondary verification? What safeguards should be established to prevent excessive outreach to consumers about enrollments and transfers? What method(s) should be used for such a verification—text message, email, physical address or another method? What effect would requiring a form of secondary verification have on providers and consumers, including the effect, if any, on survivors of domestic abuse seeking to switch between participating providers? How would a secondary verification requirement impact subscribers who do not yet have a device or stable connection to respond to verification texts or emails? Should such applicants be permitted to provide a secondary verification after their service has been activated?

As to *initial* consent to enroll or transfer, the Commission seeks comments on whether Commission rules should specify the method by which consumers convey their initial consent to enroll or transfer a consumer. ETCs are currently responsible for obtaining consent for an enrollment or transfer and providing USAC with evidence of the consent upon request. When enrolling a prospective subscriber, ETCs must provide prospective subscribers with an eligibility certification form that, in part, requires each prospective subscriber to initial his or her acknowledgement of certain certifications. For example, prospective subscribers must certify that they meet the income-based or program-based eligibility criteria for receiving Lifeline, that the subscriber will notify the carrier if for any reason he or she no longer satisfies the criteria for receiving Lifeline, and the subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law. Should the Commission require providers to submit evidence of consumer consent for each transfer transaction to USAC? If so, what evidence would ensure or demonstrate consensual enrollments and transfers? If providers are required to submit evidence of consumer consent for each transfer transaction, what burdens and administrative costs would this present? Is there a way to minimize such burdens—*e.g.,* have providers submit consumer consent data in the NLAD to be reviewed on a sample basis according to certain criteria? How should such submission of evidence take place?

There is currently no standard language used to obtain consent for transfers to a new ETC from a consumer. How can the Commission ensure that it is the enrolled subscribers who provide consent? With the emergence of Artificial Intelligence (AI), how can the Commission better protect the program from new types of identity theft and identity fraud? Would a standardized language requirement better enable the Commission to enforce the consent rules? What are some best practices from other types of federal benefit programs that could be utilized in the Lifeline program to obtain enrollment or transfer consent? Should specific consent be required for changes to devices, telephone numbers, email and residential addresses or other items? Finally, the Commission seeks comments on whether to implement requirements that providers input a consent timestamp in the NLAD when enrolling or transferring a subscriber. Would this enhancement prevent improper consumer transfers by ensuring the most recent consent from the consumer was properly documented? The Commission also seeks comments on best practices for encouraging providers to properly notify consumers of their privacy policies and on how best to handle personal information.

National Verifier eligibility verification expiration. Currently, an applicant that is qualified as eligible by the National Verifier will have 90 days from when they are qualified to enroll with an ETC. The Commission seeks comments on whether to shorten the period for which the qualified eligibility result can be used to enroll with an ETC. Will shortening the period from 90 days help to guard against waste, fraud, and abuse? Are 30 days or 60 days from

a qualified result sufficient time for an applicant to enroll with an ETC?

Transfer Prohibitions. The Commission seeks comments on how significant of an issue unwanted transfers are for Lifeline consumers today and whether it is necessary to impose additional restrictions on transfers in the Lifeline program. Currently, under the Commission's Lifeline rules, subscribers are able to transfer their Lifeline-supported service from one ETC to another with few restrictions. To accomplish a benefit transfer, the initiating ETC must obtain the affirmative consent of the subscriber to transfer the Lifeline benefit prior to the initiation of the transfer in the NLAD. When an ETC initiates a transfer in the NLAD, the system automatically transfers the subscriber out of the old ETC's database and into the new ETC's database.

In the event additional restrictions on transfers are warranted, the Commission seeks comments on applying the one transfer per calendar month limitation adopted for the ACP to the Lifeline program. Should the limitation be modified, and if so, what modifications should be made? How would freezing the ability to transfer for a specified period, such as 60 or 90 days after enrollment, limit consumer choice? Are there lessons from the Commission's codification and subsequent elimination of port freezes in Lifeline to be considered? Would eliminating the transfer framework altogether and instead requiring a subscriber who wants to change ETCs to de-enroll and re-apply reduce incidents of transfer issues and/or produce other benefits? The Commission seeks comments on whether transfer-related rules should be applied differently to fixed providers versus mobile providers, and if so, how.

Finally, the Commission seeks comments on number portability issues arising from the benefit transfer process in Lifeline. Are there currently concerns associated with benefit transfers where service providers fail to port subscriber phone numbers to newly identified service providers in a manner consistent with the Commission's rules? Should there be additional requirements or certain penalties for providers that fail to port consumers' numbers in connection with Lifeline service?

Disclosure language. The Commission seeks comments on whether to require ETCs to make additional disclosures to consumers before enrolling or transferring them. Although the Lifeline program does not have extensive disclosure requirements, all materials describing the service must clarify, in easily understood language, that it is a Lifeline service, that Lifeline is a federal assistance program, that the benefits are non-transferable to another individual, that only eligible consumers may enroll, and that the program benefit is limited to one discount per household. The Commission seeks comments on the value of providing new or adjusted disclosures to consumers at the time of enrollment or transfer, as well as the burden, if any, on providers.

Workable Minimum Service Standards

The Commission next inquires whether any changes are needed to ensure a workable framework for minimum service standards in the Lifeline program. In the *2016 Lifeline Report and Order* (FCC 16–38) published at 81 FR 33026, May 24, 2016, the Commission established Lifeline minimum service standards with the goal of ensuring that the service available to Lifeline subscribers was adequate to meet modern needs. The Commission concluded that creating minimum service standards furthered the Commission's statutory principle of ensuring that low-income Americans have access to quality services, particularly those ''subscribed to by a substantial majority of residential customers,'' at ''just, reasonable, and affordable rates.'' The Commission further determined that ''[b]ecause technology develops at a rapid pace, any minimum standards [the Commission] set[s] would quickly become outdated without a timely updating mechanism,'' and thus established formulas to update these standards on an annual basis. The Commission established minimum service standards and update mechanisms for fixed broadband data usage allowance, fixed broadband speed, mobile broadband data usage allowance, mobile broadband speed, and mobile voice minutes allowance in the *2016 Lifeline Report and Order* and instructed WCB to annually publish updated standards on or before July 31, becoming effective on December 1 of that year. The Commission now seeks comments on the minimum service standards and any update mechanisms.

To better inform decisions in this area, the Commission seeks comment on the low-income communications market more broadly and how increased minimum service standards would alter it. Do any existing Lifeline providers offer free-to-the-subscriber service that is more robust than the minimum service standards? Do any existing Lifeline providers offer any other benefits beyond talk, text, and data that meet the minimum service standards? If providers offer additional benefits, are they able to do so on the current subsidy level? What effect could increase minimum service standards have on the market for low-income communications service and on the number of providers who offer Lifeline? What would be the effect if the Commission raised minimum service standards to the point that providers are no longer able to provide service without requiring a payment from customers? How would this affect existing Lifeline subscribers or eligible households who are not enrolled but are considering participating in the program? Should minimum service standards be static or adjusted periodically? Have service providers explored options to support the need for increased usage allowances for Lifeline subscribers who are deaf, hard of hearing, or have a speech disability and rely on video connection for Video Relay Services and point-to-point calls and other bandwidth-intensive accessibility functions? What role, if any, could AI tools play in establishing minimum service standards?

Mobile broadband data capacity. The current mobile broadband usage allowance minimum service standard is 4.5 GB per month. In the *2016 Lifeline Report and Order,* the Commission established an initial minimum service standard schedule, setting a 500 MB per month standard beginning on December 1, 2016 that ramped up to 2 GB per month on December 1, 2018 before switching to annual updates determined by formulas and communications market data on December 1, 2019. The rules provided that one formula should be used if broadband data was published in the past 18 months, and another should be used if it was not.

However, minimum service standards based on either of the *2016 Lifeline Report and Order*'s annual mobile broadband data usage allowance formulas have never been implemented. Instead, the Commission or WCB issued partial waivers of the Commission's rules on updating the mobile broadband data usage minimum service standard in 2019, 2020, 2021, 2022, 2023, 2024, and 2025 concluding that strict application of the Commission's rules would not have been consistent with the public interest. In each waiver order, it was noted that the automatic formula, if not waived, would produce minimum mobile broadband data capacity amounts larger than the amounts likely contemplated when the *2016 Lifeline Report and Order* was adopted and could result in price increases that make Lifeline service unaffordable, even after factoring in Lifeline support, or could otherwise disrupt the low-income

broadband market. Using the formula prescribed by the Commission's rules would have ''risk[ed] upsetting the careful balance [of service quality and affordability] the Commission struck when establishing the Lifeline minimum service standards in the *2016 Order*.'' The mobile broadband data capacity standard was increased in 2019 and 2020, at pre-set, more modest amounts than the default level the formula would have set, increasing it to 3 GB rather than 8.75 GB in 2019 and 4.5 GB rather than 11.75 GB in 2020. WCB paused the most recent scheduled mobile data usage allowance update, which would have increased the standard more than sixfold to 29 GB on December 1, 2025, nearly double the average monthly consumption amount of all smartphone users.

The Commission tentatively concludes to revise or eliminate the existing mobile broadband usage allowance update rule. The *Delete, Delete, Delete Public Notice* (DA 25–219 released March 12, 2025) suggests that rules that have been repeatedly waived or that generate unexpected or highly varied benefit and burden outcomes are rules likely to be ill-suited to their purpose and therefore in need of revision or deletion. The mobile broadband usage allowance update rule meets this standard. Why has the existing mechanism produced results that are so far out of step with actual data usage? How should the Commission update this standard moving forward? How should a new update mechanism operate? Assuming the 4.5 GB minimum service standard for data allowance should be adjusted, what would the ideal standard be when a new formula goes into effect? Should minimum service standards reflect the broadband needs of an individual or the needs of a household, assuming that the household would share the device for mobile broadband use?

The Commission requests comment on a new approach that could be used to adjust the minimum service standard. What formula should the Commission or WCB use to determine the minimum service standards? Should minimum service standards be a static amount or updated at a regular cadence? If the minimum service standards increase, should the standard increase by a set amount or a variable amount based on marketplace and demographic data? For example, should minimum service standards be tied to a measure of mobile data usage like average mobile data usage in the U.S. or should it be tied to some other measure like the federal poverty level or an inflation measure? How are the costs of increased minimum service standards actually borne by providers—do providers actually purchase the capacity necessary to support the maximum allowance for each subscriber, or do they purchase the actual capacity or the estimated capacity needed understanding that some subscribers do not approach the maximum data capacity their plan allows?

The Commission also seeks comments on the data sources to be used to support any updated formula that is used to determine mobile broadband minimum service standards. Should the Commission continue to exclusively rely on the same data sources (*i.e.,* the U.S. Census and *Communications Marketplace Report*) but alter the formulas? What are the third-party data sources that can be used to support a formula for updated minimum service standards? If the Commission chooses to adopt a new formula for predictable increases, how would the timing of publications data sources be considered? Should the Commission use onetime snapshots of the marketplace or data usage to inform minimum service standards? Is there information available on mobile phone plan offerings that the Commission can use? Can commenters provide information on mobile phone plan offerings? How should the Commission utilize any data about available plan offerings to inform its decision on minimum service standards? If the Commission were to use this data in an analysis, how should staff account for differences between plan features like hotspot data, speeds, data thresholds, and congestion throttling? Should the Commission rely on the data it collected on usage and costs from the *2021 Lifeline Marketplace Report,* published June 2021 (*https://docs.fcc.gov/public/attachments/DOC-373779A1.pdf*) even though the data collection was limited to nine providers? Should the Commission use data from the *Urban Rate Survey* or other sources?

The Commission seeks to understand how changes in the minimum service standards may impact the Lifeline marketplace and whether changes in minimum service standards would impact provider participation. How would minimum service standard changes impact provider ability to offer no cost to the consumer plans and at what data usage allowance? If providers that currently offer service at no cost to the consumer were to increase prices, at what price point do low-income Americans choose not to subscribe to Lifeline service?

Mobile broadband speeds. Updates to the mobile broadband speed minimum service standard are subject to WCB discretion, with instructions to alter it only ''if the [WCB] determines that it ought to be adjusted after determining that, based on Form 477 data or other relevant sources, the 'substantial majority' principle is best satisfied by an adjusted speed standard.'' The Commission reasoned in the *2016 Lifeline Report and Order* that ''the minimum service standards for mobile broadband speeds may not need to be updated as frequently as the mobile data usage allowance standard given the pace at which new mobile technology generations are deployed.'' WCB has never updated the standard. The current minimum service standard for mobile services speed is 3G.

The Commission seeks comments on the existing mobile broadband speed minimum service standard and whether it should be revised and whether WCB should retain discretion to increase mobile broadband speed minimum service standards. One argument against making changes at this stage is that current market conditions do not necessarily indicate a need to increase the standard. It is the Commission's understanding that mobile broadband Lifeline subscribers often receive 4G LTE or 5G service and that some providers have phased out providing 3G service entirely, but in some areas, particularly rural ones, 3G remains the fastest mobile service available at any price point. Does this meet the Commission's obligation under section 254(b)(1) and (3) of the Act, which requires the Commission to base policies on ensuring affordable rates and the availability of reasonably comparable services? The Commission seeks comments on these conclusions.

Fixed broadband data. Section 54.408(c)(1)(ii) of the Commission's rules states that the fixed broadband usage allowance minimum service standard shall be the greater of ''[a]n amount the Wireline Competition Bureau deems appropriate, based on what a substantial majority of American consumers already subscribe to'' or ''[t]he minimum standard for data usage allowance for rate-of-return fixed broadband providers set in the Connect America Fund.'' The Commission expressed the ''belie[f] that 70 percent of consumers constitutes a ''substantial majority'' in the context of fixed broadband speeds.'' WCB has used this appropriateness standard every year this increase mechanism has been in effect and has never waived the increase or used the alternate Connect America Fund standard. This resulted in a 1280 GB per month standard in the most recent adjustment.

In 2016, the year the fixed broadband data usage allowance standard was enacted, 52% of fixed broadband plans allowed for unlimited data. This figure rose to 75% in 2024. While WCB has considerable latitude under the appropriateness standard to set the fixed broadband data usage allowance, it is difficult to argue that the ''substantial majority'' of consumers does not already or will not soon subscribe to an unlimited data offering. For this reason, the Commission tentatively concludes that it should provide additional clarification regarding revisions to the fixed broadband data usage allowance minimum service standard. While it is not fiscally responsible to have an unlimited fixed broadband usage allowance minimum service standard, are ETCs amenable to providing unlimited fixed broadband data to Lifeline subscribers at an affordable price? What would the price of unlimited fixed broadband data be after the Lifeline benefit is applied? Should an appropriateness standard be retained if it is no longer based on what a ''substantial majority'' of consumers subscribe to? Would an appropriateness standard that excludes unlimited data from the substantial majority consideration sufficiently improve the formula? If not, what alternate formula should be used to adjust the fixed broadband data allowance minimum service standard? Is the current 1280 GB standard sufficient? Note that even after the Lifeline benefit is applied, many fixed broadband plans require a substantial monthly fee.

Fixed broadband speed. Per Commission rules, WCB sets the fixed broadband speed minimum service standard at the 30th percentile of subscribed broadband speeds. However, if WCB does not publish the minimum service standard on or before July 31, the minimum service standard for the upcoming year will be the greater of the current minimum service standard or the Connect America Fund speed standard for rate-of-return fixed broadband providers (WCB has used the Connect America Fund Broadband Loop Support speed, which is currently 25/3 Mbps). To maintain the minimum service standard at its current level, 25/3 Mbps, after increasing it in 2020, 2019, 2018, and 2017 from the initial 10/1 Mbps standard, WCB has not published a new calculated fixed broadband speed minimum service standard since 2020, instead relying on its ability to rely on the greater of the current standard or the Connect America Fund standard.

The Commission is not inclined to alter the fixed broadband speed minimum service standard or its update mechanism. Fixed broadband subscriptions make up a small percentage of the Lifeline program and already tend to require an end-user fee. Fixed broadband speeds at or above 25/3 Mbps may be unavailable from Lifeline ETCs in some rural areas. The current mechanism allows for flexibility in whether to increase it in light of these factors, while retaining a floor preventing the minimum service standard from falling below the Connect America Fund standard, an important baseline for rural service performance. Raising the standard higher and regularly increasing it could leave large portions of the country without Lifeline service that meets this standard and increase prices to prohibitive rates in areas where qualifying service is available, thus effectively leaving many Lifeline consumers without a viable option for fixed broadband. The Commission seeks comments on these conclusions. The Commission's rules contemplate an exception from the minimum service standards for certain fixed service providers who do not offer any service in an area that meets the Commission's minimum service standards. Should this exception be changed or eliminated, and if so, why and how? Are there ways that the Commission can better understand consumer usage of fixed services supported by the Lifeline program and how these differ from mobile uses? Are there existing resources documenting such usage, or can service providers readily share that information with the Commission?

Support for Consumers Reliant on Voice Services

The Commission seeks comments on whether to maintain support for voice-only services in the Lifeline program and whether changes to the ongoing phase-down of support for voice service are necessary. In the *2016 Lifeline Report and Order,* the Commission enacted a rule to gradually phase out Lifeline support for voice-only service. The Commission reasoned that focusing Lifeline on broadband service, which has become more vital to current communications needs than voice service, best fulfills its section 254 ''responsibility to be a prudent guardian of the public's resources,'' under the Act. The Commission noted, however, that ''consumer migration to new technologies is not always uniform, and certain measures to continue addressing the affordability of voice service may be appropriate.''

In accordance with the *2016 Lifeline Report and Order,* WCB carried out the first step of the phase-down in Lifeline support for voice-only services on December 1, 2019, when it allowed support to reduce from $9.25 to $7.25. The second step occurred on December 1, 2020, from $7.25 to $5.25. The *2016 Report and Order* scheduled a complete phase-out of Lifeline support for voice-only services on December 1, 2021, when support for such services was to be eliminated in most areas. WCB, however, has issued one-year waiver extensions every year since to pause the phase-out of voice-only service. The most recent temporary waiver is currently in effect and ends on December 1, 2026. Reasons for the waivers have included the minority of Lifeline subscribers that continue to subscribe to voice-only services, the heightened reliance on voice service during the COVID–19 pandemic, the existence of alternative low-income broadband benefit programs, the potential harm from subscribers' lack of access to emergency services hotlines, the fact that bundled services may not be fully utilized, and maintaining service until the Commission determines whether to implement Commission report recommendations and deregulatory Commission priorities.

The Commission seeks comments on whether to maintain support for voice-only service at the current $5.25 amount. There are still more than 160,000 subscribers to Lifeline voice-only or bundled plans that do not meet the broadband minimum service standards, though this figure is slowly but regularly decreasing. How vital is voice service to consumers' ability to access public safety resources or to participate in today's society? Does broadband service fulfill all the needs that voice service does? How would ending support for voice-only services affect accessibility for certain individuals with disabilities? Should the Commission continue on the path toward ending Lifeline support for voice-only service, but at a later date? Should the Commission establish a metric that would trigger the phaseout of voice-only support, such as when under a certain percentage of Lifeline subscribers apply their benefit to voice-only service? If so, which metric would be the most reliable method of assessing the need for voice-only services? Can voice-only Lifeline subscribers find alternative, affordable voice-only service? Will these subscribers transition to qualifying bundled plans or stop subscribing to communications service altogether? Would subscribers that switch to bundled plans use their broadband component? How does

offering a cheaper alternative to the $9.25 standard broadband support amount affect the contribution factor?

Finally, the Commission seeks comments on ancillary rule or guidance changes to support changes to the existing minimum service standards and their adjustment mechanisms proposed here and by commenters.

Preventing Duplicative Support

The Commission seeks comments on whether changes to the one-per-household rule are necessary or warranted to achieve program goals and minimize waste, fraud, and abuse. Currently the Commission's rules limit Lifeline service to one Lifeline discount per household. However, based on the definition of household, there can be multiple households within a single residence or address if they do not share income and expenses, such as at group living facilities. A household already receiving a Lifeline discount is therefore ineligible to receive an additional Lifeline discount and ETCs must not seek reimbursement for such duplicative discounts. In order to better enforce the one-per-household rule and help prevent duplicative support, the Commission established the National Verifier and the NLAD, which were fully launched and implemented by 2020. In addition, in February 2018, the Commission announced the availability of the Independent Economic Household Worksheet, which subscribers were required to complete beginning on July 1, 2018, certifying compliance with the one-per-household rule in the event a subscriber shared an address with one or more additional Lifeline subscribers. Although these mechanisms help facilitate eligibility determinations in accordance with the one-per-household rule, the ultimate responsibility to ensure compliance with the rule remains with ETCs. In December 2019, the Enforcement Bureau emphasized that ''[n]either the NLAD nor the National Verifier creates a 'safe harbor' that relieves ETCs of their responsibility for only claiming Lifeline consumers who are actually eligible for the program under the Commission's rules.'' Instead, ETCs ''remain fully liable if they provide false, misleading, or fraudulent information'' and if they provide duplicate Lifeline discounts.

Recently, a commenter noted that ETCs are unable to see how many households are enrolled in Lifeline with other ETCs at a single address. Lifeline rules require ETCs to query the NLAD to determine whether a household is already receiving a Lifeline service. However, the NLAD does not identify for ETCs the number of discounts provided by other ETCs at an address. This shortcoming may, in some instances, make it so an ETC cannot implement a reasonable system for preventing duplicate discounts. The Commission seeks comments on whether USAC should change the functionality of the NLAD to allow any ETC to see the total number of discounts provided (across all ETCs) at a single address. How could USAC prevent providers from using this information inappropriately? Should USAC update this information in real time, each month, at annual recertification, or at some other interval? Should ETCs be required to check for this information only at initial enrollment, each month, at annual recertification, or at some other interval? Should USAC treat addresses it identifies as non-residential differently? If so, how? What, if any, additional information is needed for ETCs to implement a reasonable system for preventing duplicate discounts? What are the costs and benefits of making this information available and requiring ETCs to query the database for it? Would the changes described to the NLAD also require changes to Lifeline rules? What other internal controls could the Commission or USAC adopt to prevent duplicative support? Could AI tools help USAC identity instances of duplicative support?

The Commission also seeks comments on whether to revisit the one-per-household rule. Should the Commission revise its rule to make it a one-per-*residence* rule? If the Commission moved to a one-per-residence rule, how should instances be handled where more than one household receiving Lifeline benefits currently resides at the same address—for example, should such current Lifeline beneficiaries be allowed to keep their discount, despite the rule change? For new applicants, how should multiple households applying for Lifeline at the same residence be handled—for example, should the Commission provide benefits to the first applicant to enter an approved application into the NLAD? What dispute resolution processes does the Commission need to have in place if such a rule change were made?

Alternatively, should the Commission adopt a cap on the number of households who receive discounts at a particular address (and if so, should this cap differ for non-residential addresses)? Should the Commission make any one-per-residence limit or larger cap on the number of households at an address a rebuttable presumption, and if so, what types of evidence should be considered to rebut that presumption? Should the Commission redefine an independent economic household, and if so, how should it be redefined? Have circumstances changed since the Commission last considered whether to keep the one-per-household rule in 2012? What would be the likely effect of different approaches on the cost of the Lifeline program, its ability to serve low-income individuals and households, and the Universal Service Fund contribution factor? How often have commenters found that subscribers were wrongfully rejected as receiving duplicate discounts? How often do commenters estimate that duplicate Lifeline support has been improperly granted under the current system? Would program integrity and low-income household needs be better served by focusing on tracking usage requirements rather than duplicates? If so, why?

In addition, the Commission proposes to codify the rule, established over a decade ago, that in addition to querying the NLAD for duplicate discounts at a single residence an ''ETC must also search its own internal records to ensure that it does not already provide Lifeline-supported service to someone at that residential address.'' The Commission proposes codifying the rule in § 54.410(a) of the Commission's rules, because this internal check is one example of a policy and procedure ETCs must implement ''for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.'' Commission codification of the rule is not intended to suggest that this requirement was not already in force. Nor is the codification intended to suggest that every specific policy and procedure required by Commission rule § 54.410(a) must be explicitly cited in that rule in order to apply to ETCs. The standard for such internal policies and procedures is that they must at least encompass a ''reasonable system for preventing duplicates'' or other violations of Lifeline rules, under the totality of the circumstances.

Optimizing Lifeline Program Processes for Integrity and Efficiency

The Commission seeks comments on whether to undertake additional changes to optimize Lifeline program processes, including whether the Lifeline program should continue to permit different eligibility verification processes for NLAD opt-out states and whether to streamline the annual reporting forms for ETCs.

Opt-Out State Reforms

The Commission seeks comments on whether to continue to permit the Lifeline program ''opt-out'' states to

utilize their own program integrity processes different from federal processes. When the Commission implemented the NLAD to help prevent consumers from receiving duplicative Lifeline support, it allowed states to opt out of using the NLAD if they had their own systems to check for duplicative Lifeline support that were at least as robust as the NLAD and covered all ETCs operating in the state and their subscribers. After the launch of the National Verifier, WCB elected to allow the National Verifier to rely on state processes to facilitate eligibility determinations in NLAD opt-out states. Although the National Verifier has been deployed in all states and territories, in Lifeline it operates differently in Texas and Oregon, which are ''NLAD opt-out'' states. In those states, the state public utility commissions, or their administrators, facilitate verification of a consumer's eligibility to participate in Lifeline. With respect to the opt-out states, USAC uses state Lifeline subscriber files to populate the NLAD. In partnership with these states, USAC also samples state eligibility information and documentation to assess whether that state eligibility determinations are made in accordance with Commission rules. In contrast, under the ACP, the Commission did not permit states to opt out of the NLAD or take a modified approach to use of the National Verifier.

The Commission has concerns that the current approach, which allows opt-out states to conduct their own verification processes, creates greater opportunities for waste, fraud, and abuse in the Lifeline program. For example, WCB recently revoked California's opt-out status because, among other things, recent changes to California state law no longer requiring applicants to submit SSNs for verification purposes impaired the efficacy of California's eligibility verification, duplicate detection, and identify theft prevention procedures. More broadly, FCC OIG recently found that providers across opt-out states received nearly $5 million in Lifeline reimbursements for deceased individuals across five years. The Commission seeks comments on whether the Lifeline program should continue to permit different eligibility verification processes for NLAD opt-out states and whether the experience in opt-out states has demonstrated that allowing for alternative systems provides net benefits to states, providers, consumers, and the Lifeline program in general.

The Commission seeks comments on whether states and ETCs have found that state alternatives were more or less efficient or confusing than the federal system. What are some examples or insights that demonstrate the efficiency or inefficiency of state-specific Lifeline verification processes compared to the federal system? In particular, have ETCs working in both NLAD states and opt-out states found it difficult to navigate the different systems or receive accurate and timely reimbursements? Are there benefits to having uniform Lifeline eligibility verification and duplicate checking processes nationwide? Are there any differences in eligibility verification accuracy between the processes in NLAD opt-out states and the typical National Verifier eligibility verification process? Do NLAD opt-out states and states with a modified National Verifier approach that relies on state eligibility determinations adhere to requirements that their processes be as robust as federal processes and that state eligibility determinations meet the objectives of the National Verifier? Would moving to a single administrator system that covers all states address the concerns underlying FCC OIG recommendations for greater coordination between USAC and opt-out states and for opt-out states to maintain databases similar to the Representative Accountability Database? What are the benefits of utilizing state-specific processes for Lifeline eligibility verification compared to the federal National Verifier system? Could those be adopted by the National Verifier? Is the additional administrative complexity associated with coordinating eligibility verification with NLAD opt-out states justified by commensurate benefits, such as streamlining the process of applying for both federal and state benefits in one application? Would moving all processes to the standardized process allow the Commission to make any needed changes to processes on a quicker timeline? If the Commission were to require NLAD opt-out states to use the National Verifier for eligibility checks for Lifeline in the same manner as in other states, how would this affect those opt-out states and how much time should be afforded for the transition? Have there been any lessons learned from the California transition?

How does the consumer experience with the Lifeline application and recertification differ in NLAD opt-out states versus other states? Do commenters have specific consumer feedback or complaints that highlight these differences? If the Commission requires a single federal Lifeline verification system across all states, would service providers be able to integrate federal Lifeline applications with state Lifeline applications to minimize administrative burdens on consumers? What changes would help service providers with this integration? Are there different state documentation practices that benefit consumers while protecting program integrity that should be adopted by the National Verifier, if the Commission were to consider mandating nationwide reliance on the National Verifier for Lifeline? What are other potential impacts on consumers to consider?

Minimizing Reporting Burdens

The Commission seeks comments on ways to improve program efficiency while also reducing regulatory reporting burdens on ETCs participating in Lifeline, particularly small businesses, while ensuring that the integrity of the program is protected. Several commenters in the *Delete, Delete, Delete* proceeding have suggested various ways of streamlining FCC Form 481 and FCC Form 555, the two Lifeline program forms that ETCs are required to file annually, including combining the forms, having those (and other) forms' filing deadlines set for the same date, limiting the number of entities to which the forms must be submitted, removing certain filing requirements from the forms, or eliminating the forms outright. ETCs report financial and operations data on the FCC Form 481 and recertification results on the FCC Form 555.

Some commenters raised the possibility of combining all or parts of FCC Form 481 and FCC Form 555, and possibly other FCC forms. The Commission notes that these forms differ (at least currently) in various ways, including who must submit the form (all ETCs or Lifeline-only ETCs), when and to what entities they must be submitted, and what the specific consequences are for failing to submit the form. The Commission seeks comments on whether combining these forms would reduce reporting burdens, how best to combine these forms, whether combining them would create more or less confusion for ETCs, what rules would need to be amended to combine the forms, and a reasonable deadline for combining these forms.

Alternatively, the Commission seeks comments on the costs and benefits of synchronizing the filing deadlines for the FCC Form 481 (currently due annually on July 1) and FCC Form 555 (currently due annually on January 31). Would it be preferable to synchronize filing dates for those two forms (or even additional FCC forms)? Would it be more or less burdensome on ETCs to file many separate (or combined) forms all

at once, particularly for those ETCs that are small businesses?

As to commenters' request that the Commission limits the entities to which these forms must be submitted or create a coordinated portal where the FCC, USAC, and other relevant entities can access the filings, the Commission seeks comments on the costs and benefits, including the effect on ease of access to the information and any concerns regarding privacy or confidential information, including how such concerns could be mitigated. In addition, the Commission seeks comments on experiences with One Portal, where some carriers can submit certain portions of FCC Form 481 (which states and other entities cannot access directly) and FCC Form 555 (which states and other entities can access directly).

Commenters in the *Delete, Delete, Delete* proceeding have suggested revising or eliminating certain reporting requirements. The Commission seeks comments on what, if any, specific reporting requirements should be eliminated in connection with FCC Form 481 and FCC Form 555. For example, the same or similar reporting requirements in FCC Form 481's High-Cost portion were previously eliminated: (1) network outage reporting, (2) complaint reporting, and (3) certification of compliance with service quality standards and consumer protection rules. The Commission seeks comments on whether to eliminate these and other requirements in the Lifeline portion of FCC Form 481, including: (1) certification of compliance with Lifeline rules regarding applicable minimum service standards, (2) certification that the carrier is able to function in emergency situations in compliance with Lifeline rules, and (3) descriptions of the terms and conditions of voice telephony service plans offered to Lifeline subscribers. Similarly, the Commission seeks comments on whether to amend or eliminate any of the recertification-related data captured on FCC Form 555 and whether certifications should continue to be made by a corporate officer of the ETC.

For each of these requirements, the Commission seeks comments on the costs and benefits of requiring such information be reported on the annual forms, especially for information that may be collected elsewhere (*e.g.,* the Commission's consumer complaint system and outage reporting system). If commenters believe this information should still be collected from ETCs, the Commission request specific recommendations on how to revise the requirements to make the data more useful for individual and aggregate analysis. The Commission also seeks comments on whether commenters have specific revisions to the questions, as they exist on the current forms, to make them clearer or less burdensome.

Finally, the Commission seeks comments on other ways to amend forms or USAC practices to improve processes or promote integrity. For example, should corporate officers submitting reimbursement requests be required to certify compliance with specific key program rules, rather than with *all* rules? With respect to non-compliance in Lifeline generally and the changes proposed in the NPRM, what additional information, if any, should USAC or the Commission provide in its notices of non-compliance or debt demand letters to carriers? Are there changes the Commission can make to further ensure that Lifeline carriers are notified of the basis for recovery, and are able to respond appropriately?

Promoting Principled Service Provider Conduct

ETC Compliance Plans

The Commission examines whether changes are needed to the conditions placed on non-facilities-based ETCs to participate in the Lifeline program under the Commission's grant of forbearance from the statute's ''own facilities'' requirement. The Commission also seeks comments on how to improve program integrity related to non-facilities-based ETCs and inquire about potential amendments to the standards and processes for compliance plans that are needed for an ETC to receive forbearance from the Act.

The ''own facilities'' requirement of section 214(e)(1)(A) of the Act mandates that ETCs receiving USF support must provide the supported services, *e.g.,* voice or broadband, either wholly or partly through use of their own facilities, and not be a pure reseller of another carrier's services. In the *2012 Lifeline Report and Order* (FCC 12–11) published at 77 FR 12952, March 2, 2012, the Commission granted blanket forbearance from the own facilities requirement subject to certain conditions, finding that the use of the ETC's own facilities in providing Lifeline-supported service was not necessary to ensure just and reasonable rates or to protect the public interest, and that forbearance was in the public interest as long as certain conditions were met. Carriers were required to comply with all 911 and enhanced 911 service obligations. They also were required to submit and receive approval from WCB for a compliance plan including certain required information concerning how the carrier will comply with all Lifeline program service requirements and program integrity obligations.

Some program integrity concerns that have plagued the Lifeline program in recent years disproportionately involve certain non-facilities-based ETCs that operate under the Commission's grant of forbearance, including Q Link Wireless, American Broadband, TracFone Wireless, and Total Call Mobile, to name several examples. Of the examples listed, Q Link Wireless committed the most egregious program integrity violations. Q Link and its owner, Issa Asad, were charged with conspiring to knowingly submit and causing to be submitted false and fraudulent claims to the Lifeline program for customers who were not using Lifeline-supported services consistent with FCC usage regulations, including customers who never activated their supported services. On October 15, 2024, Q Link and Issa Asad pled guilty to several offenses involving their Lifeline misconduct including theft of government funds and defrauding the United States. Q Link and Issa Asad agreed to pay more than $110 million to resolve criminal charges and civil claims arising under the False Claims Act related to these violations. On July 24, 2025, Asad received a sentence of 60 months' imprisonment. In light of this history, the Commission seeks comments on changes to the conditions placed on non-facilities-based ETCs subject to forbearance that would promote Lifeline program integrity.

Compliance Plan Requirements. The Commission seeks comments on what, if any, changes to current compliance plan requirements may be necessary. At a minimum, Lifeline compliance plans currently must include: (1) information about the carrier and the Lifeline plans it intends to offer, including detailed information demonstrating that the carrier is financially and technically capable of providing the supported Lifeline service in compliance with the Commission's rules; (2) detailed information, including geographic locations, of the carrier's current service offerings, the terms and conditions of each Lifeline service plan offering, and all other certifications required under § 54.202 of the Commission's rules; (3) a detailed explanation of how the carrier will comply with the Commission's rules relating to the determination of subscriber eligibility for Lifeline services; (4) a detailed explanation of how the carrier will comply with the forbearance conditions relating to public safety and 911/E–911 access; (5) a

detailed explanation of how the carrier will comply with the Commission's marketing and disclosure requirements for participation in Lifeline; and (6) a detailed explanation of the carrier's procedures and efforts to prevent program integrity issues in connection with Lifeline funds.

Are there additional data points, fields or explanations that compliance plans should capture? Should compliance plans include descriptions of the company's corporate structure? If so, should the structure also identify and describe any parent companies, affiliates, or subsidiaries? If an applicant is a subsidiary of a parent company, should the applicant include information about how resources, operating infrastructure, and other support may be shared with the parent company to support providing service to Lifeline recipients? How should this information be included in an application without disclosing unnecessary confidential information of the parent company? Should compliance plans identify any unaffiliated third-party companies that will be used to assist the Lifeline program applicant with providing Lifeline program services to consumers and provide an explanation of the third-party's role in those efforts? Should compliance plans identify any resale wholesalers the ETC will use to obtain facilities-based services? Should the compliance plan include copies of such contracts? Should Lifeline-only ETCs be required to update any changes to those arrangements? Are there restrictions that should be placed on such arrangements? Should compliance plan corporate structure descriptions report ownership by any foreign persons or foreign entities? Should corporate ownership by a foreign person or entity seeking approval of a new compliance plan require separate review by U.S. national security agencies before approval can be granted? Should review of compliance plans include assessing whether the entities or their equipment are included on the list of communications equipment and services (''covered list'') that are deemed to pose an unacceptable risk to United States national security or the security and safety of United States persons? Should compliance plans identify corporate officers and their relevant experience? Should compliance plans identify top level management and explain their experience in providing telecommunications or related services to consumers? Should companies be required to have compliance officers, and if so, should compliance officers be required to certify that the company complies with its Lifeline program obligations? Should providers be required to identify the procedures they will use to prepare and certify claims for reimbursement? If not, why? Should they require disclosure of all instances in which the company or its senior officers have been (1) involved or charged with criminal wrongdoing, or actions giving rise to criminal wrongdoing, (2) subject to investigations into possible violations of the False Claims Act or other similar laws, and debt collection efforts by state or federal agencies, or (3) engaged in waste, fraud, or abuse of federal funding? Should compliance plans explain how ETCs will monitor their agents who enroll subscribers on their behalf? Should compliance plans require ETCs to explain the steps they will take to ensure that agents hired by contractors to enroll subscribers on their behalf will be trained and their activities be monitored? Should marketing companies be required to report to the ETCs they work for when an agent they employ is barred from RAD? Audits and program integrity reviews conducted by USAC have revealed many compliance problems in the Lifeline program. Should Lifeline program rules or compliance plans require an annual audit to evaluate rule compliance? Should Lifeline compliance plans require that ETCs disclose allegations or evidence of waste, fraud, and abuse?

For a compliance plan to be approved, the ETC must demonstrate that it is financially and technically capable of operating in the Lifeline program. Among the relevant financial and technical capability considerations are whether the applicant previously offered ''services to non-Lifeline consumers, how long it has been in business, whether the applicant intends to rely exclusively on USF disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether it has been subject to enforcement actions or ETC revocation proceedings in any state.'' What other information should be required to demonstrate the provider is a bona fide telecommunications provider? Should Lifeline compliance plans include audited, or if not available, unaudited financial statements, and if so, how many years of past financial statements should be included? Should applicants be required to provide information about other significant financial resources or transactions that the companies would use to support, or are material to, their participation in the Lifeline program? What is the appropriate scope of financial resource information that should be reported? For example, should this include advertisement revenue, revenue generated from selling customer information, etc., or should the required information be limited to financial ownership? Should compliance plans include information about any non-Lifeline communications service revenue that could be used to support operations for the services provided to Lifeline subscribers, and should this information include data about other revenue sources not tied to providing communications services but that might support the Lifeline ETC in its overall operations? Financial ratios are commonly used to measure a company's financial health. For example, the times interest earned (TIE) ratio measures a company's ability to meet its interest obligations using its operating earnings. The TIE ratio is calculated by dividing earnings before interest and taxes (or EBIT) by total interest expense. Should the Commission require the ETC to demonstrate financial health using the TIE ratio and/or other financial ratios? If so, what ratio or ratios should be required and what is an acceptable value for each such ratio? Should the Lifeline-only ETC and the Lifeline compliance plan requirement be formally incorporated into the codified rules? Should a providers' manuals and processes of policies and procedures that they provide to their employees and agents be attached as appendices to the compliance plan? Should compliance plans include subscriber counts, and if so, how many years of past data should be submitted? If an approved ETC is submitting an amendment of its compliance plan for approval, should the amended compliance plan contain recent or current subscriber counts, and if so, should it include a breakdown of the number of Lifeline subscribers and non-Lifeline program subscribers? Should compliance plans include a discussion of the databases and transactional processing systems that applicants will use, for example, for enrolling or billing Lifeline consumers? Should compliance plans include measures the service provider is taking and will take to comply with Lifeline program rules, including how it will track usage and other program requirements? Should a discussion of such databases and transactional processing systems discuss how fraud by agents, third party companies involved in assisting customers, and others with access to the systems will be prevented with respect to enrollment and transfers-in? Should this requested

information be required for all third-party activities or limited to specific activities such as customer outreach services? Should compliance plans include a detailed explanation of the company's Lifeline program compliance training and other internal controls? Should ETCs be mandated to provide employees with compliance training on Lifeline program rules and other internal controls? Should there be certain minimum training requirements, and if so, what should those minimum requirements be? Should compliance plans include consumer protection plans such as a porting guidance script to be used for consumers in the event that an ETC fails to respond? What other financial and technical capability information should be included in compliance plans?

The Commission seeks comments on what changes, if any, should be made to the Lifeline compliance plan requirements beyond those discussed above. Are there changes to the requirements that should be made that will result in consistency and efficiencies in WCB's review and processing of compliance plans? Are there current regulatory processes at the Commission that WCB should leverage to assist in such reviews such as seeking public comment on submitted compliance plans?

Are there certain conditions that should be attached to compliance plans, once approved, that would result in automatic termination of the compliance plan if the condition is violated? The Commission seeks comments on what the conditions should be for terminating a Lifeline compliance plan. Should Lifeline compliance plans terminate when ETCs are found guilty of committing fraud or other misconduct in the Lifeline program? Should compliance plans terminate when ETCs change corporate ownership or control without notifying the Commission and receiving approval of an updated compliance plan? Or should ETCs be permitted to restart participation in the Lifeline program and continue under their previously approved compliance plan if they establish to the Commission's satisfaction that they have returned to their prior corporate structure and control? Under what circumstances should Lifeline compliance plans terminate? Should compliance plans have an expiration date at which time they must be re-submitted and re-approved? If so, how long should that period be? How often should WCB review approved compliance plans? Should all compliance plan amendments require WCB approval? Which compliance plans amendments should require WCB approval? Should providers be required to submit compliance plans annually or at some other interval? Or alternatively, should providers be required to update their compliance plans as circumstances change, *e.g.,* if they offer a new Lifeline plan or if they have an inordinate number of non-usage de-enrollments? How would re-approval work logistically? Should the frequency of compliance plan submissions be based on the number of subscribers that a provider has? The Commission seeks comments on the cost and benefits of more frequent compliance plan submission for providers, USAC, and the Commission. Are there ways that the reporting burden can be reduced while still collecting the necessary information? Finally, how often should the Commission require providers to submit updated compliance plans? Should a provider be allowed time to revise and resubmit a compliance plan if updates are required and the resubmitted compliance plan was deficient?

Letters of Credit. The Commission seeks comments on whether requiring non-facilities-based ETCs to obtain letters of credit as required by carriers in the Commission's USF High Cost programs would promote program integrity and ensure continuity of service for subscribers in the event their ETC faces significant recoveries due to violations of program rules. Since 2011, the Commission has required recipients of High Cost program support authorized through a competitive process to obtain letters of credit as a financial guarantee that the service provider has access to the necessary funds to complete the network buildout as committed in their winning bid. Non-facilities-based ETCs face minimal capital expenditures because they do not deploy their own networks, but many may be paying more in operating expenses than facilities-based carriers because they lease network capacity. Adopting a letter of credit requirement for the Lifeline program would ensure that ETCs can reimburse the USF for recovered funds or pay fines due to program rule violations, and allow the ETC to use ongoing USF support to continue paying network leases to wholesalers to maintain continuity of service for subscribers. Would requiring letters of credit from non-facilities based providers seeking to enter the Lifeline program ensure continuity of service in these circumstances? What would be the advantages and disadvantages of requiring non-facilities-based ETCs to obtain letters of credit? If the Commission adopts a letter of credit requirement, should it apply to all non-facilities-based ETCs currently operating under approved compliance plans, or just those whose compliance plans will be granted in the future? If the Commission were to require letters of credit, under what circumstances should the Commission draw on the letters of credit (*e.g.,* compliance plan violations, findings of improper payments, unpaid notices of apparent liability or forfeiture orders)? Relatedly, what documentation should be required for the Commission to draw on the letters of credit?

The Commission also seeks comments on the standards for letters of credit, including the value of the letter of credit and standards for the issuing bank the Commission should adopt if it requires letters of credit for non-facilities-based ETCs. High Cost support recipients, for example, in the Rural Digital Opportunity Fund (RDOF), are required to maintain letters of credit that increase in value on an annual basis, but may reduce the value of their letters of credit upon certification that they have met certain deployment obligations. How should the Commission determine the value of a letter of credit in the Lifeline program? Should it be based on subscriber count, or other factors? Should the value be higher than the proceeds the carrier would receive from the expected number of Lifeline subscribers that the carrier plans to serve plus an additional percentage? Most relevant to the Commission's inquiry concerning potential changes to Lifeline program requirements, the current standards for High Cost mechanisms that require letters of credit require that the entity issuing the letter must be a United States bank insured by the Federal Deposit Insurance Corporation (FDIC) that meets the criteria to be considered ''well capitalized'' as determined by the FDIC, the Federal Reserve, and the Office of the Comptroller of the Currency (OCC). Each agency has codified nearly identical criteria to determine a bank's capitalization status and whether it is ''well capitalized.'' For a bank to be well capitalized, the regulations also require a confirmation from the bank that it is not subject to certain regulatory actions from its supervising agency. What should the standards for the bank issuing the letter of credit be? Should the Commission adopt the letter of credit standards noted in this paragraph for use by the Lifeline program? Should the Commission permit only U.S. banks to issue letters of credit? Should the

Commission require that the issuing bank be insured by the FDIC? Should the Commission require the issuing bank to have at least a certain credit rating? What should the Commission require the issuing bank's credit rating to be? Would alternative financial instruments such as a surety bond or performance bond achieve the same goals to ensure program integrity?

Revocation of Compliance Plans. The Commission seeks comments on the instances in which a compliance plan should be revoked. If an approved entity receives an unfavorable outcome in an enforcement action, *e.g.,* a forfeiture order, should that result in revocation of WCB's approval of the entity's Lifeline compliance plan? What other situations should result in the revocation of a non-facilities-based ETC's Lifeline program compliance plan? Would material deviation from an approved compliance plan merit revocation? Should such consequences be determined on a case-by-case basis, as the particular violation warrants? For an ETC that has already received approval of its compliance plan, but a change in circumstances warrants submission and approval of an updated compliance plan, *e.g.,* due to a change in corporate ownership or control, should the provider's participation in the Lifeline program be immediately revoked if it fails to submit an updated compliance plan or an updated compliance plan is not approved? Is revocation of a compliance plan subject to the Administrative Procedure Act's (APA) notice requirements for revocation of a license? Noting that the APA notice requirements are subject to exceptions ''in cases of willfulness or those in which public health, interest, or safety requires otherwise,'' if those requirements apply, in what circumstances would those exceptions apply? In the event that WCB revokes a non-facilities-based ETC's compliance plan, the Commission would want to ensure the continuity of service for Lifeline subscribers served by that carrier. Should the Commission develop rules or processes for moving subscribers of an ETC with a revoked compliance plan to another ETC? How should the Commission determine which ETC should serve those subscribers or otherwise determine the best way for those subscribers to continue to receive service through the provider of their choosing? In these circumstances, how could the Commission ensure that the ETC whose compliance plan has been revoked complies with the Commission's number portability requirements?

Reimbursement for Services That Consumers Actually Use

ETCs are permitted to offer Lifeline service without assessing and collecting a monthly fee, but must adhere to certain specified usage requirements. ETCs that offer Lifeline services where they assess and collect a monthly fee currently are not required to monitor usage for subscribers on such plans. However, the Commission has identified several instances in which ETCs may be attempting to evade the usage requirement by offering plans with billing arrangements structured to appear compliant with § 54.407(c) of the Commission's rules, but that may not be. To prevent attempts to evade usage requirements and to minimize waste, fraud, and abuse in the program, the Commission proposes to amend its rules to require usage tracking and non-usage de-enrollment for all Lifeline service plans regardless of whether a monthly fee is assessed and collected. The Commission anticipates that this action would further encourage ETCs to stop offering existing plans structured to circumvent the Commission's usage rule from the market, eliminate future attempts to create novel, but ultimately non-compliant billing arrangements, and require more transparency and accountability from those ETCs that use plans currently meeting the ''assess and collect'' standard.

Section 54.407(c) of the Commission's rules requires ETCs that do not ''assess and collect a monthly fee from [their] subscribers'' to de-enroll subscribers that have not used their Lifeline service within the last 30 days, plus a 15-day cure period. Lifeline subscribers are deemed to have ''used'' their service if they have completed an outbound call; used data; purchased minutes or data from their participating provider; answered an incoming call from anyone who is not their provider or provider's representative; responded to direct contact from their provider confirming intent to receive Lifeline service; or sent a text message. Providers are responsible for tracking subscriber usage and retaining appropriate usage documentation to demonstrate compliance with the usage requirements. ETCs that do assess and collect monthly fees from their subscribers are not currently required to track usage or de-enroll their subscribers for non-usage.

The Commission established this Lifeline usage rule in the *2012 Lifeline Report and Order.* The purpose of the rule was to ''reduce waste and inefficiencies in the Lifeline program by eliminating support for subscribers who are not using the service and reducing any incentives ETCs may have to continue to report line counts for subscribers that have discontinued their service.'' The Commission stated that the usage rule applies only to ''services for which subscribers do not receive monthly bills and do not have any regular billing relationship with the ETC'' and thus ''do not have regular contact with the ETC that would provide a reasonable opportunity to ascertain a continued desire to continue to receive Lifeline benefits.'' The Commission in its *2016 Lifeline Report and Order* ''emphasize[d] that only if a carrier bills on a monthly basis and collects or makes a good faith effort to collect any money owned within a reasonable amount of time will the carrier not be subject to the non-usage requirements.'' The Commission in 2012 declined to extend the usage rule to plans that meet the rule's assess and collect standard, stating that plans subject to monthly assessment and collection ''do not present the same risk of inactivity as subscribers of pre-paid services'' because there is financial incentive for the consumer not to continue subscribing to Lifeline service it does not use or intend to use.

As mentioned, some Lifeline providers offered paid plans that appear structured to conceal the fact they lacked a regular billing relationship between ETC and subscriber and monthly assessment and collection. One type of plan required subscribers to pay an upfront annual fee. The ETC would then decrement one-twelfth of this lump sum monthly to provide the appearance of a monthly assessment and collection and avoid the need to comply with usage requirements. Under such plans, subscribers are not regularly billed and collection of a fee occurs annually, with the only monthly accounting activity being a funding transfer between the ETC's own accounts. In a recent response to this activity, WCB released a Public Notice in 2024 clarifying that ''[i]f an ETC assesses and collects an end-user fee but does not do so on a monthly basis, the usage requirement applies to that subscriber. A one-time fee or a fee collected from the subscriber annually and decremented on a monthly basis does not satisfy the rule's requirement to assess and collect a monthly fee.''

A few other ETCs have begun offering consumer payment plans using accounts held by the provider, sometimes known as ''digital wallets.'' Under these plans, upon enrollment, subscribers are required to deposit funds into a refundable digital wallet account that is largely controlled by the ETC, with

some or limited engagement by the subscriber.

The Commission tentatively concludes that the usage tracking requirements currently codified in § 54.407 (c)(1) through (2) of the Commission's rules should apply to all Lifeline service plans, rather than only those that do not require the assessment and collection of a monthly fee. Despite a rule, implementing order, and follow-on guidance requiring usage tracking and de-enrollment on plans for which ETC and subscriber do not have a regular billing relationship that includes the ETC both assessing and collecting a fee from the subscriber on a monthly basis, some ETCs remain non-compliant and have even adopted more complex plans that purport to, but do not actually, satisfy the Commission's billing standard. This effort seems to be in furtherance of avoiding the Lifeline program requirement to track usage and de-enroll for non-usage. The Commission believes that applying a blanket standard is necessary to ensure program integrity and will discourage ETCs from creating new plans that attempt to evade usage requirements, the terms of which may be inscrutable to consumers. Requiring ETCs to preserve usage data in all circumstances will provide transparency into Lifeline subscriber usage overall and enhance the ability of the Commission and USAC to recover for non-usage. In addition, even with plans where a monthly fee is assessed and collected, a basic showing of usage will ensure that scarce USF dollars are going where they are truly needed. The Commission seeks comments on this tentative conclusion.

The Commission seeks comments on any alternative method of ensuring that ETCs properly comply with the Commission's usage requirements and any other ways to further the underlying policy goal of preventing disbursement of USF support to Lifeline services that go unused? Would requiring ETCs to seek Commission approval of each new service plan, including billing and collection processes, before they can offer it to Lifeline subscribers prevent usage rule non-compliance? Would there be any burdens or barriers that the Commission and USAC would encounter in administering these types of approvals? What would the scope of such review be? Would it implicate privacy or confidential business practice considerations? How much would it delay new offerings from coming to market? Would it inhibit novel, compliant offerings? Are there conditions under which a prepayment-based plan is equivalent to debiting a customer's credit card on file? What level of customer engagement is sufficient to meet the ''assess and collect'' standard (*e.g.,* monthly opt-in versus opt-out)? What changes to the Commission's rules would establish clear parameters for such plans and ensure support is not wasted on service not needed by a qualifying low-income household?

The Commission also tentatively concludes that applying the usage rule to all Lifeline plans would reduce inactivity, and help to curtail waste of limited USF dollars. In the *2012 Lifeline Report and Order,* the Commission stated that due to the lessened risk of inactivity regularly billed plans pose, applying usage tracking to them would not be worth the corresponding administrative burdens, though it recognized that this policy may result in the Lifeline program subsidizing some service plans that are not being used. The Commission now wishes to reexamine this calculus. The Commission is currently engaging with stakeholders on its wide-ranging *Delete, Delete, Delete* proceeding, which aims to overhaul Commission rules to spur communications investment, expansion, and innovation. The Public Notice launching the proceeding explains that the Commission has '' 'a correlative duty to evaluate its policies over time to ascertain whether they work—that is, whether they actually produce the benefits the Commission originally predicted they would.' '' Has applying the usage rule only to plans that do not require the assessment and collection of a monthly fee adequately eliminated waste in the Lifeline program? Should subscribers be permitted to receive monthly Lifeline support if they do not use their service just because they pay for a portion of it? How prevalent are these situations? What benefits, if any, do subscribers of subsidized, infrequently used or unused service see? How does subsidizing infrequently used or unused service benefit American society? How could funds that currently support underutilized service be better spent? How burdensome would requiring usage tracking and de-enrollment for non-usage on all Lifeline plans be on USAC, the Commission, and providers? Would requiring usage tracking and non-usage de-enrollment for all plans result in fewer new ETC designation requests or increase ETC designation relinquishment? How would extending the usage rule to all Lifeline plans affect service offerings or participation in Lifeline? Would more providers offer free-to-the-subscriber service if they were required to monitor usage for all plans? One commenter in the *Delete, Delete, Delete* proceeding advocated for the elimination of the usage rule on the ground of consumer choice because it requires low-income consumers to ''face the difficult choice'' between no-cost services subject to usage requirements and services not subject to usage requirements that require payment to the ETC. Does the Commission's proposal eliminate these concerns?

The Commission requires all Lifeline providers to comply with the usage rules by certifying their adherence to the usage requirements, under penalty of perjury, when submitting claims. The Commission seeks comments on whether, in addition to certification requirements, the Commission should require providers to demonstrate usage of supported service along with reimbursement claims. What are the benefits and burdens associated with this approach? Should each individual claim include proof of usage or would a sample be sufficient? What are different ways for providers to demonstrate subscriber usage consistent with the rules? What sort of proof should the Commission require if adopting this approach? Would requiring the submission of proof of usage further protect program integrity and help ensure that providers are tracking and monitoring usage by subscribers? Is it practicable for the Commission to rely on usage data submitted as part of the claims to help inform or set the minimum service standards for the program each year? Should providers be required to identify how they monitor compliance with program usage rules? Should providers be required to identify any third-parties that provide information related to their compliance with program usage rules? The Commission seeks comments on the privacy concerns associated with requiring submission of detailed usage data along with claim submission. What specific data would be necessary to collect, and how could any submission process be designed to address and mitigate privacy concerns? Are there other methods of ensuring usage the Commission could employ to ensure that limited USF resources are going toward service that is being used by subscribers? What capabilities does the Commission have to enforce compliance?

Commission rules require that providers retain documentation that demonstrates compliance with program requirements. The Commission seeks comments on whether these rules should be modified to identify the methods of tracking usage and the documentation that providers must

maintain to comply with its usage rules. While the definitions as to what constitutes usage are simple and uniform, providers use many formats. Can carriers provide recommendations for best-practice processes for usage reporting that should be recommended for mobile broadband providers? Fixed service? For example, should the Commission require providers to maintain original call detail records for calls, text, and data, which are logs that contain records of many events that qualify as usage activity. What are the benefits and burdens associated with such an approach? What other documents could providers retain to prove compliance with the Commission's usage rules? Would defining it as a ''formatted collection of information about a chargeable event for use in billing and accounting'' be appropriate? What alternative forms of proof should the Commission consider? What records demonstrate the purchase of minutes or data? What records should be sufficient to establish that a subscriber is responding to direct contact from the carrier and confirming that he or she wants to continue receiving Lifeline service? How can the Commission ensure that the records retained are authentic and generated through the subscriber's bona fide activity, and not through automatic data usage by an application?

The Commission tentatively concludes that providers should not track usage through a Commission, USAC, or provider-sponsored phone application due to privacy and practical download concerns. Should the Commission put specifications or restrictions on how the provider collects usage data of Lifeline participants? Should the Commission require the ETCs to submit any usage data to the Commission? And if so, what data would be collected? How could the Commission design such a data collection so that it adhered to the Electronic Communications Privacy Act of 1996? Who would have access to this data? Would location data be collected? Would it collect any communications content, media consumption information, or browsing history? How would the data be protected from unauthorized access and use? What notice would subscribers be provided about the collection and use of their usage data? How could the Commission ensure that the monitoring activity of the app itself would not register as qualifying use? How can ETCs ensure that existing subscribers with currently in use devices download the app? The Commission tentatively concludes to continue to collect certification information about usage data, but invite comment on this proposal.

What corresponding changes, if any, to the usage rules should the Commission make if it applies usage tracking and non-usage de-enrollment to all Lifeline plans? Should the 30-day usage period or 15-day cure period be extended? Would a 30-day opportunity to cure make sense, given the typical length of billing cycles? Why might consumers fail to use their service for 30 days or more? How long would ETCs need to come into compliance with the Commission's proposed change requiring usage tracking on all service plans, regardless of whether a monthly fee is assessed and collected?

What changes should be made to the current activation standard? Should the Commission modify or eliminate the Lifeline service activation requirement in § 54.407(c)(1) of the Commission's rules? Is the current definition of the Lifeline service activation requirement as ''whatever means specified by the carrier'' so vague as to undermine its ability to combat the waste of claiming service inaccessible or unused by the subscriber? Is the purpose of the Lifeline service activation requirement largely duplicative to the requirement in § 54.401(a) of the Commission's rules that Lifeline must be a service that ''provides qualifying low-income consumers with voice telephony service or broadband internet access?'' Should the activation requirement be changed to ''An eligible telecommunications carrier shall not receive universal service support for a subscriber to such Lifeline service until the subscriber can demonstrate, through action that they undertake, that they have been provided with voice telephony service or broadband internet access though completion of an outbound call, sending a text message or usage of date''? Is there a better approach for establishing activation?

ETC Agreements With Non-ETCs

The Commission next seeks comments on whether additional rules or enforcement mechanisms are necessary to ensure that the Lifeline program provides reimbursements only to ETCs that ''directly'' serve their Lifeline program subscribers. Under section 254(e) of the Act, only carriers designated as ETCs may receive reimbursement for providing Lifeline service. The Commission's rules specify that reimbursement is only made available to an ETC for the ''number of actual qualifying low-income customers . . . that the eligible telecommunications carrier serves *directly* as of the first of the month.'' Under the Lifeline rules, direct service is defined as ''the provision of service *directly* to the qualifying low-income consumer,'' and Lifeline service is a ''non-transferable retail service offering provided *directly* to qualifying low-income consumers.''

Recently, the Commission has been made aware of certain situations where ETCs have entered into agreements with non-ETCs whereby the ETC allows the non-ETC to offer Lifeline service using the ETC's name. The ETC obtains reimbursement from the Commission for the customers that the non-ETC reports to the ETC, and ultimately the ETC transfers the majority of the reimbursement to the non-ETC. These situations raise questions about whether the ETC is receiving reimbursement despite not directly providing service to the customer, and the non-ETC is providing Lifeline service despite not being an approved Lifeline ETC. The Commission is aware of several such cases occurring as the ACP ended.

Such arrangements may be distinguished from permissible marketing agreements that an ETC may enter into to bring in more customers that the ETC directly serves, or other arrangements to provide services to ETCs such as customer call centers and collection agents. As noted in the *2019 Lifeline Report and Order* (FCC 19–11) published at 84 FR 71308, December 27, 2019, date ETCs have entered into marketing agreements with enrollment representatives or sales agents to help ETCs market to and enroll consumers. While there are no prohibitions against ETCs using enrollment representatives, the Commission has placed certain restrictions on such activity, including the establishment of the Representative Accountability Database and prohibitions against commissions, to protect against waste, fraud, and abuse. Should ETCs be required to notify the Commission in advance of entering into agreements with third-parties to market Lifeline services?

The Commission also seeks comments on whether to broaden the definition of ''enrollment representative'' for Lifeline as done with ACP or go further to address any agents of an ETC, and whether to place additional restrictions on such agents and non-ETCs in their Lifeline related activities and compensation. The Commission seeks comments on whether to adopt any additional rules or other mechanisms to address arrangements in which an ETC receives reimbursement for service it does not directly provide and passes on some of the money to non-ETCs who are impermissibly providing Lifeline

service. Currently, if an ETC is found to have violated an applicable Commission rule or order, then the ETC may be subject to recovery of funds and penalties authorized by the Communications Act, including, but not limited to monetary forfeitures. Typically, investigation and sanctions efforts are undertaken by the Enforcement Bureau. Additionally, such individuals may be subject to investigation by FCC OIG and further sanctions from state regulatory entities and the U.S. Department of Justice. And when the violations implicate improper Lifeline disbursements, the Commission seeks recovery of associated funds. Recoveries for violations of Lifeline program rules as well as forfeitures, come from ETCs. Is there also a basis for seeking recovery directly from the non-ETC involved in these relationships?

Should the Commission track every layer of provider marketing from the enrollment representative to the provider? Should the Commission require that every enrollment representative provide their photo along with their ID? Should Commission rules require criminal background checks before an RAD ID is issued? If so, what crimes should disqualify an applicant from the RAD? Should ETCs or USAC be responsible for criminal background checks? How else can the Commission ensure that the agent information in RAD reflects accurate information? RAD currently only requires an email address to register in RAD. Similarly, how can the Commission ensure that an agent listed in NLAD as being linked to an enrollment or transfer is in fact an individual that is interacting with the enrollee? Should the Commission require the geolocation of the agent at the time of enrollment or transfer or subscribers he or she is ostensibly assisting? How should the Commission penalize providers and their enrollment representatives that submit false or non-bona fide information to USAC's information systems including the National Verifier, NLAD and RAD? Should the Commission suspend or debar such providers and their enrollment representatives? Should carriers be continued to allowed API access to the Administrator's databases? Is there an alternative to an API that will continue to allow consumers to enroll while better protecting the program from potential waste, fraud and abuse?

Updating Lifeline Rule Text

The Commission seeks comments on whether to streamline the existing program rules in light of the establishment of the National Verifier and the sunset of the EBB program and ACP.

National Verifier Updates. The Commission makes several proposals to streamline Lifeline program rules to reflect the functionality of the National Verifier. There are portions of the Commission's rules that pre-date the establishment of the National Verifier and continue to contemplate Lifeline ETCs completing certain activities that USAC, the National Verifier, the NLAD, or state administrators perform. First, the Lifeline rules contemplate that ETCs will contact Lifeline subscribers as part of the annual recertification process and give subscribers 60 days to complete the recertification process. Such outreach now can be done by the National Verifier or state administrators, although providers may voluntarily also encourage their subscribers to respond to recertification efforts. Second, the Lifeline rules currently discuss pathways for eligibility determinations that are no longer available with the full launch of the National Verifier. The Commission seeks comments on updating Lifeline program rules to reflect these improved eligibility determination processes now that the National Verifier has fully launched.

Third, the Commission proposes to revise the rule for de-enrollment under § 54.405(e)(4) of the Commission's rules given that the National Verifier can notify and de-enroll subscribers who fail to recertify their continued eligibility or fail to submit one-per-household recertifications. Fourth, the Commission proposes to update and consolidate § 54.410(b) through (d), (f), (h), and (i) of the Commission's rules, to reflect that the National Verifier and state administrators (rather than ETCs) make the initial determinations of eligibility and annual recertifications, and to update § 54.410(d) of the Commission's rules to reflect the creation of FCC Form 5629, a program application form. Fifth, the Commission proposes to edit § 54.417 of the Commission's rules to reflect that the effective date of the rule was set at February 17, 2016. The Commission seeks comments on whether there are any concerns about updating the language of each of these rules and how to amend that language while avoiding confusion regarding ETCs' continuing compliance obligations.

The Commission seeks comments on whether and how to change additional portions of the rules to reflect streamlined practices. Would the possible confusion and costs of updating rule identifiers (*e.g.,* eliminating § 54.410(h) of the Commission's rules, which addresses the National Verifier transition, and recodifying the following subsection) outweigh the benefits of having the rules more accurately reflect the current state of the program? Are there any technical changes needed to program rules to correct typographical errors?

Deleting EBB and ACP Rules. As previously noted, the ACP (which succeeded the EBB program) effectively ended June 1, 2024, because funding for the program had been exhausted. As a result, there are no longer subscribers in these programs or a basis to enroll new subscribers. Therefore, the Commission tentatively concludes to delete the EBB program and ACP rules from the Code of Federal Regulations, including rules regarding the Affordable Connectivity Outreach Grant Program. This conclusion is consistent with the *Delete, Delete, Delete* proceeding's goal to ''review [the FCC's] rules to identify and eliminate those that are unnecessary in light of current circumstances.'' The Commission's proposal to delete the EBB program and ACP rules is not intended to have any substantive impact on the interpretation and implementation of the rules in the few instances where they serve some on-going function. Specifically, the Commission intends that providers must continue to retain documentation in accordance with the rules, even after they are deleted. Requiring providers to continue complying with the documentation retention rules in place when the program was still operating does not create a burden on providers because it does not force new requirements upon them. Furthermore, deletion of the rules will not result in unfair surprise, as there will be no new providers, applicants, or subscribers in the programs. To help avoid misunderstandings regarding the continued document retention requirements, the Commission proposed an amendment to Lifeline § 54.417 of the Commission's rules to make clear that the EBB program's, ACP's, and Affordable Connectivity Outreach Grant Program's recordkeeping requirements remain in effect even after their deletion. The Commission seeks comments on whether there are any concerns with deleting these rules in their entirety, including any basis for concluding record retention or audit requirements would be undermined by this deletion or that enforcement or recovery actions related to these programs would be affected. How can the Commission ensure that providers to EBB and ACP continue to be able to make downward revisions for the program if they identify past issues with

their filings that resulted in improper claims? Is the Commission's proposed amendment to the Lifeline rules sufficient to maintain enforcement of the recordkeeping and audit rules and does the rule's placement in Lifeline create confusion? Are any additional changes to the Commission's rules needed to ensure that ACP providers that only held authorizations to participate in ACP and no other Commission licenses needed in order to pursue recovery, enforcement, or other actions for violations those providers may have committee under the ACP? If commenters raise any such concerns, the Commission asks that they include specific legal support for their conclusions, if any, and any recommendations for how to amend the rules without impacting retention requirements, recovery actions, and enforcement. The Commission also seeks comments on whether there are any other EBB program or ACP rules beyond document retention that continue to serve a purpose and would be undermined by being deleted.

In addition, the Commission seeks comments on deleting the portion of § 54.400(s)(3) of the Commission's rules that allows domestic violence survivors seeking to obtain an emergency Lifeline benefit to prove they are suffering ''financial hardship'' by using the ACP's alternative verification process under § 54.1806(a)(2) of the Commission's rules to verify a member of the survivor's household received a Federal Pell Grant. The Commission tentatively concludes that this portion of the rule is no longer necessary, because survivors will still be able to show financial hardship through the National Verifier. Moreover, the alternative verification process was a specific approach allowed under the Consolidated Appropriations Act and its unique circumstances amid the COVID–19 pandemic, rather than a process required under the Safe Connections Act, which is the focus of § 54.400(s)(3) of the Commission's rules. The Commission believes it would be unnecessary and administratively burdensome to continue to allow alternative verification processes, or approve new ones, for verifying only one form of eligibility criteria (*i.e.,* Federal Pell Grants) for only a narrow sub-category of a low-income benefit program (*i.e.,* survivor Lifeline emergency support). The Commission believes this is particularly true here, because the Lifeline emergency benefit for survivors is time-limited and the eligibility determination for that emergency benefit does not necessarily qualify a subscriber for continued support under Lifeline.

Benefits and Costs

The Commission seeks comments on the benefits and costs of these proposed rule changes. The Commission expects its proposed reforms will affect both low-income consumers and service providers. The Commission seeks comments on both the benefits and costs of each proposed rule change and also the totality of the rule changes proposed. Will the proposed changes lead to more competition and/or better service offerings for consumers? Will consumers face any increased costs or nonmonetary burdens as a result of the proposed rule changes? What are the benefits to service providers of minimizing reporting burdens? How will service providers overall benefit from improved service provider conduct? Will there be any costs to service providers to implement the improved program processes? Will any costs to service providers result in costs to the consumer? To what extent will the proposed rule changes impact USF expenditures?

II. Procedural Matters

A. Paperwork Reduction Act Analysis

This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comments on how to further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the possible impact of potential rule and/or policy changes contained in the NPRM on small entities. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the NPRM indicated in the **DATES** section of this document and must have a separate and distinct heading designating them as responses to the IRFA.

Ex Parte Rules. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Commission rule § 1.1206(b), 47 CFR 1.1206(b). In proceedings governed by Commission rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Providing Accountability Through Transparency Act. Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this document will be available on *https://www.fcc.gov/proposed-rulemakings.*

C. Initial Regulatory Flexibility Analysis

As required by RFA, the Commission has prepared this IRFA of the policies and rules proposed in the NPRM assessing the possible significant economic impact on a substantial number of small entities. The Commission request written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified in the **DATES** section of this document. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254. The Lifeline program was implemented in 1985 in the wake of the 1984 divestiture of AT&T. On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. The Lifeline program is administered by the Universal Service Administrative Company (USAC), the Administrator of the universal service support programs, under Commission direction, although many key attributes of the Lifeline program are currently implemented at the state level, including consumer eligibility, eligible telecommunication carrier (ETC) designations, outreach, and verification. Lifeline support is passed on to the subscriber by the ETC, which provides discounts to eligible households and receives reimbursement from the universal service fund (USF or Fund) for the provision of such discounts.

In the NPRM, the Commission considers ways to promote principled service provider conduct, consumer protection and program integrity enhancements to ensure Lifeline services are actually used to benefit low-income consumers and ways to optimize Lifeline program processes for integrity and efficiency. Refinements to the Lifeline program under consideration include: enhancing verification processes; ensuring Lifeline ETC compliance with all Lifeline program rules; enhancing the enrollment and transfer experience for households; revisiting non-usage rules; improving minimum service standards; ending the voice-only service phase-down; preventing duplicative support; optimizing Lifeline program integrity and efficiency processes; reforming opt-out state requirements; minimizing reporting burdens for ETCs; streamlining Lifeline rule text; and other updates that may be appropriate to make the current Lifeline program's rules reflect how the program currently operates.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes three broad groups of small entities that could be directly affected by its actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While the Commission does not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the NPRM will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, the Commission concludes that the proposed rules will impact a substantial number of small entities. Where available, the Commission also provides additional information regarding the number of potentially affected entities in the industries identified in Table 1—*2022 U.S. Census Bureau Data by NAICS Code,* Table 2—*Telecommunications Service Provider Data* and Table 3—*Cable Entities Data.*

Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

The NPRM seeks comment on proposed rules that would improve the Lifeline program by promoting principled service provider conduct, implementing consumer protection and program integrity enhancements to ensure Lifeline services are actually used to benefit low-income consumers and optimizing Lifeline program processes for integrity and efficiency. Small entities that voluntarily choose to participate in the Lifeline program, may face costs associated with new or modified recordkeeping, reporting, and other compliance obligations. Small entities may need to hire professionals to comply with the requirements that may be adopted as a result of the proposals and matters discussed in the NPRM. Compliance costs may include requirements associated with consent collection, de-enrollment, consumer eligibility evaluation, as well as technical and programmatic costs to adjust internal Lifeline databases and compliances practices for covered providers. For example, in the NPRM the Commission inquires about whether the Commission should require service providers to obtain an affirmative response to a text or email to verify consumers' new enrollment and transfer requests and submit this evidence of consumer consent for each transfer

transaction to the Universal Service Administrative Company and whether the Commission should require service providers to enter the date and time in the National Lifeline Accountability Database (NLAD) that households provided their enrollment or transfer consent. As another example, the Commission also inquires about whether to modify the Commission's rules to identify the methods of tracking usage and the documentation that providers must maintain to comply with its non-usage rules.

In assessing the cost of compliance for small entities, at this time the Commission cannot quantify the cost of compliance with the potential rule changes that may be adopted. In accordance with the Commission's requests for comments in the NPRM, small entities are encouraged to provide specific information pertaining to the costs, benefits, and impacts of any potential reporting, recordkeeping, or compliance requirements the Commission discusses. The Commission expects the comments received to include information on the costs and benefits, and other pertinent matters that should help us identify and evaluate relevant issues for small entities, including compliance costs and other burdens (as well as countervailing benefits), so that the Commission may develop final rules that minimize such costs and address such issues to the extent possible.

Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

The NPRM seeks comment throughout on the burdens of the proposed rules, and any alternatives, on providers, which includes small providers. Additionally, the NPRM seeks comment on the ways in which program changes to the Lifeline program might impact both consumers and service providers, which includes small providers, participating in the Lifeline program. Further, the NPRM seeks comments on ways to reduce regulatory reporting burdens on ETCs participating in Lifeline, particularly small businesses.

In the NPRM, the Commission seeks comments on adjusting minimum service standards in the low income communications market. Specifically, the NPRM seeks comments on whether small businesses would be disproportionately impacted if minimum service standards were increased and what the impact would be on those small service providers. Further, the Commission seeks comments on ways to reduce reporting burdens on Lifeline ETCs who are small businesses. Annually, ETCs must file FCC Form 481 to report financial and operations data and FCC Form 555 to report recertification results. In the NPRM, the Commission seeks comment on the possibility of combining these two forms and other FCC forms or moving the filing deadlines to the same date and whether it would be more or less burdensome for ETCs that are small businesses to file combined forms or to require multiple forms filed on the same date. The Commission also seeks comments on ways to amend or eliminate certain information that is required on these forms or whether to entirely eliminate the use of certain forms.

The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the NPRM, including cost and benefit analyses. Having data on the costs and economic impact of proposals and possible approaches the Commission discusses will allow the Commission to better evaluate options and alternatives to minimize any significant economic impact on small entities that may result from the proposals and approaches, if adopted. The Commission's evaluation of this information will shape the final alternatives it considers to minimize any significant economic impact that may occur on small entities, the final conclusions it reaches and any final rules it promulgates in this proceeding.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

III. Ordering Clauses

Accordingly, *it is ordered,* pursuant to the authority contained in section 1, 4(i), 4(j), 254, 345, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 254, 345, and 403; that the Notice of Proposed Rulemaking *is adopted.*

It is further ordered that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on the Notice of Proposed Rulemaking on or before May 4, 2026 and reply comments are due on or before June 2, 2026.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

Subpart E—Universal Service Support for Low-Income Consumers

■ 2. Amend § 54.400 by revising paragraph (s)(3) to read as follows:

§ 54.400 Terms and definitions.

* * * * *

(s) * * *

(3) At least one member of the household has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965 (20 U.S.C. 1070a) in the current award year, if such award is verifiable through the National Verifier or National Lifeline Accountability Database;

* * * * *

■ 3. Amend § 54.403 by revising paragraphs (a)(1) and (2) to read as follows:

§ 54.403 Lifeline support amount.

* * * * *

(a) * * *

(1) *Basic support amount.* Federal Lifeline support in the amount of $9.25 per month will be made available to an

eligible telecommunications carrier providing broadband service, subject to the minimum service standards set forth in § 54.408, to a qualifying low-income consumer if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.

(2) *Voice-only support amount.* Federal Lifeline support in the amount of $5.25 per month will be made available to an eligible telecommunications carrier providing standalone voice service, subject to the minimum service standards set forth in § 54.408, or voice service with broadband below the minimum standards set forth in § 54.408, to a qualifying low-income consumer if that carrier certifies to the Administrator that it will pass through the full amount of support to the qualifying low-income consumer and that it has received any non-federal regulatory approvals necessary to implement the rate reduction.

* * * * *

■ 4. Amend § 54.404 by revising paragraphs (b)(6) and (c)(4) to read as follows:

§ 54.404 The National Lifeline Accountability Database.

* * * * *

(b) * * *

(6) Eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Lifeline subscriber's full name; full residential address; date of birth and the subscriber's Social Security number or Tribal Identification number, if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Lifeline service; the date on which the Lifeline service was initiated; the date on which the Lifeline service was terminated, if it has been terminated; the amount of support being sought for that subscriber; and the means through which the subscriber qualified for Lifeline.

* * * * *

(c) * * *

(4) All eligible telecommunications carriers must transmit to the Database in a format prescribed by the Administrator each new and existing Link Up recipient's full name; residential address; date of birth; and the subscriber's Social Security number, or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number; the telephone number associated with the Link Up support; and the date of service activation. Where two or more eligible telecommunications carriers transmit the information required by this paragraph to the Database for the same subscriber, only the eligible telecommunications carrier whose information was received and processed by the Database first, as determined by the Administrator, will be entitled to reimbursement from the Fund for that subscriber.

* * * * *

■ 5. Amend § 54.405 revising paragraph (e)(4) and by adding new paragraph (f) to read as follows:

§ 54.405 Carrier obligation to offer Lifeline.

* * * * *

(e) * * *

(4) *De-enrollment for failure to re-certify.* Notwithstanding paragraph (e)(1) of this section, a Lifeline subscriber who does not respond to attempts to obtain re-certification of the subscriber's continued eligibility as required by § 54.410(f) or who fails to provide the annual one-per-household re-certifications as required by § 54.410(f) must be de-enrolled. Prior to de-enrollment under this paragraph, the subscriber must be notified, using clear, easily understood language, that failure to respond to the re-certification request will trigger de-enrollment. A subscriber must be given 60 days to respond to recertification efforts. If a subscriber does not respond to the notice of impending de-enrollment, the subscriber must be de-enrolled from Lifeline within five business days after the expiration of the subscriber's time to respond to the re-certification efforts.

* * * * *

(f) *Secondary consent verification for enrollment and transfers.* An eligible telecommunications carrier shall not seek or receive reimbursement through the Lifeline program for service provided to a subscriber who has not verified their new enrollment request through an affirmative response to a text or email using the contact information furnished during the application process.

■ 6. Amend § 54.407 by revising the introductory text of paragraph (c) to read as follows:

§ 54.407 Reimbursement for offering Lifeline.

* * * * *

(c) An eligible telecommunications carrier offering a Lifeline service:

* * * * *

■ 7. Amend § 54.408 by revising paragraph (c)(1)(ii)(A) to read as follows:

§ 54.408 Minimum service standards.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(ii) * * *

(A) An amount the Wireline Competition Bureau deems appropriate, based on what a substantial majority of American consumers who have limited data plans already subscribe to, after analyzing Urban Rate Survey data and other relevant data; or

* * * * *

■ 8. Amend § 54.409 by adding a new paragraph (d) to read as follows:

§ 54.409 Consumer qualification for Lifeline.

* * * * *

(d) Lifeline program support is a federal public benefit restricted to U.S. citizens and qualified aliens under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. 1611 *et seq*.

■ 9. Amend § 54.410 by deleting paragraphs (b)(2)(i) through (iii), (c)(2)(i) through (iii), and (i) and revising paragraphs (a) through (d), (f), and (h) to read as follows:

§ 54.410 Subscriber eligibility determination and certification.

(a) All eligible telecommunications carriers must implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services. Such policies and procedures include, but are not limited to, an eligible telecommunications carrier checking its own electronic systems, whether such systems are maintained by the participating provider or a third party, to confirm that the household is not already receiving another Lifeline benefit from that carrier. ETC and their agents may not provide false information to the National Verifier, NLAD, or RAD. An eligible telecommunications carrier may not provide a consumer with an activated device that it represents enables use of Lifeline-supported service, nor may it activate service that it represents to be Lifeline service, unless and until it has:

* * * * *

(b) * * *

(1) The National Verifier, state Lifeline administrator, or other state agency is responsible for the initial determination that a prospective subscriber meets the income-based eligibility criteria provided for in § 54.409(a)(1). An eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber,

unless the carrier has received a certification of eligibility from the National Verifier, state Lifeline administrator, or other state agency that the prospective subscriber complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's income-based eligibility using the following procedures:

(A) If the National Verifier, state Lifeline administrator, or other state agency can determine a prospective subscriber's income-based eligibility by accessing one or more databases containing information regarding the subscriber's income (''income databases''), the National Verifier, state Lifeline administrator, or other state agency must access such income databases and determine whether the prospective subscriber qualifies for Lifeline.

(B) If the National Verifier, state Lifeline administrator, or other state agency cannot determine a prospective subscriber's income-based eligibility by accessing income databases, the National Verifier, state Lifeline administrator, or other state agency must review documentation that establishes that the prospective subscriber meets the income-eligibility criteria set forth in § 54.409(a)(1). Acceptable documentation of income eligibility includes the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of participation in General Assistance; or a divorce decree, child support award, or other official document containing income information. If the prospective subscriber presents documentation of income that does not cover a full year, such as current pay stubs, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.

(ii) Must securely retain copies of documentation, consistent with § 54.417, demonstrating the eligible telecommunications carrier received notice that the National Verifier, state Lifeline administrator, or other state agency determined a prospective subscriber's income-based eligibility for Lifeline meet the income eligibility criteria set forth in § 54.409(a)(1).

(c) * * *

(1) The National Verifier, state Lifeline administrator, or other state agency is responsible for the initial determination that a prospective subscriber meets the program-based criteria set forth in § 54.409(a)(2) or (b). An eligible telecommunications carrier:

(i) Must not seek reimbursement for providing Lifeline to a subscriber unless the carrier has received a certification of eligibility from the National Verifier, state Lifeline administrator, or other state agency that the prospective subscriber complies with the requirements set forth in paragraph (d) of this section and has confirmed the subscriber's program-based eligibility using the following procedures:

(A) If the National Verifier, state Lifeline administrator, or other state agency can determine a prospective subscriber's program-based eligibility for Lifeline by accessing one or more databases containing information regarding enrollment in qualifying assistance programs (''eligibility databases''), the National Verifier, state Lifeline administrator, or other state agency must access such eligibility databases to determine whether the prospective subscriber qualifies for Lifeline based on participation in a qualifying assistance program; or

(B) If the National Verifier, state Lifeline administrator, or other state agency cannot determine a prospective subscriber's program-based eligibility for Lifeline by accessing eligibility databases, the National Verifier, state Lifeline administrator, or other state agency must review documentation demonstrating that a prospective subscriber qualifies for Lifeline under the program-based eligibility requirements. Acceptable documentation of program eligibility includes the current or prior year's statement of benefits from a qualifying assistance program, a notice or letter of participation in a qualifying assistance program, program participation documents, or another official document demonstrating that the prospective subscriber, one or more of the prospective subscriber's dependents or the prospective subscriber's household receives benefits from a qualifying assistance program.

(ii) Must securely retain copies of the documentation, consistent with § 54.417, demonstrating the eligible telecommunications carrier received notice that the National Verifier, state Lifeline administrator, or other state agency determined a subscriber's program-based eligibility for Lifeline.

(d) *Eligibility certification form.* Eligible telecommunications carriers and state Lifeline administrators or other state agencies must provide prospective subscribers the Federal eligibility certification form.

(1) * * *

* * * * *

(f) * * *

(1) The National Verifier, the state Lifeline administrator, or other state agency must annually re-certify all subscribers.

(2) In order to re-certify a subscriber's eligibility, the National Verifier, the state Lifeline administrator, or other state agency must confirm a subscriber's current eligibility to receive Lifeline by:

(i) * * *

* * * * *

(iii) If the subscriber's program-based or income-based eligibility for Lifeline cannot be determined by accessing one or more eligibility databases, then the subscriber must provide a signed certification confirming the subscriber's continued eligibility. If the subscriber's eligibility was previously confirmed through an eligibility database during enrollment or a prior recertification and the subscriber is no longer included in any eligibility database, the subscriber must provide both an Annual Recertification Form and documentation meeting the requirements of paragraph (b)(1)(i)(B) or (c)(1)(i)(B) of this section to complete the process. The subscriber must use the Wireline Competition Bureau-approved universal Annual Recertification Form, except where state law, state regulation, a state Lifeline administrator, or a state agency requires eligible telecommunications carriers to use state-specific Lifeline recertification forms.

(3) The National Verifier, state Lifeline administrator, or other state agency must provide to each eligible telecommunications carrier the results of its annual re-certification efforts with respect to that eligible telecommunications carrier's subscribers.

(4) If an eligible telecommunications carrier has been notified by the National Verifier, a state Lifeline administrator, or other state agency that it is unable to re-certify a subscriber, the eligible telecommunications carrier must comply with the de-enrollment requirements provided for in § 54.405(e)(4).

* * * * *

(h) *Survivors of domestic violence.* All survivors seeking to receive emergency communications support from the Lifeline program must have their eligibility to participate in the program confirmed through the National Verifier. The National Verifier will also transition survivors approaching the end of their six-month emergency

support period in a manner consistent with the requirements at paragraph (f) of this section, and the National Verifier will de-enroll survivors whose continued eligibility to participate in the Lifeline program cannot be confirmed, consistent with § 54.405(e)(6).

■ 10. Amend § 54.417 by revising paragraphs (b) and (c) to read as follows:

§ 54.417 Recordkeeping requirements.

* * * * *

(b) If an eligible telecommunications carrier provides Lifeline discounted wholesale services to a reseller, it must obtain a certification from that reseller that it is complying with all Commission requirements governing the Lifeline and Tribal Link Up program. The eligible telecommunications carrier must retain the reseller certification for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request.

(c) Upon deletion of the rules in subparts P, R, and S of this part, all those subparts' requirements regarding recordkeeping and providing records to the Commission or Administrator upon request will remain in force as they existed prior to the deletion of those rules. The deletion of the rules in subparts P, R, and S of this part will also have no impact on the ability of the Commission or the Administrator to engage in audits or enforcement, recovery, or other actions for violations of the rules as they existed prior to the deletion of those rules.

Subpart P—[Removed and Reserved]

■ 11. Remove and reserve subpart P, consisting of 54.1600 through 54.1612.

§§ 54.1600 through 54.1612 [Removed and Reserved]

* * * * *

Subpart R—[Removed and Reserved]

■ 12. Remove and reserve subpart R, consisting of 54.1800 through 54.1814.

§§ 54.1800 through 54.1814 [Removed and Reserved]

* * * * *

Subpart S—[Removed and Reserved]

■ 13. Remove and reserve subpart S, consisting of 54.1900 through 54.1904.

§§ 54.1900 through 54.1904 [Removed and Reserved]

* * * * *

[FR Doc. 2026–06531 Filed 4–2–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 260303–0061]

RIN 0648–BN58

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Texas Parks and Wildlife Department Fisheries Research; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects an error in the **ADDRESSES** section of a proposed rule published on March 18, 2026.

DATES: Comments and information must be received no later than April 17, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at: *https://www.regulations.gov/docket/NOAA-NMFS-2025-0801.* You may submit comments on this document, identified by NOAA–NMFS–2025–0801, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type NOAA–NMFS–2025–0801 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to the Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.
- *Fax:* (301) 713–0376.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

A copy of the Texas Parks and Wildlife Department's application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-texas-parks-and-wildlife-departments-independent-fisheries.*

In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:

Need for Correction

In the beginning of the **ADDRESSES** section of the proposed rule (March 18, 2026, 91 FR 12972), NMFS used an incorrect link to *https://www.regulations.gov.* The previous link in the proposed rule was *https://www.regulations.gov/docket/NOAA-NMFS-2025-0141* rather than the correct link *https://www.regulations.gov/docket/NOAA-NMFS-2025-0801* to the Federal e-Rulemaking Portal. The **ADDRESSES** section has been corrected in this document.

(Authority: 16 U.S.C. 1361 *et seq.*)

Dated: March 31, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2026–06515 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 91, No. 64
Friday, April 3, 2026

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2026–0067]

Notice of Request To Renew an Approved Information Collection: New Poultry Inspection System

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, FSIS is announcing its intention to request a renewal of the approved information collection regarding poultry slaughter inspection. There are no changes to the information collection. The approval for this information collection will expire on August 31, 2026. June 2, 2026.

DATES: Submit comments on or before June 2, 2026.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the online instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2026–0067. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 286–2255 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; 202–720–5046.

SUPPLEMENTARY INFORMATION:

Title: New Poultry Inspection System.

OMB Number: 0583–0156.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18 and 2.53), as specified in the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). This statute mandates that FSIS protect the public by verifying that poultry products are safe, wholesome, and properly labeled.

FSIS is requesting a renewal of the approved information collection regarding poultry slaughter inspection. There are no changes to the information collection. The approval for this information collection will expire on August 31, 2026.

FSIS requires that all official poultry slaughter establishments, other than establishments that slaughter ratites, maintain as part of their Hazard Analysis and Critical Control Point (HACCP) plan, sanitation standard operating procedures (SOPs), or other prerequisite programs, written procedures addressing: (1) the prevention throughout the entire slaughter and dressing operation of contamination of carcasses and parts by enteric pathogens (*e.g., Salmonella* and *Campylobacter*) and by fecal material, including microbial test results (9 CFR 381.65(g)); and (2) the prevention of carcasses and parts contaminated by visible fecal material from entering the chiller (9 CFR 381.65(f)). All establishments that slaughter poultry other than ratites are required to develop, implement, and maintain as part of their HACCP plan, sanitation SOP, or other prerequisite program written procedures for chilling poultry (9 CFR 381.66).

Each establishment operating under the New Poultry Inspection System (NPIS) is required to maintain records to document that the products resulting from slaughter operations meet the definition of ready-to-cook poultry (9 CFR 381.76(b)(6)).

FSIS has made the following estimates based upon an information collection assessment:

Respondents: Official poultry establishments.

Estimated No. of Respondents: 289.

Estimated No. of Annual Responses per Respondent: 5,292.

Estimated Total Annual Burden on Respondents: 191,204 hours. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; 202–720–5046.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication online through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service that provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* The available information ranges from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

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Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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Justin Ransom,

Administrator.

[FR Doc. 2026–06526 Filed 4–2–26; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Pine Gold Project, Cassia and Oneida Counties, Idaho

AGENCY: Forest Service, Agriculture.

ACTION: Notice.

SUMMARY: The Forest Service (Sawtooth National Forest) intends to prepare an Environmental Impact Statement (EIS) to assess and disclose effects from the proposed mine plan of operations (MPO) submitted by Liberty Gold (USA) Inc. for the development of the Black Pine Gold Project. The Forest Service is the lead agency, and the Bureau of Land Management (BLM) Pocatello Field Office is a cooperating federal agency. This notice announces the beginning of a 30-day comment period to solicit comments and identify issues. The EIS will evaluate potential impacts of proposed open pit mining for gold and silver ores from National Forest System (NFS) and BLM administered lands and the processing of these minerals on BLM administered lands. The proposed action is expected to require a project-specific plan amendment to make the project consistent with the Sawtooth Forest Plan. The Planning, Administrative Reviews, and Litigation System identification number for the project is 68766.

DATES: This notice initiates a 30-day public comment process for the EIS. The Forest Service requests that the public submit comments on the alternatives or effects and on relevant information, studies, or analyses with respect to the proposal by May 4, 2026. The complete EIS is expected two years from now. A schedule for the decision-making process and additional information about the project can be found here: *https://www.fs.usda.gov/r04/sawtooth/projects/68766.* This project is a ''covered project'' under section 41 of the Fixing America's Surface Transportation Act (FAST–41). FAST–41 provides increased transparency and predictability by requiring Federal agencies to publish comprehensive permitting timetables for all covered projects. FAST–41 also provides procedures for modifying permitting timetables to address the unpredictability inherent in the environmental review and permitting process for significant infrastructure projects. To view the FAST–41 Permitting Dashboard for the Project, visit: *https://www.permits.performance.gov/permitting-project/fast-41-covered-projects/black-pine-gold-project.*

ADDRESSES: Additional information about the proposal; documents pertinent to this proposal; and direction regarding comment submission can be found on the following website: *https://www.fs.usda.gov/r04/sawtooth/projects/68766.*

Written Comments

Send written comments to Minidoka Ranger District, 2306 Hiland Ave., Burley, ID 83318. Comments may be submitted electronically to *https://cara.fs2c.usda.gov/Public/CommentInput?Project=68766.*

Written public comments will be accepted by 11:59 p.m. Mountain Standard Time on May 4, 2026. Comments submitted after this date may not be included in the analysis.

Public Scoping Process

The lead agency is planning to hold one virtual public meeting and one in-person public meeting. The specific dates and locations of these meetings will be announced in advance through the lead agency website (*https://www.fs.usda.gov/r04/sawtooth/projects/68766*).

FOR FURTHER INFORMATION CONTACT: Casey D. Johnson, Forest Supervisor, Sawtooth National Forest, by email at *Casey.Johnson@usda.gov,* by phone at 208–423–7501, or in writing at 370 American Avenue, Jerome, Idaho 83338.

Individuals who use telecommunication devices for the hearing-impaired may call 711 to reach the Telecommunications Relay Service, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: Liberty Gold (USA) Inc. submitted a proposed

mine plan of operations (MPO) to the USFS Sawtooth National Forest and BLM Pocatello Field Office on February 27, 2025, proposing to develop the Black Pine Gold Project. The surface estate in the project area is administered by the Forest Service Sawtooth National Forest and the BLM Pocatello Field Office.

Purpose and Need for the Proposed Action

The purpose of the USFS and BLM actions is to respond to the applicant's proposal for the mining and development of precious metals from its unpatented mining claims and non-Federal mineral estates located on NFS and BLM administered lands in the project area, and land use authorizations requested for siting of proposed support facilities and infrastructure.

The need for USFS action is established by the agency's responsibilities under the Organic Administration Act of 1897 (16 U.S.C. 478, 482, and 551) and the locatable minerals regulations at 36 Code of Federal Regulations (CFR) 228 Subpart A. In accordance with 36 CFR 228.5, the Forest Service must analyze and provide timely response to the submittal of an MPO. Furthermore, the Forest Service must assess whether the proposed operations will be conducted so as, where feasible, to minimize adverse environmental impacts on national forest surface resources in accordance with 36 CFR 228.8.

The need for BLM action is established by the agency's responsibility under the Federal land Policy and Management Act of 1976 (FLPMA) and BLM regulations at 43 CFR 3809 (Surface Management), 43 CFR 3715 (Use and Occupancy), 43 CFR 2800 (Rights-of-Way under FLPMA), and 43 CFR 2920 (Leases, Permits, and Easements) to respond to Liberty's proposal for mining activities, support facilities, and infrastructure proposed on BLM administered lands and take any action necessary to prevent unnecessary or undue degradation of public lands.

Preliminary Proposed Action and Alternatives

Under the Proposed Action alternative, the USFS and BLM would approve, with terms and conditions for the protection of surface resources and any necessary modifications to comply with applicable laws and regulations, the applicant's MPO, which describes the expansion of four existing open pits and the construction of four new open pits as well as development of mine infrastructure, ore stockpiling, and support facilities. Gold and silver bearing ore extracted via open pit mining methods, would be processed by way of a cyanidation heap leach facility to be constructed on adjacent BLM-administered lands. Additional support infrastructure such as mine office facilities, access roads, utilities, and water supply pipelines would also be constructed on BLM administered lands. The MPO incorporates reclamation and closure, monitoring, and mitigation activities throughout the life of the mine. Mine life is estimated at 17 years. Upon completion of mining operations, closure, drain-down of the heap leach facility, and final reclamation phases would occur over approximately 25 years with environmental monitoring and maintenance until reclamation is demonstrated.

Under the No Action alternative, the USFS and BLM would deny approval of the applicant's MPO. Under this alternative, the extraction and development of the applicant's mineral resource would not occur. Other alternatives to be considered in the EIS are expected to be variations of mine and facility configuration based on resource issues identified through the public comment process. The federal agencies welcome comments on all preliminary alternatives as well as suggestions for additional alternatives.

Preliminary List of Substantive Issues and Expected Impacts

Substantive issues are those that meaningfully inform the consideration of reasonably foreseeable impacts of the proposed action or a decision on the alternative selected for implementation (7 CFR 1b.11(a)(53)). The following preliminary substantive issues are anticipated to be evaluated.

- Potential effects of development under the Proposed Action may include hydrologic effects (groundwater quality and quantity).
- Construction activities and operations could affect wildlife species and habitats including Greater sage grouse.
- Mining operations may impact cultural sites and/or historic properties and sites that are important to Tribal Nations.
- Construction and operation of a mine may impair the scenic environment and alter grazing allotments overlapping the proposed mine area.
- Potential for the mining operation to impact local air quality and the availability of suitable topsoils in service meeting final reclamation objectives.

Anticipated Permits and Other Authorizations

The Applicant requires USFS and BLM approval of the MPO. In addition, the Applicant would need to obtain approvals from other regulatory agencies, including:

- Cyanidation permit to construct, operate, and close a cyanidation facility from Idaho Department of Environmental Quality
- Air quality Permit To Construct (PTC) from Idaho Department of Environmental Quality (IDEQ)
- An approved mine operating and reclamation plan from the Idaho Department of Lands (IDL)
- Permanent Closure Plan for Cyanidation Facility from Idaho Department of Lands (IDL).

Comments and the Objection Process

This notice of intent initiates the NEPA timeline, which guides the development of the environmental impact statement. In this process the Agency is requesting comments on potential alternatives and impacts, and identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment.

This proposed action is subject to the pre-decisional administrative review process, also known as the objection process at 36 CFR 218, Subparts A and B. A proposed rule to amend 36 CFR 218 was published in the **Federal Register** on February 6, 2026 (91 FR 5387), prior to the initiation of public comment in this NOI. This proposed action may be subject to the final rule amending 36 CFR 218 if the final rule takes effect before the objection period occurs for this proposed action. Otherwise, this proposed action will be subject to the pre-decisional administrative review process established prior to the proposed rule. The BLM will make a separate decision that will be subject to their post-decision appeal process (43 CFR part 4 and 43 CFR Subpart 3809).

It is important that interested members of the public provide their comments at such times and in such manner that they are useful to the agency's preparation of the EIS; therefore, comments should be provided prior to the close of the comment period and should clearly articulate the commenter's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and

considered; however, they will not be used to establish eligibility for the objection process.

Objections will be accepted only from those who have previously submitted timely and specific written comments regarding the proposed project during a public comment period. Issues raised in objections must be based on previously submitted, timely, and specific written comments regarding the proposed project unless based on new information arising after designated public comment opportunities.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Cooperating and Participating Agencies

The Forest Service is the lead federal agency, and the BLM is a cooperating federal agency in the preparation of the EIS. Based on specialized expertise and jurisdiction by law, Idaho Department of Lands, and Idaho Department of Environmental Quality are cooperating agencies.

Responsible Official

The responsible official for the Forest Service is the Sawtooth National Forest Supervisor. The scope of the Forest Supervisor's decision is to ensure the MPO is modified as necessary to comply with applicable laws and regulations and whether environmental mitigations are necessary under Forest Service jurisdiction. The responsible official for the BLM is the Field Manager for the Pocatello Field Office. The scope of the Field Manager's decision is limited to approval or denial of the MPO, including the proposed support facilities and infrastructure for lands under its jurisdiction.

Substantive Provisions of Forest Service 2012 Planning Rule Directly Related to Potential Plan Amendment

The proposed action is expected to require a project-specific plan amendment to make the project consistent with the Sawtooth Forest Plan. The combination of the existing site conditions and proposed impacts from new mine development collectively will not achieve mapped and adopted Visual Quality Objectives (VQOs). As such, implementation of the proposed action would continue to be inconsistent with Forest Plan Standard SCST01.

The 2012 Planning Rule, as amended, requires identification in the initial notice of the amendment of the substantive provisions that are likely to be directly related to the amendment. Based on the proposed Forest Plan amendment for the Black Pine Mine and requirements of the Planning Rule, the following substantive requirements of the 36 CFR 219 planning regulations would likely be directly related to the proposed amendment: *§ 219.10 (a), Integrated resource management for multiple use,* specifically *(2): Renewable and nonrenewable energy and mineral resources,* based on purpose of the project for which the amendment is needed, and *(1)* ''*aesthetic value,*'' ''*scenery,*'' and ''*viewsheds,*'' based on the purpose of the amendment to exempt the project from the Forest Plan visual quality standard.

Lisa Northrop,

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

[FR Doc. 2026–06547 Filed 4–2–26; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Montana Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of Public Meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Montana Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold public business meetings on April 9, and May 14, 2026 via Zoom at 3:00 p.m. MT. The purpose of these meetings is to plan upcoming briefing series on the Committee's project, Civil Rights Violations Resulting from Diversity, Equity, and Inclusion Policies at Montana Public Universities.

DATES:

Thursday, April 9, 2026, from 3:00 p.m. to 4:00 p.m. Mountain Time

Thursday, May 14, 2026, from 3:00 p.m. to 4:00 p.m. Mountain Time

ADDRESSES: The meetings will be held via Zoom Webinar.

April 9th: *Registration Link (Audio/Visual): https://www.zoomgov.com/j/1610866824.*

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 086 6824.

May 14th: *Registration Link (Audio/Visual): https://www.zoomgov.com/j/1610728682.*

Join by Phone (Audio Only): (833) 435–1820 USA Toll-Free; Meeting ID: 161 072 8682.

Agenda

https://usccr.app.box.com/folder/251531958081?s=w9bwvk8y6c57za7sb4jqxiev4k3jskzh (note: a final meeting agenda will be available prior to the meeting date.)

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 681–0857.

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

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 681–0857.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website: *https://usccr.app.box.com/folder/314981673190?s=mw9mbsf7b9dy00grnfelpzs0tykg6isr,* as well as at:

www.facadatabase.gov under the Commission on Civil Rights, selecting the Advisory Committee of interest.

Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: April 1, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–06541 Filed 4–2–26; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee; Revision to Meeting Date and Time

AGENCY: Commission on Civil Rights.

ACTION: Notice; revisions to meeting date and time.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** concerning meetings of the New York Advisory Committee.

DATES: The meeting previously announced for Wednesday, April 1, 2026, from 12:00 p.m. (ET) to 1:30 p.m. (ET), will now convene on Thursday, April 16, 2026; from 11:00 a.m. (ET) to 12:30 p.m. (ET). Other details remain the same.

ADDRESSES: Zoom details and agenda link are provided here for convenience: Zoom registration link: *https://www.zoomgov.com/webinar/register/WN_AzPjGE3ZSoCDgAOG8si7_Q;* Phone: 1–833–435–1820 (USA Toll Free); Webinar ID: 161 143 2993 #; agenda (*as it becomes available*): *https://usccr.box.com/s/o2cgyzphy5zvbbq6bm3mi8usab44el44.*

FOR FURTHER INFORMATION CONTACT: David Barreras, (202) 656–8937 or *dbarreras@usccr.gov.*

SUPPLEMENTARY INFORMATION: The previously announced meeting notice, FR Doc. No. 2026–03436 (91 FR 8405), was published in the **Federal Register** of Monday, February 23, 2026, in the second and third columns of page 8405 and the first column of page 8406.

Dated: April 1, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–06540 Filed 4–2–26; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Illinois Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Illinois Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a public business meeting the third Tuesday of the month (April 2026 through December 2026) via Zoom at 3:30 p.m. CT. The purpose of these meetings is to discuss the Committee's project focused on the use of AI in law enforcement.

DATES:

Tuesday, April 14, 2026, from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, May 19, 2026, from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, June 16, 2026, from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, July 21, 2026, from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, August 18, 2026, from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, September 15, 2026 from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, October 20, 2026 from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, November 17, 2026 from 3:30 p.m. to 5:00 p.m. Central Time
Tuesday, December 15, 2026 from 3:30 p.m. to 5:00 p.m. Central Time

ADDRESSES: The meetings will be held via Zoom Webinar.

Registration Link (Audio/Visual):

- April 14, 2026: *https://www.zoomgov.com/webinar/register/WN_KO6P0_7VRt6WnKeh17o-_g*
- May 19, 2026: *https://www.zoomgov.com/webinar/register/WN_49u1SgvFQsqFORNHOj05QA*
- June 16, 2026: *https://www.zoomgov.com/webinar/register/WN_4VYOskUCRUaYKNVah0VWKg*
- July 21, 2026: *https://www.zoomgov.com/webinar/register/WN_ZesrYiznQjej-KMFatJbew*
- Aug. 18, 2026: *https://www.zoomgov.com/webinar/register/WN_bVKt_Qj7THuDRx8PHndnEA*
- Sept. 15, 2026: *https://www.zoomgov.com/webinar/register/WN_APr17mLkRRicChPmivgeyg*
- Oct. 20, 2026: *https://www.zoomgov.com/webinar/register/WN_rRQfO_crR4G8YbaT1wOy4g*
- Nov. 17, 2026: *https://www.zoomgov.com/webinar/register/WN_I-sxrGR9Qs-7WAJtQxOv2w*
- Dec. 15, 2026: *https://www.zoomgov.com/webinar/register/WN_Kv03kFFtS2a-vd9rzPoGDQ*

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

- April 14, 2026, Webinar ID: 160 550 7669
- May 19, 2026, Webinar ID: 161 578 9341
- June 16, 2026, Webinar ID: 160 664 6243
- July 21, 2026, Webinar ID: 160 515 7092
- August 18, 2026, Webinar ID: 160 615 7897
- September 15, 2026, Webinar ID: 160 283 9636
- October 20, 2026, Webinar ID: 161 687 5552
- November 17, 2026, Webinar ID: 161 704 1457
- December 15, 2026, Webinar ID 160 150 8901

Agendas: (Note: a final meeting agenda will be available prior to each meeting date).

FOR FURTHER INFORMATION CONTACT: Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 681–0857.

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

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov.* Persons who desire additional information may contact the

Regional Programs Coordination Unit at (202) 681–0857.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via this file sharing website. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: April 1, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–06542 Filed 4–2–26; 8:45 am]

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COMMISSION ON CIVIL RIGHTS

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

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Rhode Island Advisory Committee to the Commission will hold a public meeting via Zoom. The purpose of the meeting is to continue to hear topic presentations as part of the concept stage.

DATES: Thursday, April 16, 2026; 3:30 p.m. Eastern Time.

ADDRESSES: The meeting will be held via Zoom.

Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_hU3nVbeVS16nUyrYXmQhKQ.

Join by Phone (Audio Only): 1–833 435 1820 USA Toll Free; Webinar ID: 160 608 7073 #.

Agenda: https://usccr.box.com/s/utfbp80xzddqbw9o61doonq3jmqjaney (note: a final meeting agenda will be available prior to the meeting date).

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, Designated Federal Officer, at *vmoreno@usccr.gov* or 1–434–515–0204.

SUPPLEMENTARY INFORMATION: This virtual committee meeting is available to the public through the registration link above. Any interested member of the public may join at the link to listen to this meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Pursuant to the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the Zoom meeting platform. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Evelyn Bohor, *ebohor@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website: *https://usccr.box.com/s/kreey9srm7ofl9catdbnn2oj7ntx6lf8* as well as at: *www.facadatabase.gov* under the Commission on Civil Rights, selecting the Advisory Committee of interest. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Dated: April 1, 2026.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2026–06538 Filed 4–2–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF650]

North Pacific Swordfish United States Stakeholder Meeting; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a U.S. stakeholder meeting to discuss North Pacific swordfish (NP SWO) management. This meeting is intended to gather stakeholder input and prepare for potential discussions at the 2026 annual meeting of the Western and Central Pacific Fisheries Commission Northern Committee (WCPFC NC) related to management of NP SWO fisheries. The meeting topics are described under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The virtual meeting will be held on April 22, 2026, from 11 a.m. to 2 p.m. HST. You must complete the registration process by April 15, 2026, if you plan to attend the meeting (see **ADDRESSES**).

ADDRESSES: If you plan to attend the meeting, which will be held by webinar, please register at *https://forms.gle/GxM2uPBnAnq9hRhT7.* Instructions for attending the meeting will be emailed to meeting participants before the meeting occurs.

FOR FURTHER INFORMATION CONTACT: Valerie Post, Pacific Islands Regional Office at (808) 725–5034 or *valerie.post@noaa.gov.*

SUPPLEMENTARY INFORMATION: In 2025, the WCPFC NC agreed to initiate a management strategy evaluation (MSE) for NP SWO, and tasked itself to discuss candidate operational management objectives for western and central NP SWO in 2026 as well as tasked the International Scientific Committee on Tuna and Tuna-like Species in the North Pacific Ocean to begin technical work on an MSE for NP SWO. This stakeholder meeting is intended to provide information on the MSE process, gather stakeholder input about options for MSE objectives, and prepare for anticipated discussions at the WCPFC NC in 2026.

NP SWO U.S. Stakeholder Meeting Topics

The meeting agenda will be distributed to participants in advance of the meeting. The meeting agenda will include a discussion on preferences for management objectives for NP SWO, metrics to measure how potential future harvest strategies for NP SWO meet those objectives, candidate reference points and candidate harvest control rules.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be indicated when registering for

the meeting (see **ADDRESSES**) by April 15, 2026.

Authority: 16 U.S.C. 951 *et seq.,* 16 U.S.C. 1801 *et seq.,* and 16 U.S.C. 6901 *et seq.*

Dated: March 31, 2026.

David R. Blankinship,

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

[FR Doc. 2026–06533 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF443]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Port of San Francisco Mission Bay Ferry Landing Project in San Francisco Bay, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Port of San Francisco (PSF) for authorization to take marine mammals incidental to the Mission Bay Ferry Landing (MBFL) Project in San Francisco Bay (SFB), California (CA). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on possible one-time, 1-year renewals for each IHA that could be issued under certain circumstances and if all requirements are met, as described in the Request for Public Comments section at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than May 4, 2026.

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

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

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

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking; other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to as ''mitigation''); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms used above are included in the relevant sections below (see also 16 U.S.C. 1362; 50 C.F.R 216.3, and 216.103).

National Environmental Policy Act

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

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

Summary of Request

On October 10, 2025, NMFS received a request from PSF for an IHA to take marine mammals incidental to vibratory pile driving and extraction, and down-the-hole (DTH) driving, necessary for construction of the MBFL Project within PSF's Southern Waterfront in the Mission Bay/Central Waterfront area.

NMFS previously issued an IHA to PSF to harass small numbers of marine mammals, by Level B harassment, incidental to similar activities, effective June 1, 2019, to May 31, 2020 (83 FR 53217, October 22, 2018). Following issuance of the original IHA, Project construction was significantly delayed due to the City of San Francisco's project resources and funding constraints. PSF then divided the Project construction sequencing into two phases. MBFL Phase 1 project elements, completed from June to November 2020, included only project activities incidental to which take of marine mammals was not anticipated (*i.e.,* demolition, dredging, and sand capping). Following a five-year construction delay, PSF is preparing to initiate construction of the remaining MBFL Phase 2 elements (*i.e.,* pile installation and extraction using vibratory methods and DTH driving). Since issuance of the 2018 IHA, PSF has

streamlined the project description to include a ferry landing only, rather than both ferry and water taxi landings. Therefore, the specified activities described in the 2025 IHA request include only a subset of those analyzed for the 2018 IHA, with minor changes to pile sizes and installation parameters.

Following NMFS' review of the application drafts and associated discussions, PSF iteratively submitted revised versions of the application on January 8, February 6, and February 23, 2026. The application was deemed adequate and complete on March 5, 2026.

PSF now proposes to construct a single-float, two-berth MBFL to provide ferry access to the SFB area. PSF is requesting an IHA to cover the period of June 1, 2026, to May 31, 2027. PSF's proposed activity includes vibratory pile driving, vibratory pile extraction, and DTH driving, which may result in the incidental take of marine mammals, by harassment only. PSF's request is for incidental take, by Level B harassment, of eight species of marine mammals. No Level A harassment is anticipated to occur, and none is proposed for authorization. Neither PSF nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

PSF proposes to construct the MBFL, a single-float, two-berth ferry landing, in SFB, CA, within PSF's Southern Waterfront in the Mission Bay/Central Waterfront area. The MBFL will provide critical regional ferry service to and from the Mission Bay neighborhood, one of the fastest growing neighborhoods in San Francisco, as well as the Dogpatch, Potrero Hill, Pier 70, and the Central Waterfront neighborhoods. The MBFL will provide capability to berth two ferry boats simultaneously and it is estimated that the ferry landing will have the capacity to handle up to 6,000 passengers per day. The ferry landing is considered essential to alleviate current regional transportation overcrowding and provide transportation resiliency in the event of an earthquake, Bay Bridge failure, or other unplanned events. The ferry landing in-water construction activities that have the potential to take marine mammals include vibratory pile driving and extraction, and DTH driving. In total, PSF anticipates conducting 32 non-consecutive days of in-water construction with the potential to result in take of eight species of marine mammals, over a 46-day period between June 1 and November 30, 2026.

Dates and Duration

The proposed IHA would be valid for the statutory maximum of 1 year from the date of effectiveness. It will become effective upon written notification from the applicant to NMFS but not beginning later than 1 year from the date of issuance or extending beyond 2 years from the date of issuance. Although the IHA would be active for a period of 1 year, in-water pile installation and extraction activities are planned from June through November to protect sensitive life stages of endangered fish in the area. PSF plans to conduct in-water construction activities over the course of 46 days from June 1, 2026, through November 30, 2026, although only 32 of those days would include construction activities that may result in incidental harassment of marine mammals. This schedule is subject to change, however, as project delays may occur due to a number of factors (*e.g.,* poor weather, equipment availability constraints).

Pile installations would proceed sequentially (*i.e.,* no concurrent activities planned). PSF estimates an overall production rate of two to six piles per day, although this number would vary depending on the stage of construction. PSF anticipates that all vibratory pile driving and extraction and DTH driving would be limited to daylight hours.

Specified Geographical Region

The project is located in SFB within PSF's Southern Waterfront in the Mission Bay/Central Waterfront area. The specific geographic location for the project is provided in figure 1. The project site is approximately three kilometers (km) south of the San Francisco-Oakland Bay Bridge, on the western side of SFB in the Central Basin. The nearby waterfront is an active recreational and commercial port and shipyard. The Long Wharf is located in northern region of the central Bay, south of the eastern terminus of the Richmond-San Rafael Bridge (Figure 1). Water depth in the project area ranges from approximately 6 to 15 meters (m). The substrate is primarily Bay mud, however, sand or gravel may exist deeper into the substrate. The project area around Berth 1 is approximately 470 square kilometers (km^2) in size. Ambient underwater noise in the vicinity of the project area is generated by shipping activity, ferry traffic, and sound generated by the Richmond Bridge piers. Underwater noise measurements in 2006 and from 2020 to 2022 found the ambient noise in the project area to exceed 120 decibels (dB) root-mean-squared (RMS). Ambient underwater noise levels at Long Wharf may vary with noise levels being higher at Berth 1, likely due to its closer proximity to the main shipping channel.

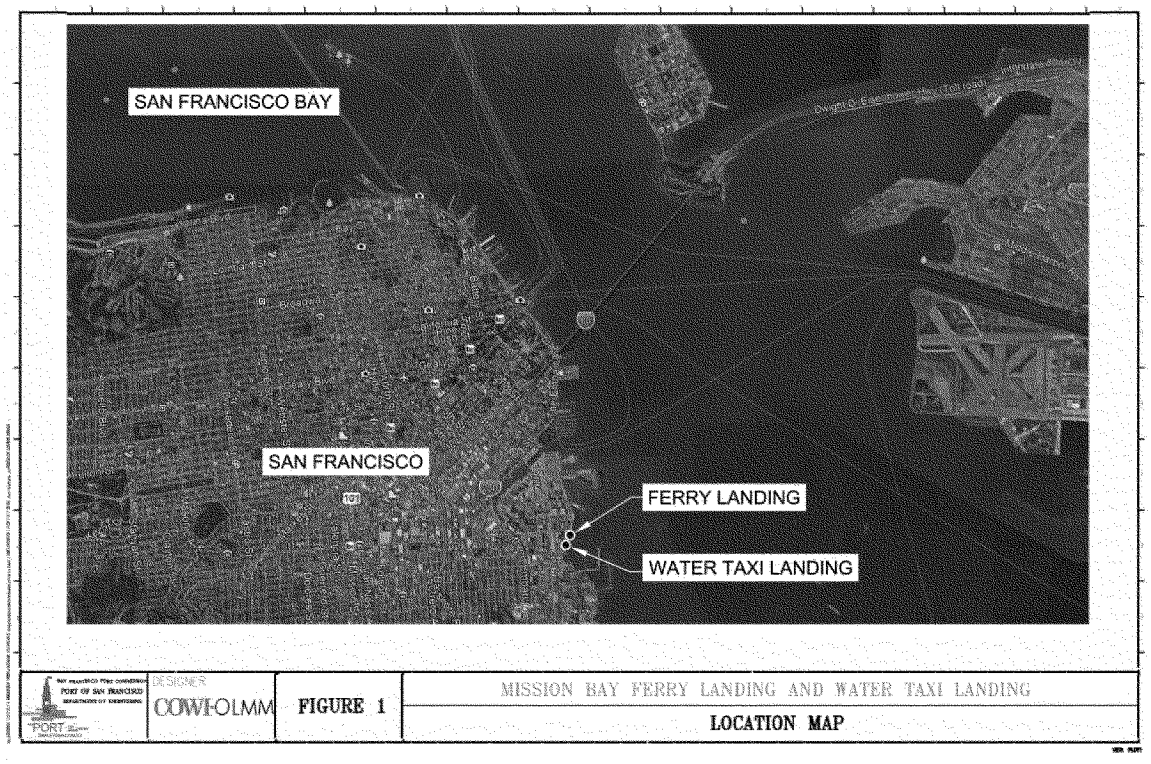

Figure 1—MBFL Project Location in SFB, CA

Detailed Description of Specific Activity

PSF proposes to construct the MBFL, a single-float, two-berth ferry landing in Mission Bay, located in SFB, CA, within PSF's Southern Waterfront in the Mission Bay/Central Waterfront area. Table 1 provides a summary of in-water construction activities, including installation of octagonal concrete piles which would not require pile driving or DTH driving. PSF defines four components of the overall ferry landing structure:

Pier Bents 1 and 2—includes vibratory pile driving installation of four permanent 48-in steel caisson sleeves, drilling inside each caisson sleeve to create space to accommodate the base of one 24-in octagonal concrete pile per caisson sleeve, crane-mediated placement of four concrete piles (one per sleeve), and grouting to secure the base of each concrete pile;

Pier Bents 3 to 7—includes vibratory pile driving installation of 10 temporary 30-in steel caisson sleeves, drilling inside each caisson sleeve to create space to accommodate the base of a 24-in octagonal concrete pile per caisson sleeve, crane-mediated placement of ten concrete piles, grouting to secure the base of each concrete pile, and vibratory pile extraction of each 30-in steel caisson sleeve;

Float Guide Piles—includes vibratory pile driving installation of six 36-in steel pipe piles to refusal, followed by DTH to the 20-ft (6.1-m) embedment depth; and

Donut Fender Piles—includes vibratory pile driving installation of two 36-in steel pipe piles to refusal, followed by DTH to the 20-ft (6.1-m) embedment depth.

To ensure the piles are correctly positioned during construction of the ferry landing, the contractor may elect to utilize a temporary pile-driving template. PSF estimates that the template may be installed and moved up to 10 times during construction. Four 14-in steel H-piles would support the template. Each of the four H-piles would be driven to refusal with a vibratory pile driver (600 seconds/pile) every time the template is set up and extracted using the same vibratory piling methodology to release the template for subsequent use, for a combined total of 80 H-pile installations and extractions (installation and extraction of 4 H-piles x 10 template applications).

TABLE 1—SUMMARY OF PSF'S PILE INSTALLATION ACTIVITIES FOR THE MBFL PROJECT

Project element	Pile type	Pile diameter (inches)	Method	Duration and strikes/second (sec)	Pile events per day	Days	Total pile events
Pile driving template piles.	H-Pile Steel (temporary).	14	Vibratory pile driving and extraction.	600	8 (4 installed and 4 removed).	10	80 (40 installed and 40 removed).
Pier (Bents 1 & 2)	Steel Caisson (permanent).	48	Vibratory pile driving	900	1	4	4.
	Octagonal Concrete	*24*	*No pile driving or DTH*	*N/A*	*1*	*4*	*4.*
Pier (Bents 3 –7)	Steel Caisson (temporary).	30	Vibratory pile driving and extraction.	900	2 (1 installed and 1 removed).	10	20 (10 installed and 10 removed).
	Octagonal Concrete	*24*	*No pile driving or DTH*	*N/A*	*1*	*10*	*10.*
Float Guide Piles	Steel Pipe (permanent)	36	Vibratory pile installation.	1,200	1	6	6.

TABLE 1—SUMMARY OF PSF'S PILE INSTALLATION ACTIVITIES FOR THE MBFL PROJECT—Continued

Project element	Pile type	Pile diameter (inches)	Method	Duration and strikes/second (sec)	Pile events per day	Days	Total pile events
Donut Fender Piles			DTH driving	20 minutes (10/sec).	1	2	2.

* Activities in italics are not likely to incidentally harass marine mammals.

To aid in constructing Pier Bents, PSF would first install the template (using the approach described above) to support vibratory pile driving installation of each of four permanent 48-in (Bents 1 and 2) and 10 temporary 30-in (Bents 3 to 7) steel caisson sleeves. Once a given caisson sleeve is in place, sediment/soil/rock within the caisson would be drilled out using a Bauer BG18 rotary drill (similar) to create a rock socket (*i.e.,* a void in the substrate in which to seat the base of the pile). All drilled sediment/soil/rock will be collected for disposal and transported to an appropriate permitted facility. However, rotary drilling is not likely to result in incidental take of marine mammals, and we do not discuss it further. Using a crane, PSF would place/seat a 24-in diameter concrete pile in each rock socket. After securing each concrete pile with grouting, PSF would remove the associated outer caisson sleeve and four temporary support H-piles. The 48-in caisson sleeves (n=4) would be permanent; thus, extraction only applies to the 30-in caisson sleeves (n=10). Figure 3 in the IHA application provides a depiction of this process.

Installation of the 36-in steel float and donut piles will require vibratory pile driving until refusal is reached (1,200 sec/pile), followed by DTH driving for approximately 20 minutes to achieve the target full 20 ft (6.1 m) embedment depth. PSF would utilize a noise attenuation system (*i.e.,* bubble curtain) during all DTH driving.

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

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the ITA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all this information, and we refer the reader to these descriptions, instead of reprinting the information. Information regarding population trends and threats for the following species may be found in NMFS' Stock Assessment Reports (SARs; *https://www.fisherie.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

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

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

TABLE 2—STATUS OF MARINE MAMMAL SPECIES [1] LIKELY TO OCCUR NEAR THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-/- ; N	25,960 (0.05, 25,849, 2016).	801	131
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	California Coastal	-/- ; N	453 (0.06, 346, 2011)	2.7	> = 2
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	San Francisco-Russian River ...	-/- ; N	7,777 (0.62, 4,811, 2017	73	> = 0.4
Order Carnivora—Superfamily Pinnipedia						
California sea lion	*Zalophus californianus*	United States	-/- ; N	257,606 (N/A, 233,515, 2014).	14,011	>321

TABLE 2—STATUS OF MARINE MAMMAL SPECIES [1] LIKELY TO OCCUR NEAR THE PROJECT AREA—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Annual M/SI [4]
Steller sea lion	*Eumetopias jubatus*	Eastern North Pacific	-,-,N	36,308 (N/A, 36,308, 2022).	2,178	92.3
Northern fur seal	*Callorhinus ursinus*	California	-/- ; N	14,050 (n/a, 7,524, 2013)	451	1.8
		Eastern North Pacific	-/- ; N	612,765 (0.2, 518,651, 2022).	11,151	296
Family Phocidae (earless seals):						
Pacific harbor seal	*Phoca vitulina richardii*	California	-/- ; N	30,968 (n/a, 27,348, 2012).	1,641	43
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-/- ; N	194,907 (N/A, 88,794, 2023).	5,328	11.2

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

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

[3] NMFS' marine mammal SARs can be found online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

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

Very few marine mammal species occur consistently within SFB, and even fewer are likely to occur near the project area (*i.e.,* in the inner Bay) during the planned period of in-water construction (June–November). When cetacean sightings do occur, most tend to occur north of the project area, in the Central Bay (the area bound by the Golden Gate Bridge to the west, the Richmond Bridge to the north, and the San Francisco-Oakland Bay Bridge (SFOBB) to the south). The SFOBB, the southern boundary of the Central Bay, is approximately 1.5 miles (2.4 km) north of the project area. Only harbor seals, California sea lions, harbor porpoises, and bottlenose dolphins are sighted in SFB year-round; other marine mammal species sighted, although more infrequently, include the gray whale, humpback whale, northern elephant seal, Guadalupe fur seal, and northern fur seal. However, both the temporal and/or spatial occurrence of the humpback whale and Guadalupe fur seal is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here.

Humpback whales are historically rare visitors to the interior of SFB. However, beginning in 2016, a seasonal (*i.e.,* April to November) influx of humpback whales occurred inside SFB near the Golden Gate Bridge (Keener 2017). Markiwitz *et al.* (2024) documented increased use of the portions of SFB near the Golden Gate strait as foraging habitat by humpback whales. Systematic land- and boat-based observations made during their 2016–2018 study period indicated that individual humpback whales moved into and out of SFB (*i.e.,* east and west of the Golden Gate Bridge) daily, on a timescale correlated with the tidal cycle, although individuals rarely ventured east of Alcatraz Island and never south of the SFOBB. PSF's project location is south of the documented foraging habitat, to the extent that neither NMFS nor PSF anticipates that planned construction activities would result in incidental taking of humpback whales. To ensure no take occurs, PSF proposes to shutdown construction activities should this species show up unexpectedly and approach the Level B harassment zone.

Although extremely rare, Guadalupe fur seals may range into the waters of northern California and the Pacific Northwest, potentially using the Farallon Islands (off central California) and Channel Islands (off southern California) as haul-out sites during these movements (Simon, 2016). However, Guadalupe fur seal occurrence in the vicinity of San Francisco is usually in the form of stranded juveniles (usually younger than 2 years old) with evidence of malnutrition, especially during El Niño events (NMFS 2017a). Because Guadalupe fur seals are so rare in the area, and sightings are associated with specific abnormal weather conditions, NMFS has determined that no Guadalupe fur seals are likely to occur in the project vicinity and, therefore, no take is expected to occur.

As indicated above, all eight species (with nine managed stocks) in table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur.

Harbor Seal

Harbor seals are distributed from Baja California north to the Aleutian Islands of Alaska. Harbor seals do not make extensive pelagic migrations but may travel hundreds of km to find food or suitable breeding areas (Herder, 1986; Harvey and Goley, 2011; Carretta *et al.,* 2023). Harbor seals are the most common marine mammal species observed in SFB and occur year-round, primarily observed hauled out on exposed rocky ledges and sloughs in the southern Bay. Harbor seals, central-place foragers (Orians and Pearson 1979) that tend to exhibit strong site fidelity within season and across years, forage close to haul-out sites, thus repeatedly visiting specific foraging areas (Grigg *et al.,* 2012; Suryan and Harvey, 1998; Thompson *et al.,* 1998). Harbor seals in SFB forage mainly within 7 mi (11.3 km of their primary haul-out site (Grigg *et al.,* 2012), and often within just 1–3 mi (1–5 km; Torok 1994). The closest harbor seal haul-out site to the Project Area is Yerba Buena Island (YBI), approximately 3.3 mi (5.3 km) to the east of the Project Area. Although the YBI haul-out is not expected to be within the area of ensonification, it is likely that foraging seals from this location would be present in the water during construction.

Gray Whale

Gray whales are one of the most common whales along the California coast. A small number of whales, known as the Pacific Coast Feeding Group, are known to feed along the Pacific coast between Kodiak Island, AK and northern California, as well as in nearshore waters just outside of SFB (Carretta *et al.,* 2022). The southward migration to winter breeding grounds occurs from December through February

while the northward migration to the feeding grounds takes place from February through May, peaking in March. Since 2019, it has become more common for gray whales on their northward migration, during the months of February and March, to enter SFB to feed (Bartlett, 2022). Although PSF would not initiate MBFL pile installation activities until June 1, well outside the northward migratory period, it is possible that a gray whale may enter the project area during pile driving activities.

In 2024, during monitoring required by an IHA for construction activities near the MBFL project site, Protected Species Observers (PSOs) observed gray whales more often than expected (Integral Consulting Inc., 2025a). The California Academy of Sciences and Marine Mammal Center reported an unusually high number of sightings in the SFB in 2025, with more than 30 individual gray whales confirmed via photo identification. By comparison, only six gray whales were sighted in SFB in 2024. Roughly one-third of the whales sighted in 2025 remained in SFB for at least 20 days; among these individuals, body condition ranged from normal to emaciated.

Bottlenose Dolphin

The common bottlenose dolphin is found in all oceans across the globe and is one of the most commonly observed marine mammal species in coastal waters and estuaries. Two genetically distinct stocks occur off the coast of California, the California coastal stock and the California/Oregon/Washington offshore stock. The range of the California coastal stock has been expanding north since an El Niño event in 1982 through 1983 (Hansen and Defran, 1990; Wells *et al.,* 1990) and spans as far north as Sonoma County (Keener *et al.,* 2023). From 2010 to 2018, a photo-identification monitoring study identified 84 distinctive individual bottlenose dolphins in SFB, likely belonging to the California coastal stock (Keener *et al.,* 2023). This stock is highly transitory, shows little site fidelity, and individuals are highly mobile (Weller *et al.,* 2016). Since 2008, coastal bottlenose dolphins have been observed regularly in SFB in proximity to the Golden Gate near the mouth of SFB, north of PSF's MBFL project site (Bay Nature, 2020). However, due to increased numbers of dolphins occurring in SFB, it is possible that a limited number of individuals may approach the project area during in-water construction activities.

Harbor Porpoise

Harbor porpoises typically occur in cool temperate to sub-polar waters less than 62.6 degrees Fahrenheit (17 degrees Celsius) (Read 1999) where prey aggregations are concentrated (Watts and Gaskin, 1985). In the eastern Pacific, harbor porpoises occur in coastal and inland waters from Point Conception, California to Alaska (Gaskin 1984). The non-migratory San Francisco-Russian River stock ranges from Pescadero to Point Arena, California, utilizes relatively shallow nearshore waters (<100 m), and feeds on small schooling fishes such as northern anchovy and Pacific herring which enter SFB (Caretta *et al.,* 2022; Stern *et al.,* 2017). Harbor porpoises tend to occur in small groups and are considered relatively cryptic animals.

Recently, observations of harbor porpoises within SFB have become more common (Duffy 2015; Stern *et al.,* 2017; AECOM, 2021). Before 2008, harbor porpoises occurred primarily outside of SFB, although SFB has historically been considered habitat for harbor porpoises (Broughton, 1999). From 2011 to 2014, the Golden Gate Cetacean Research program conducted a visual count and identified 2,698 porpoise groups from the Golden Gate Bridge during 96 percent of their on-effort survey days (Stern *et al.,* 2017). Harbor porpoise movements into SFB are linked to tidal cycles, with the greatest numbers of individuals sighted during high tide to ebb tide periods. Movements into SFB, which may serve as a foraging habitat, are likely influenced by prey availability (Duffy 2015; Stern *et al.,* 2017). Although harbor porpoise sightings are generally concentrated in the vicinity of the Golden Gate Bridge and Angel Island, northwest of the project site (Keener, 2011), this species is occurring more frequently in SFB east of Angel Island and may approach the project area during pile driving activities.

California Sea Lion

California sea lions reside in the Eastern North Pacific Ocean in shallow coastal and estuarine waters. A common, abundant marine mammal, they are found throughout the U.S. west coast, generally within 10-miles of shore and are known to breed on the offshore islands of California from May through July (Heath and Perrin 2009). During the non-breeding season, adult and sub-adult males and juveniles migrate northward along the coast, to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson *et al.,* 1993). They return south the following spring (Lowry and Forney 2005; Heath and Perrin 2009). Females and some juveniles tend to remain closer to rookeries (Antonelis *et al.,* 1990; Melin *et al.,* 2008).

California sea lions occur within SFB-Delta in their highest numbers while migrating to and from their primary breeding areas on the Farallon and California Channel Islands, and when Pacific herring and salmon inhabit Bay-Delta waters spawn. or migrate to upriver spawning areas. They haul out on offshore rocks, sandy beaches, and onto floating docks, wharfs, vessels, and other man-made structures in SFB and coastal waters of the state.

In SFB, California sea lions have been observed at Angel Island and occupying the docks near Pier 39, which is the largest California sea lion haul-out in SFB. A maximum of 1,706 sea lions were counted at Pier 39 in 2009. However, since then the population has averaged at about 50–300 depending upon the season (The Marine Mammal Center ((TMMC) 2017). This group of sea lions has decreased in size in recent years, coincident with a fluctuating decrease in the herring population in SFB. There are no known breeding sites within SFB. Their primary breeding site is in the Channel Islands (USACE 2011). The sea lions appear at Pier 39 after returning from the Channel Islands at the beginning of August (Bauer 1999). No other sea lion haul-out sites have been identified in SFB and no pupping has been observed at the Pier 39 site or any other site in SFB under normal conditions (USACE 2011). Although there has been documentation of pupping on docks in SFB, this event was during a domoic acid event. The Port does not anticipate that any domoic events will occur during the project construction activities. The project site is approximately 4 miles away from Pier 39.

Although there is little information regarding the foraging behavior of the California sea lion in southern SFB, they have been observed foraging on a regular basis in the shipping channel south of YBI. Foraging grounds have also been identified for pinnipeds, including sea lions, between YBI and Treasure Island, as well as off the Tiburon Peninsula (California Department of Transportation (CALTRANS), 2006), 2006). The California sea lions that use the Pier 39 haul-out site may be feeding on Pacific herring (*Clupea harengus*), northern anchovy, and other prey in the waters of SFB (CALTRANS, 2013a). In addition to the Pier 39 haul-out, California sea lions haul out on buoys and similar structures throughout SFB. Although

mainly observed swimming off the San Francisco and Marin shorelines within SFB, California sea lions may occasionally enter the project area to forage.

Stellar Sea Lion

Steller sea lions are found along the North Pacific Rim from Japan to California. The eastern Pacific U.S. stock includes animals originating from rookeries east of Cape Suckling, Alaska, and ranges from approximately the Alaska-Canada border to California. Breeding and pupping occur from mid-May to mid-July. Females usually mate within two weeks of giving birth. Steller sea lions have a polygynous mating system in which only a small proportion of the males (*i.e.,* bulls) father most of the pups. Bulls are highly territorial during the breeding season, often aggressively guarding a rocky outcrop or area onshore. Although species' occurrence is rare in the project area, since 1993, a single adult male Steller sea lion has been observed using the nearby Pier 39 haul-out sites more than 30 times over 10 years, typically intermittently July through September, but as recently as March 2026.

Northern Elephant Seal

Northern elephant seals are found in the eastern and central North Pacific Ocean and range as far north as Alaska and as far south as Mexico, spending approximately 9 months per year at sea. The species breeds and pups from December through March in the Channel Islands of California or Baja California in Mexico, preferring sandy beaches or similar habitat (Stewart and Huber, 1993; Stewart *et al.,* 1994; Carretta *et al.,* 2022). The largest rookeries are on San Nicolas and San Miguel islands in the northern Channel Islands. Near SFB, elephant seals breed, molt, and haul out at Año Nuevo Island, the Farallon Islands, and Point Reyes National Seashore.

Elephant seals do not have any established haul out sites in the SFB, but occasional sightings have occurred. The most recent sighting was in 2012 on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for a day. Approximately 100 juvenile northern elephant seals strand in SFB each year, including at YBI and Treasure Island (fewer than 10 strandings per year) (CALTRANS, 2018). Although visits to SFB are rare, it is possible that a few individuals could be present in the project area during construction activities.

Northern Fur Seal

Northern fur seals range from southern California north to the Bering Sea, and west to the Okhotsk Sea and Honshu Island, Japan in the west (Carretta *et al.,* 2022). Most of the population breeds on the Pribilof Islands in the southern Bering Sea, although a small percentage of the population breed at San Miguel Island and the Farallon Islands off the coast of California. Northern fur seals show high site fidelity to breeding and rookery locations and may swim long distances for prey. Their diet is composed of small schooling fish such as walleye pollock, herring, hake, anchovy, and squid. Diet and population trends vary with environmental conditions, such as El Niño (Carretta *et al.,* 2022). The California stock of northern fur seals forage in waters outside of SFB. Juvenile northern fur seals occasionally strand in SFB, especially during El Niño events (TMMC 2016). TMMC responds to approximately five northern fur seal strandings per year in SFB (TMMC, 2016). TMMC occasionally responds to stranded fur seals around YBI and Treasure Island. Although rarely observed in SFB, it is possible individuals may be present during construction activities but unlikely that the species will be exposed to construction activities.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007; 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Generalized hearing ranges were chosen based on the approximately 65-dB threshold from composite audiograms, previous analyses in NMFS (2018), and/or data from Southall *et al.* (2007) and Southall *et al.* (2019). We note that the names of two hearing groups and the generalized hearing ranges of all marine mammal hearing groups have been recently updated (NMFS, 2024) as reflected below in table 3.

TABLE 3—MARINE MAMMAL HEARING GROUPS

[NMFS, 2024]

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

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

For more details concerning these groups and associated generalized hearing ranges, please see (NMFS, 2024) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals

that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are likely to adversely affect the species or stock through effects on annual rates of recruitment or survival.

There are a variety of types and degrees of effects on marine mammals and their habitat (including prey) that could occur as a result of the specified activities. Below, we provide a brief description of the types of sound generated by specified activities, the general impacts on marine mammals and their habitat from these types of activities, and a related project-specific analysis, with consideration of the proposed mitigation measures.

Description of Sound Sources for the Specified Activities

Activities associated with the project with the potential to incidentally take marine mammals though exposure to sound would include vibratory pile installation and extraction, and DTH driving. Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the substrate. Vibratory hammers typically produce less sound (*i.e.,* lower sound pressure level (SPLs)) than impact hammers. Peak SPLs may be 180 dB or greater but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009; CALTRANS, 2015, 2020). Sounds produced by vibratory hammers are non-impulsive and, compared to sounds produced by impact hammers, have a slower rise time that reduces the probability and severity of injury, given the sound energy is distributed over a greater amount of time (Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

DTH driving uses a combination of drilling and impact hammering mechanisms to advance development of a hole in rock, with or without simultaneously advancing a pile/casing into that hole. DTH excavation is accomplished by the efficient progression of a drill bit, rotated under pressure while simultaneously hammered by a specialized percussive hammer located within the drill string (*i.e.,* ''behind'' the bit), the combined forces moving the bit forward to fracture rock. Traditional impact and vibratory pile driving involve a hammer striking the top of the pile, causing the entire length of the submerged pile to radiate sound as a linear source. However, the DTH hammering mechanism is integrated into the drill itself, so the primary sound generation point is at the interface of the drill bit and the substrate (*i.e.,* rock) deep within the ground/seabed, radiating sound pressure more like a point rather than linear source. DTH systems often involve a single hammer (mono-hammer), but multi- or ''cluster'' hammer drills are also used widely. For construction of the MBFL, PSF anticipates that installation of the 36-in steel pipe piles to the full 20-ft (6.1-m) embedment depth will require DTH driving using a mono-hammer.

The sounds produced by the DTH driving methods simultaneously contain both a continuous non-impulsive component from the drilling action and an impulsive component from the hammering effect. Therefore, for purposes of evaluating Level A harassment and Level B harassment under the MMPA, NMFS treats DTH systems simultaneously as both impulsive (Level A harassment thresholds) and continuous, non-impulsive (Level B harassment thresholds) sound source types. While DTH impact hammering can, in general, result in Level A harassment of marine mammals, it is not expected for this project given the small zones produced by the proposed DTH driving (quantified in the Estimated Take of Marine Mammals section) coupled with proposed monitoring and shutdown measures (described in the Proposed Mitigation and Proposed Monitoring and Reporting sections) that would prevent animals from entering these small zones.

The likely or possible impacts of the proposed activities on marine mammals could result from both non-acoustic and acoustic stressors. Potential non-acoustic stressors include the physical presence of the equipment, vessels, and personnel; however, the closest known harbor seal (*i.e.,* YBI) and California sea lion (*i.e.,* Pier 39) haul-out sites are located approximately 3.3 mi (5.3 km) and 4.0 mi (6.4 km), respectively, from the MBFL location; thus, we expect that visual and other non-acoustic stressors would be limited. Should any animals approach the project site(s) closely enough to be harassed due to the presence of equipment or personnel, we expect they would have already traveled through the acoustic harassment zones for the specified in-water activities and, thus, would already be considered taken by acoustic impacts. Therefore, any impacts to marine mammals are expected to be primarily acoustic in nature.

Acoustic Effects

The introduction of anthropogenic noise into the aquatic environment from pile driving and extraction is the means by which marine mammals may be harassed by the specified activity. In general, animals exposed to natural or anthropogenic sound may experience behavioral, physiological, and/or physical effects, ranging in magnitude from none to severe (Southall *et al.* 2007, 2019). In general, exposure to pile driving and extraction noise has the potential to result in behavioral reactions (*e.g.,* avoidance, temporary cessation of foraging and vocalizing, changes in dive behavior) and, in limited cases, an auditory threshold shift (TS). Exposure to anthropogenic noise can also lead to non-observable physiological responses such an increase in stress hormones. Additional noise in a marine mammal's habitat can mask acoustic cues used by marine mammals to carry out daily functions such as communication, and predator and prey detection. The effects of pile driving noise on marine mammals are dependent on several factors, including, but not limited to, sound type (*e.g.,* impulsive vs. non-impulsive), the species, age and sex class (*e.g.,* adult male vs. mom with calf), duration of exposure, the distance between the pile and the animal, received levels, behavior at time of exposure, and previous history with exposure (Wartzok *et al.,* 2004; Southall *et al.* 2007). Here, we discuss physical auditory effects (TSs) followed by behavioral effects and potential impacts on habitat.

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

how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein *et al.* 2014), and the overlap between the animal and the source (*e.g.,* spatial, temporal, and spectral).

Auditory Injury (AUD INJ) and Permanent Threshold Shift (PTS)—NMFS defines AUD INJ as ''damage to the inner ear that can result in destruction of tissue . . . which may or may not result in PTS'' (NMFS, 2024). NMFS defines PTS as a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024). PTS does not generally affect more than a limited frequency range, and an animal that has incurred PTS has incurred some level of hearing loss at the relevant frequencies; typically, animals with PTS are not functionally deaf (Au and Hastings, 2008; Finneran, 2016). Available data from humans and other terrestrial mammals indicate that a 40-dB TS approximates PTS onset (see Ward *et al.* 1958, 1959, 1960; Kryter *et al.,* 1966; Miller, 1974; Ahroon *et al.,* 1996; Henderson *et al.,* 2008). PTS levels for marine mammals are estimates; with the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.,* 2008), there are no empirical data measuring PTS in marine mammals. For various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS 2024, 2018).

Temporary Threshold Shift (TTS)—TTS is a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level (NMFS, 2024, 2018). Based on data from mammals ranging from discountable to serious (similar to those discussed in the Auditory Masking section, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Many studies have examined noise-induced hearing loss in marine mammals (see Finneran (2015) and Southall *et al.* (2019) for summaries). TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 2013). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. For cetaceans, published data on the onset of TTS are limited to captive bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*) (Southall *et al.,* 2019). For pinnipeds in water, measurements of TTS are limited to harbor seals, elephant seals, bearded seals (*Erignathus barbatus*) and California sea lions (Kastak *et al.,* 1999, 2007; Kastelein *et al.,* 2019b, 2019c, 2021, 2022a, 2022b; Reichmuth *et al.,* 2019; Sills *et al.,* 2020). TTS was not observed in spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to single airgun impulse sounds at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). These studies examine hearing thresholds measured in marine mammals before and after exposure to intense or long-duration sound exposures. The difference between the pre-exposure and post-exposure thresholds can be used to determine the amount of TS at various post-exposure times. The amount and onset of TTS depend on the exposure frequency. Sounds at low frequencies, well below the region of best sensitivity for a species or hearing group, are less hazardous than those at higher frequencies, near the region of best sensitivity (Finneran and Schlundt, 2013). At low frequencies, onset-TTS exposure levels are higher compared to those in the region of best sensitivity (*i.e.,* a low frequency noise would need to be louder to cause TTS onset when TTS exposure level is higher), as shown for harbor porpoises and harbor seals (Kastelein *et al.,* 2019a, 2019c). Note that in general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). In addition, TTS can accumulate across multiple exposures, but the resulting TTS will be less than the TTS from a single, continuous exposure with the same sound exposure level (SEL) (Mooney *et al.,* 2009; Finneran *et al.,* 2010; Kastelein *et al.,* 2014, 2015). This means that TTS predictions based on the total, cumulative SEL will overestimate the amount of TTS from intermittent exposures, such as sonars and impulsive sources. Nachtigall *et al.* (2018) describe measurements of hearing sensitivity of multiple odontocete species (bottlenose dolphin, harbor porpoise, beluga, and false killer whale (*Pseudorca crassidens*)) when a relatively loud sound was preceded by a warning sound. These captive animals were shown to reduce hearing sensitivity when warned of an impending intense sound. Based on these experimental observations of captive animals, the authors suggest that wild animals may dampen their hearing during prolonged exposures or if conditioned to anticipate intense sounds. Another study showed that marine mammal TTS measurements (Southall *et al.,* 2007, 2019), a TTS of 6 dB is considered the minimum TS clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Finneran *et al.,* 2000, 2002; Schlundt *et al.,* 2000). As described in Finneran (2015), marine mammal studies have shown the amount of TTS increases with the 24-hour cumulative SEL (SEL_{24}) in an accelerating fashion: at low exposures with lower SEL_{24}, the amount of TTS is typically small and the growth curves have shallow slopes. At exposures with higher SEL_{24}, the growth curves become steeper and approach linear relationships with the SEL.

Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to more impactful (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that takes place during a time when the animal is traveling through the open ocean, where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more severe impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to

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Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans, but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above that inducing mild TTS (*e.g.,* a 40-dB TS approximates PTS onset (Kryter *et al.,* 1966; Miller, 1974), while a 6-dB TS approximates TTS onset (Southall *et al.,* 2007, 2019). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulsive sounds (such as impact pile driving pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative SEL thresholds are 15 to 20 dB higher than TTS cumulative SEL thresholds (Southall *et al.,* 2007, 2019). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

Activities for this project include vibratory pile driving and vibratory extraction, and DTH driving. There would likely be pauses in activities producing the sound during each day. Given these pauses and the fact that many marine mammals are unlikely to remain in the project area for extended periods of time, the potential for TS declines.

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

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

(2016) for reviews of studies involving marine mammal behavioral responses to sound.

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

As noted above, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; National Research Council (NRC), 2005). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (*e.g.,* seismic airguns) have been varied but often consist of avoidance behavior or other behavioral changes (Richardson *et al.,* 1995; Morton and Symonds, 2002; Nowacek *et al.,* 2007).

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

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

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. However, acoustic and movement bio-logging tools have been used in some cases, to infer responses of feeding to anthropogenic noise. For example, Blair *et al.* (2016) reported significant effects on humpback whale foraging behavior in Stellwagen Bank in response to ship noise including slower descent rates, and fewer side-rolling events per dive with increasing ship nose. In addition, Wisniewska *et al.* (2018) reported that tagged harbor porpoises demonstrated fewer prey capture attempts when encountering occasional high-noise levels resulting from vessel noise as well as more vigorous fluking, interrupted foraging, and cessation of echolocation signals observed in response to some high-noise vessel passes.

In response to playbacks of vibratory pile driving sounds, captive bottlenose dolphins showed changes in target detection and number of clicks used for a trained echolocation task (Branstetter *et al.,* 2018). Similarly, harbor porpoises trained to collect fish during playback of impact pile driving sounds also showed potential changes in behavior and task success, though individual differences were prevalent (Kastelein *et al.,* 2019d). As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationships among prey availability, foraging effort and success, and the life history stage(s) of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007). For example, harbor porpoises' respiration rate increased in response to pile driving sounds at and above a received broadband SPL of 136 dB (zero-peak SPL: 151 dB (re 1 mPa); SEL of a single strike: 127 dB re 1 mPa2-s) (Kastelein *et al.,* 2013).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and

Heithaus, 1996; Bowers *et al.,* 2018). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (England *et al.,* 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

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

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive (*i.e.,* meaningful) behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

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

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

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

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals would experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress''. In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003), however distress is an unlikely result of this project based on observations of marine mammals during previous, similar projects in the area.

Auditory Masking—Since many marine mammals rely on sound to find prey, moderate social interactions, and facilitate mating (Tyack, 2008), noise from anthropogenic sound sources can interfere with these functions, but only if the noise spectrum overlaps with the hearing sensitivity of the receiving marine mammal (Southall *et al.,* 2007; Clark *et al.,* 2009; Hatch *et al.,* 2012). Chronic exposure to excessive, though not high-intensity, noise could cause masking at particular frequencies for marine mammals that utilize sound for vital biological functions (Clark *et al.,* 2009). Acoustic masking is when other noises such as from human sources interfere with an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Therefore, under certain circumstances, marine mammals whose acoustical sensors or environment are being severely masked could also be impaired from maximizing their performance fitness in survival and reproduction. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions (Hotchkin and Parks, 2013).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle

response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003) or vocalizations (Foote *et al.,* 2004), respectively, while North Atlantic right whales (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). Fin whales have also been documented lowering the bandwidth, peak frequency, and center frequency of their vocalizations under increased levels of background noise from large vessels (Castellote *et al.,* 2012). Other alterations to communication signals have also been observed. For example, gray whales, in response to playback experiments exposing them to vessel noise, have been observed increasing their vocalization rate and producing louder signals at times of increased outboard engine noise (Dahlheim and Castellote, 2016). Alternatively, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is human made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect (though not necessarily one that would be associated with harassment).

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

Marine mammals at or near the proposed project site may be exposed to anthropogenic noise which may be a source of masking. Vocalization changes may result from a need to compete with an increase in background noise and include increasing the source level, modifying the frequency, increasing the call repetition rate of vocalizations, or ceasing to vocalize in the presence of increased noise (Hotchkin and Parks, 2013). For example, in response to loud noise, beluga whales may shift the frequency of their echolocation clicks to prevent masking by anthropogenic noise (Eickmeier and Vallarta, 2022).

Masking occurs in the frequency band or bands that animals utilize and is more likely to occur in the presence of broadband, relatively continuous noise sources such as vibratory pile driving. Energy distribution of pile driving covers a broad frequency spectrum, and sound from pile driving would be within the audible range of pinnipeds and cetaceans present in the proposed action area. While some construction during the specified activities may mask some acoustic signals that are relevant to the daily behavior of marine mammals, the short-term duration and limited areas affected make it very unlikely that the fitness of individual marine mammals would be impacted.

Airborne Acoustic Effects—Pinnipeds that may occur near the project site could be exposed to airborne sounds associated with construction activities that have the potential to cause behavioral harassment, depending on their distance from these activities. Airborne noise would primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above airborne acoustic harassment criteria. There is also a possibility that an animal could surface in-water, but with head out, within the area in which airborne sound exceeds relevant thresholds and thereby be exposed to levels of airborne sound that we associate with harassment. However, as a result of the mitigation and monitoring measures and due to the infrequent occurrence of marine mammals in the area, takes by behavioral harassment resulting from airborne sounds that would result in harassment as defined under the MMPA are not expected.

Marine Mammal Habitat Effects

The proposed specified activities could have localized, temporary impacts on marine mammal habitat and their prey by increasing in-water SPLs and slightly decreasing water quality. Increased noise levels may affect acoustic habitat (see *Auditory Masking* discussion above) and adversely affect marine mammal prey in the vicinity of the project area (see discussion below). During in-water vibratory pile driving and vibratory extraction, and DTH driving, elevated levels of underwater noise would ensonify the project area where both fish and some mammals occur and could affect foraging success.

Water Quality—Temporary and localized reduction in water quality would occur as a result of in-water construction activities. Most of this effect would occur during the installation and extraction of piles when bottom sediments are disturbed. The installation and extraction of piles would disturb bottom sediments and may cause a temporary increase in suspended sediment in the project area. During pile extraction, sediment attached to the pile moves vertically through the water column until gravitational forces cause it to slough off under its own weight. The small resulting sediment plume is expected to settle out of the water column within a few hours. Studies of the effects of turbid water on fish (marine mammal prey) suggest that concentrations of suspended sediment can reach thousands of milligrams per liter before an acute toxic reaction is expected (Burton, 1993).

Effects to turbidity and sedimentation are expected to be short-term, minor, and localized. Suspended sediments in the water column should dissipate and quickly return to background levels in all construction scenarios. Turbidity within the water column has the potential to reduce the level of oxygen in the water and irritate the gills of prey fish species in the proposed project area. However, turbidity plumes associated with the project would be temporary and localized, and fish in the proposed project area would be able to move away from and avoid the areas where plumes may occur. Therefore, it is expected that the impacts on prey fish species from turbidity, and therefore on

marine mammals, would be minimal and temporary. In general, the area likely impacted by the proposed construction activities is relatively small compared to the available marine mammal habitat in the area and does not include any areas of particular importance.

In-Water Construction Effects on Potential Prey—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location and, for some, is not well documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

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

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

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

The greatest potential impact to fishes during construction would occur during DTH driving, which has an impact hammer component. In-water construction activities would only occur during daylight hours, allowing fish to forage and transit the project area in the evening. Vibratory pile driving would possibly elicit behavioral reactions from fishes such as temporary avoidance of the area but is unlikely to cause injuries to fishes or have persistent effects on local fish populations. Construction also would have minimal permanent and temporary impacts on benthic invertebrate species, a marine mammal prey source. In addition, it should be noted that the area in question is low-quality habitat since it is already highly developed and experiences a high level of anthropogenic noise from normal operations and other vessel traffic. In general, any negative impacts on marine mammal prey species are expected to be minor and temporary.

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

The most likely impact to fish from pile driving and extraction activities in the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of an area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the expected short daily duration of individual pile driving events.

In-Water Construction Effects on Potential Foraging Habitat—The area likely impacted by the project is relatively small compared to the available habitat in the SFB area and does not include any biologically important areas (BIAs) or ESA-designated critical habitat. The total area affected by the project is small compared to the vast foraging area available to marine mammals in the area. Pile driving and extraction at the project site would not obstruct long-term movements or migration of marine mammals.

Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish and marine mammal avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated.

In summary, given the short daily duration of sound associated with individual pile driving events and the relatively small areas being affected, pile driving activities associated with the proposed action are not likely to have a permanent adverse effect on any fish habitat, or populations of fish species. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. Thus, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through the IHA, which will inform NMFS' consideration

of ''small numbers'' and the negligible impact determinations.

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

Authorized takes would be by Level B harassment, as use of the acoustic sources (*i.e.,* vibratory installation and extraction, DTH driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutdown at the Level A harassment isopleth) discussed in detail below in the Proposed Mitigation section, Level A harassment is neither anticipated nor proposed to be authorized. As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below we describe how the proposed take numbers are estimated.

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

Acoustic Criteria

NMFS recommends the use of acoustic criteria that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur AUD INJ of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.,* frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.,* bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.,* Southall *et al.,* 2007, 2021, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above RMS pressure received levels (RMS SPL) of 120 dB (referenced to 1 re 1 µPa) for continuous (*e.g.,* vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 µPa for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. Generally speaking, estimates of take by Level B harassment based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

PSF's proposed construction activity includes the use of vibratory pile driving and extraction, and DTH driving, both of which are treated as continuous noise sources when evaluating the potential for Level B harassment; therefore, the RMS SPL thresholds of 120 dB re 1 µPa is applicable.

Level A Harassment—NMFS' 2024 Updated Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 3.0) (Updated Technical Guidance, 2024) identifies dual criteria to assess AUD INJ (Level A harassment) to five different underwater marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive) (table 4). PSF's proposed activity includes the use of impulsive (DTH hammering component) and non-impulsive (vibratory pile driving and DTH drilling component) sources.

The 2024 Updated Technical Guidance criteria include both updated thresholds and updated weighting functions for each hearing group (table 4). These thresholds criteria are provided in the table below. The references, analysis, and methodology used in the development of the criteria thresholds, as well as the detailed description of the updated weighting functions, are described in NMFS' 2024 Updated Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance-other-acoustic-tools.*

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF AUD INJ

Hearing group	AUD INJ onset thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{p,0\text{-pk,flat}}$*:* 222 dB; $L_{E,p,\ LF,24h}$*:* 183 dB	*Cell 2:* $L_{E,p,\ LF,24h}$*:* 197 dB.
High-Frequency (HF) Cetaceans	*Cell 3:* $L_{p,0\text{-pk,flat}}$*:* 230 dB; $L_{E,p,\ HF,24h}$*:* 193 dB	*Cell 4:* $L_{E,p,\ HF,24h}$*:* 201 dB.
Very High-Frequency (VHF) Cetaceans	*Cell 5:* $L_{p,0\text{-pk,flat}}$*:* 202 dB; $L_{E,p,VHF,24h}$*:* 159 dB	*Cell 6:* $L_{E,p,\ VHF,24h}$*:* 181 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{p,0\text{-pk,flat}}$*:* 223 dB; $L_{E,p,PW,24h}$*:* 183 dB	*Cell 8:* $L_{E,p,PW,24h}$*:* 195 dB.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF AUD INJ—Continued

Hearing group	AUD INJ onset thresholds * (received level)	
	Impulsive	Non-impulsive
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{p,0\text{-pk,flat}}$*:* 230 dB; $L_{E,p,OW,24h}$*:* 185 dB	*Cell 10:* $L_{E,p,OW,24h}$*:* 199 dB.

* Dual metric thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating AUD INJ onset. If a non-impulsive sound has the potential of exceeding the peak SPL thresholds associated with impulsive sounds, these thresholds are recommended for consideration.

Note: Peak SPL ($L_{p,0\text{-pk}}$) has a reference value of 1 µPa, and weighted cumulative SEL ($L_{E,p}$) has a reference value of 1µPa²s. In this table, thresholds are abbreviated to be more reflective of International Organization (ISO) for Standardization standards (ISO 2017). The subscript ''flat'' is being included to indicate peak sound pressure are flat weighted or unweighted within the generalized hearing range of marine mammals (*i.e.,* 7 Hz to 165 kHz). The subscript associated with cumulative SEL thresholds indicates the designated marine mammal auditory weighting function (LF, HF, and VHF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The weighted cumulative SEL thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these thresholds will be exceeded.

As discussed in the *Description of Sound Sources* section above, DTH systems have both continuous, non-impulsive, and impulsive components. When evaluating Level B harassment, NMFS recommends treating DTH as a continuous source and applying RMS SPL thresholds of 120 dB re 1 µPa. When evaluating Level A harassment, NMFS recommends treating DTH as an impulsive source, applying the thresholds in the second column of table 4.

NMFS (2022) guidance on DTH systems recommends source levels for DTH systems (*https://media.fisheries.noaa.gov/2022-11/PUBLIC%20DTH%20Basic%20Guidance_November%2020 2022.pdf*). NMFS has applied those levels in our analysis (see table 5 for NMFS' proposed source levels) of potential acoustic impacts from DTH driving during PSF's installation of 36-in steel pipe piles.

Ensonified Area

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

The sound field in the project area is the existing background noise plus additional construction noise from the proposed project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* pile driving and extraction).

The project includes vibratory pile installation and extraction and DTH driving. Source levels for these activities are based on reviews of measurements of the same or similar types and dimensions of pile available in the literature. Source levels for each pile size are presented in table 5. Source levels for vibratory installation and extraction of piles of the same diameter are assumed to be the same. PSF plans to use a bubble curtain for all DTH driving, and a 5-dB reduction in source level is assumed from those presented in table 5 for DTH driving.

TABLE 5—SOURCE LEVELS FOR PROPOSED ACTIVITIES

Project element	Pile type	Pile diameter (in)	Method	Duration (seconds/pile)	Daily/total piling events (including installation and extraction)	Source level (dB)		
						Peak	SEL	RMS
Pile driving template piles.	H-pile steel (temporary).	14	Vibratory pile installation and extraction.	600	8/80 (40 installed and 40 removed).	165	NA	150
Pier (Bents 1 & 2)	Steel Caisson (permanent).	48	Vibratory pile installation	900	1/4	NA	NA	170
Pier (Bents 3–7)	Steel Caisson (temporary).	30	Vibratory pile installation and extraction.	900	2/20 (10 installed and 10 removed).	196	NA	159
Float Guide and Donut Fender Piles.	Steel (permanent)	36	Vibratory pile installation	1,200	2/8	206	172	172
			DTH driving	20 minutes (10 strikes per second).	2/8	[1] 194	164	[1] 174

[1] PSF will deploy a bubble curtain during all DTH driving, which is expected to provide a 5-dB reduction from the source levels presented in table (SPL_{peak} and SPL_{rms}).

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

$TL = B \times \text{Log10}\ (R_1/R_2)$,

Where:

TL = transmission loss in dB
B = transmission loss coefficient
R_1 = the distance of the modeled SPL from the driven pile, and
R_2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustic monitoring with differing measured *TL,* a practical spreading loss value of 15 is used as the *TL* coefficient in the above formula for nearshore environments. Site-specific *TL* data for the MBFL project site are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A harassment and Level B harassment thresholds.

The TL model described above was used to calculate the expected noise propagation from vibratory pile driving and extraction, and DTH driving, using

representative source levels to estimate the harassment zones exceeding the noise criteria. The resulting distances to Level A harassment and Level B harassment isopleths are shown in table 6. The largest calculated distances to the Level B harassment isopleth would be produced during vibratory pile installation of 36-in steel pipe piles (29,286 m) and 48-in steel caisson sleeves (21,544 m), and DTH driving of 36-in steel pipe piles (39,811 m). However, when accounting for attenuation from landmass interference, the maximum radius of the Level B harassment zone is approximately 6,000 m (table 6).

The ensonified area associated with Level A harassment (AUD INJ) is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the 2024 Updated Technical Guidance that can be used to predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment (AUD INJ). However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as pile driving and DTH, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur AUD INJ, which includes but is not limited to PTS.

PSF used NMFS' 2024 Updated Technical Guidance and optional User Spreadsheet to calculate the maximum distances to Level A harassment (AUD INJ onset) thresholds for all in-water construction activities (*i.e.,* vibratory installation and extraction, and DTH driving). Inputs used in the optional User Spreadsheet tool include values in table 1 (*e.g.,* number of piles per day, duration) and table 5 (*i.e.,* source levels). Sound source locations were chosen to model the greatest possible affected area from the representative notional pile location. The resulting estimated distances to Level A harassment threshold isopleths are reported below in table 6.

TABLE 6—MAXIMUM DISTANCES [1] TO MMPA HARASSMENT THRESHOLD ISOPLETHS

Project element	Pile type	Pile diameter (in)	Duration (seconds/pile)	Method	Distance to Level A harassment (AUD INJ) isopleth (meters)					Distance to Level B harassment isopleth [1] (meters)
					Cetaceans			Pinnipeds		
					LF	HF	VHF	PW	OW	
Pile driving template piles.	H-pile steel (temporary).	14	600	Vibratory pile installation and extraction.	4.4	1.7	3.6	5.7	1.9	2,154
Pier (Bents 1 & 2).	Steel Caisson (permanent).	48	900	Vibratory pile installation.	23.1	8.9	18.9	29.8	10	[2] 21,554
Pier (Bents 3–7)	Steel Caisson (temporary).	30	900	Vibratory pile installation and extraction.	4.3	1.6	3.5	5.5	1.9	3,981
Float Guide and Donut Fender Piles.	Steel (permanent).	36	1,200	Vibratory pile installation.	38.1	14.6	31.1	49	16.5	[2] 29,286
			20 minutes (10 strikes per second).	DTH driving [3]	282.2	36	436.8	250.7	93.5	[2] 39,811

[1] The distances to Level B harassment isopleth were evaluated relative to the 120 dB SPL_{rms} threshold for vibratory pile driving and DTH driving, based on its continuous component.

[2] The harassment zones will be truncated due to the presence of intersecting landmasses, extending to a maximum of 6,000 m from the sound source during vibratory pile installation of 48-in steel caisson sleeves and both methods of installation (*i.e.,* vibratory pile driving and DTH driving) of 36-in steel pipe piles.

[3] All distances calculated assuming 5 dB attenuation by a bubble curtain.

Marine Mammal Occurrence and Take Estimation

In this section, we provide information about the occurrence of marine mammals, including density or other relevant information that will inform the take calculations.

No systematic line transect surveys of marine mammals have been performed in SFB. Therefore, estimates of occurrence for each species were derived using the following datasets:

- 17 years of sighting data collected during the SFOBB construction project (CALTRANS, 2018);
- 5 years of sighting and stranding data from TMMC (NMFS, 2021b as cited by Integral Consulting Inc., 2025a)
- 5 years of sighting and stranding data from The California Academy of Sciences (CAS) (Integral Consulting Inc., 2025a); and
- Monitoring data collected in Spring 2025 over 11 days in Remedial Response Areas A and B (required by NMFS-issued IHA for the Piers 39 to 43½ Sediment Remediation Project) (Integral Consulting Inc., 2025b).

Monitoring data collected by CALTRANS for the SFOBB project over 17 years can be used to approximate density of the observed species near PSF's project site. Care was taken to eliminate multiple observations of the same animal in the dataset, although this can be difficult and it is likely that the same individual may have been counted by observers multiple times on the same day. The amount of monitoring performed per year varied, depending on the frequency and duration of construction activities with the potential to affect marine mammals. During the 257 days of monitoring from 2000 through 2017 (including 15 days of baseline monitoring in 2003), CALTRANS observed a total of 1,029 harbor seals, 83 California sea lions, and 24 harbor porpoises in the vicinity of the SFOBB, with the number of harbor seals and harbor porpoises increasing significantly beginning in 2015. These observations included data from baseline, pre-, during, and post-pile driving, mechanical dismantling, onshore blasting, and offshore implosion activities.

The TMMC and CAS datasets report sightings of marine mammals found within SFB between September 2016 and September 2021. The sightings include those of stranded animals (that

were of confirmed species and associated with a confirmed location within SFB) whether they were living, dead (all stages of decomposition), floating, or stranded. The TMMC and CAS often have duplicate sightings in their databases due to how information is received from the public. As TMMC receives the most reports from the public, their dataset was treated as the primary source. Duplicates were removed from the CAS dataset and CAS sightings are reported separately. The age, sex, and reproductive condition of individuals of each species that may potentially be taken is difficult to estimate given the lack of information on the class distribution of these species within the project area and greater SFB. Below are estimates for each species potentially affected.

Depending on the distribution of sightings and granularity of data, different sources have been used to estimate the species-specific number of individuals expected to occur within SFB and, thus, potentially within the area ensonified by PSF's pile-installation activities.

Gray Whale

Gray whales may enter SFB in late winter/early spring or in the fall during their migrations and, in recent years, there have been an increased number of gray whales in the western and Central Bay (Integral Consulting Inc., 2025a). During construction in March–April 2025, multiple gray whales were observed in SFB (Integral Consulting Inc., 2025b). According to TMMC, in June 2025, 9 individual gray whales were observed over 14 days (TMMC, unpublished data). As such, PSF anticipates the potential for gray whale occurrence in the MBFL project's Level B harassment ensonified zones. Given these data, and the trends they indicate, PSF estimates that one gray whale could occur in the project area every other day (0.5 whales/day), and NMFS concurs with this approach.

Bottlenose Dolphin

Historically, observations of bottlenose dolphins have occurred west of Treasure Island and were concentrated along the nearshore area of San Francisco south to Redwood City. Since 2016, one individual has been regularly seen near the former Alameda Air Station, and five animals were regularly seen in the summer and fall of 2018 in the same location (Integral Consulting Inc., 2025a). In February 2019, an adult and juvenile were seen on two separate occasions northwest of the Oakland Inner Harbor, over 4 mi (6.4 km) from PSF's proposed project area (Integral Consulting Inc., 2025a). No bottlenose dolphins were observed during pre-construction monitoring in 2020 (Haase, 2021) or during construction in the spring of 2025 (Integral Consulting Inc., 2025b). Although bottlenose dolphins are relatively uncommon in SFB, NMFS conservatively assumes that one group of bottlenose dolphins will be present in the project area during the construction period. A group size is estimated to be five animals based on sightings of bottlenose dolphins in SFB (Integral Consulting Inc., 2025a).

Pacific Harbor Porpoise

Harbor porpoises are primarily seen near the Golden Gate Bridge, Marin County, and the city of San Francisco on the northwest side of SFB (Keener *et al.,* 2012; Stern *et al.,* 2017). CAS recorded 29 harbor porpoises (only 2 of which were alive) over the past 5 years, and *https://www.iNaturalist.org* recorded 11 harbor porpoises in SFB over the past 2 years. During 2020 monitoring, an individual harbor porpoise was seen near the project area on 2 of the 5 monitoring days (Haase, 2021), and a single harbor porpoise was observed within the Level B harassment zone during 11 days of monitoring in the spring of 2025 (Integral Consulting Inc., 2025b). Based on these data, PSF estimates that two harbor porpoises could occur within the MBFL project's Level B harassment zone per day, and NMFS concurs.

California Sea Lion

The Pier 39 K-Dock California sea lion haul-out site supports up to 1,701 individuals, with the highest abundance occurring from August through October. Pier 39 is the only regularly used sea lion haul-out site in the project vicinity, located approximately 3 mi (5 km) northwest of the MBFL project site. The Sea Lion Center at Pier 39 regularly counted sea lions at K-Dock from 1991 through 2018; from 2016 through 2018, the yearly average ranged from 89 to 229 animals per day; the average per day over all 3 years was 191. The maximum numbers of animals using the haul-out site in 2016, 2017, and 2018 were 707, 239, and 466 respectively; the average maximum per day over this period was 324. TMMC recorded 1,586 sea lions in SFB between September 2016 and September 2021. CAS recorded an additional 191 for a total of 1,777 over 5 years. Based on these data, PSF estimates that California sea lions could occur within the MBFL project's Level B harassment zone at a rate of 0.97 per day, and NMFS concurs with this approach.

Steller Sea Lion

Steller sea lions are rare in SFB. TMMC recorded four Steller sea lions in SFB from 2016 to 2021 (NMFS, 2021b), and CAS recorded no Steller sea lions over the same time frame (NMFS, 2021a). On rare occasions, Steller sea lions are seen on the Pier 39 K-Dock haul-out site (located approximately 3 miles (5 km) northwest of the MBFL site). An adult male was spotted there in May 2023 (Segura, 2023), and, in previous years, a single male Steller sea lion had been observed using the Pier 39 K-Dock haul-out site intermittently during July and August, and occasionally September (Integral Consulting Inc., 2025a). No Steller sea lions were observed during the 2020 or 2025 monitoring (Haase, 2021; Integral Consulting Inc., 2025b). Given the potential for Stellar sea lion occurrence at Pier 39, if only rarely, NMFS feels it is appropriate to assume one Steller sea lion may occur in PSF's proposed project area during the period of construction.

Northern Fur Seal

TMMC recorded 44 northern fur seals in SFB from 2016 to 2021 (NMFS, 2021b). CAS recorded an additional 3 for a total of 47 over 5 years (NMFS, 2021a), yielding a frequency of 0.03 northern fur seals per day, or approximately 10 northern fur seals per year. In the fall and winter, northern fur seals occasionally strand on YBI and Treasure Island (Integral Consulting Inc., 2025a), approximately 3.3 mi (5.3 km) from PSF's proposed project area. PSF assumes 10 northern fur seals could occur in the proposed project area and within the Level B harassment zone per year (*i.e.,* within the effective period of the proposed IHA), given the maximum potential sightings in San Franciso Bay averaged over a 5-year period is 10 individuals. NMFS concurs with this approach.

Northern Elephant Seal

TMMC recorded 903 northern elephant seals in SFB from 2016 to 2021 (NMFS, 2021b). The CAS reported an additional 6 northern elephant seals over the same timeframe (NMFS, 2021a), for a total of 909 seals, yielding an average of 0.5 northern elephant seals per day. No northern elephant seals were observed during monitoring efforts conducted in 2020 and 2025 (Haase, 2021; Integral Consulting Inc., 2025b). Based on these data, PSF assumed 0.5 elephant seals will occur in the proposed project area per day (*i.e.,* one elephant seal in the ensonified zone

every 2 days). NMFS concurs with this assumption.

Pacific Harbor Seal

Pacific harbor seals in SFB forage mainly within 7 mi (11.3 km) of their primary haul-out site (Grigg *et al.,* 2012) and often within just 1–3 mi (1.6–4.8 km) (Torok, 1994). The only harbor seal haul-out site within 7 mi (11.3 km) of the project site is YBI, approximately 3.3 mi (5.3 km) northeast of the MBFL site. Given the large Level B harassment zone sizes predicted for vibratory installation of 48-in steel caisson sleeves (21,554 m) and 36-in steel pipe piles (29,286 m), and DTH driving of 36-in steel pipe piles (39,811 m), it is likely harbor seals foraging in the vicinity of the YBI would enter the ensonified area during pile installations.

The TMMC recorded 495 harbor seals in SFB between September 2016 and September 2021. CAS recorded an additional 34 for a total of 529 over the same period, yielding an average of 0.29 per day. CALTRANS has reported between zero and 188 harbor seals using the YBI haul-out site, depending on the year. PSF determined that an occurrence rate estimate for harbor seals based on the CALTRANS dataset (3.957 harbor seals per day) would be appropriate, given the large sample size, and NMFS concurs.

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization.

To estimate take by Level B harassment for the gray whale, harbor porpoise, California sea lion, northern elephant seal, and harbor seal, the species-specific expected daily occurrence was multiplied by the estimated number of construction days for the entire project (n=46), which includes only 32 days of in-water construction with the potential for incidental take of marine mammals (see table 1) and an additional 14 days to support placement of the 24-in octagonal concrete piles, a process that does not require pile driving or DTH. PSF estimated take based on the maximum total of 46 days to account for any delays in construction. PSF is assuming that five northern fur seals and one Steller sea lion will occur in the proposed project area during the course of pile installations (see table 7). For bottlenose dolphins, PSF estimates that one group of five bottlenose dolphins will occur in the proposed project area during the 46-day construction period (table 7).

TABLE 7—ESTIMATED TAKE BY LEVEL B HARASSMENT PROPOSED FOR AUTHORIZATION

Species	Stock	Estimated abundance in project area per day [1]	Total take requested	Stock abundance	Percent of stock (take/ abundance *100)
Gray Whale	Eastern North Pacific	0.5	23	26,960	<0.1
Bottlenose Dolphin	California Coastal	5	5	453	1.10
Harbor Porpoise	San Francisco-Russian River	2	92	7,777	1.18
California Sea Lion	United States	0.97	45	257,606	<0.1
Northern Fur Seal	Eastern North Pacific	0.027	2	14,050	<0.1
	California			626,618	<0.1
Steller Sea Lion	Eastern North Pacific	0.0027	1	43,201	<0.1
Pacific Harbor Seal	California	3.957	183	30,968	<0.1
Northern Elephant Seal	California Breeding	0.5	23	187,386	<0.1

[1] Local occurrence information calculated based on CALTRANS (2018), NOAA (2021a, b), and Integral Consulting (2025 a, b).

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for ITAs to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and,

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The mitigation requirements described in the following sections were either proposed by PSF in its adequate and complete application or are the result of subsequent coordination between NMFS and PSF. PSF has agreed that all the mitigation measures are practicable. NMFS has fully reviewed the specified activities and the mitigation measures to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat, as required by the MMPA, and has determined the proposed measures are appropriate. NMFS describes these measures below as proposed mitigation requirements (see section 11 of PSF's application for more detail) and has included them in the proposed IHA.

PSF, as the responsible named party of the proposed IHA, must ensure that construction supervisors and crews, the monitoring team, and relevant staff are trained prior to the start of all vibratory pile driving and DTH driving activity, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly

understood. New personnel joining during the project must be trained prior to commencing work. In addition to the measures described later in the Proposed Monitoring and Reporting section and all mitigation measures described in PSF's Marine Mammal Monitoring Plan, the following mitigation measures would also apply to the in-water construction activities.

Implementation/Coordination—Qualified, trained PSOs would implement mitigation measures. PSOs would be located on-site before, during, and after permitted activities to monitor marine mammals within (and approaching) mitigation zones. PSOs would be in constant contact with the construction personnel to implement appropriate mitigation measures. Briefings must be conducted between construction supervisors and crews and the marine mammal monitoring team before the start of all vibratory pile driving/extraction and DTH driving activities and when new personnel join the work to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Establishment of Shutdown Zones—Shutdown zones for all the specified activities can be found in table 8. A shutdown zone generally defines an area near or within which a marine mammal sighting would trigger cessation of a specified activity. Shutdown zone sizes would vary based on the activity type and marine mammal hearing group (table 3). PSF proposes shutdown zones with radial distances identified in table 8 for all construction activities (*i.e.,* pile driving or extraction and DTH). If a marine mammal enters or is observed within an established shutdown zone, pile driving must be halted or delayed. Pile driving may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone, or 15 minutes have passed without subsequent detections. For those marine mammals for which take has not been authorized, vibratory pile driving/extraction and DTH driving would shut down immediately if such species are observed within or entering any harassment zone defined for that activity.

For those marine mammals for which take has not been authorized, in-water vibratory pile installation and extraction, and DTH, would shut down immediately if such species are observed within or entering the Level A or Level B harassment zone.

TABLE 8—PROPOSED SHUTDOWN ZONES AND LEVEL B HARASSMENT ZONES FOR PROJECT ACTIVITIES

Pile description	Level A (AUD INJ onset) shutdown zone radius for all species (meters)	Level B (Behavioral) harassment zone radius (meters)
Vibratory pile driving and extraction		
14-inch steel H-pile (temporary)	10	2,200
48-inch steel caisson (permanent)	30	[1] 6,000
30-inch steel caisson (temporary)	10	4,000
36-inch steel pipe (permanent)	50	[1] 6,000
DTH driving		
36-inch steel pipe (permanent)	450	[1] 6,000

[1] 6,000 meters is the maximum distance sound can propagate in the project area before interception by land.

PSOs—PSF must employ PSOs who would monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. The number, placement, and qualifications of PSOs during all pile driving and extraction activities (described in detail in the Proposed Monitoring and Reporting section) would ensure that the entire shutdown zone is visible during pile installation. Visual monitoring would be conducted by at least one PSO, depending on the pile activity.

Pre- and Post-activity Monitoring—Before starting daily in-water construction activity, or whenever a break in activity (*i.e.,* vibratory pile driving/extraction or DTH driving) of 30 minutes or longer occurs, the PSO(s) would observe the shutdown and monitoring zones for 30 minutes. The shutdown zone would be considered cleared when a marine mammal has not been observed within the zone for those 30 minutes. If a marine mammal is observed within the shutdown zone, pile-driving activities (*i.e.,* vibratory pile driving installation/extraction or DTH driving) cannot proceed until the animal has left the zone or has not been observed for 15 minutes. When a marine mammal for which take is authorized is present in the harassment zone, activities may begin.

Bubble Curtain—PSF would employ a bubble curtain during all DTH driving. The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the mudline for the full circumference of the ring. The weights attached to the bottom ring must ensure 100 percent substrate contact. No parts of the ring or other objects may prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile.

Based on our evaluation of the applicant's proposed measures, as well as other measures we considered, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

To issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical to compliance as well as ensuring that the

most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- Extent to which anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

The monitoring and reporting requirements described here were proposed by PSF in its adequate and complete application and/or are the result of subsequent coordination between NMFS and PSF has agreed to the requirements. NMFS describes these below as requirements and has included them in the proposed IHA.

PSF would abide by all monitoring and reporting measures contained within the IHA, if issued, and their Marine Mammal Monitoring and Mitigation Plan (to be submitted for NMFS approval no later than 30 days prior to the start of construction). A summary of those measures and additional requirements proposed by NMFS is provided below.

Visual Monitoring—Qualified, NMFS-approved PSOs must conduct monitoring in accordance with project's Marine Mammal Monitoring Plan. PSOs would be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods. At least one PSO would have prior experience performing the duties of a PSO during an activity pursuant to a NMFS-issued ITA. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued ITA. PSOs would be present during all pile installation and extraction activities, including vibratory and DTH methods, in accordance with the following:

- Observer training must be provided before the project starts and must include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors, and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).
- All PSOs must have no other project-related tasks while conducting monitoring.
- PSOs shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator.
- Monitoring would be conducted 30 minutes before, during, and 30 minutes after drilling and pile driving/extraction activities. PSOs would record all observations of marine mammals, regardless of distance from the pile being driven, as well as the additional data indicated below and in section 6 of the IHAs, if issued.

Hydroacoustic Monitoring—PSF proposes implementing in situ acoustic monitoring efforts to measure SPLs from in-water activities. PSF would collect and evaluate sound level data for a subset of representative piles (minimum of two) for each installation or extraction method and pile type PSF would submit a detailed acoustic monitoring plan to NMFS for approval no later than 60 days in advance of the start of in-water work for approval of proposed methodologies.

At a minimum, the methodology would include a stationary hydrophone system with the ability to measure SPLs placed in accordance with NMFS' most recent recommendations for the collection of source levels. Monitoring would occur at 33 ft (10 m) from the noise; at a location within the Level A (AUD INJ onset) zones; and occasionally near the predicted harassment zones for Level B (Behavioral) harassment. The resulting data set would be analyzed to examine and confirm SPLs and rates of transmission loss for each separate in-water construction activity. With NMFS' concurrence, these metrics would be used to recalculate the limits of the shutdown, Level A (AUD INJ onset), and Level B (behavioral) disturbance zones, and to make corresponding adjustments in marine mammal monitoring of these zones.

Environmental data would be collected, including but not limited to, the following: wind speed and direction, air temperature, humidity, surface water temperature, water depth, wave height, weather conditions, and other factors that could contribute to influencing the airborne and underwater sound levels (*e.g.,* aircraft, boats, etc.). The chief inspector would supply the acoustics specialist with the substrate composition, hammer or drill model and size, hammer or drill energy settings and any changes to those settings during acoustic monitoring, depth of the pile being driven or steel caisson being excavated and strikes per second during DTH driving.

For acoustically monitored piles, data from the monitoring locations would be post-processed to obtain the following sound measures:

- Mean, median, minimum, and maximum RMS pressure level in [dB re 1 mPa];
- Mean, median, minimum, and maximum single strike SEL in [dB re mPa^2s];
- Cumulative SEL as defined by the mean single strike SEL + 10*log10 (number of hammer strikes) in [dB re mPa^2s]; and
- A frequency spectrum (pressure spectral density) in dB re millipascals squared per hertz ((mPa^2/Hz)) based on the average of up to eight successive strikes with similar sound. Spectral resolution would be 1 Hz, and the spectrum would cover nominal range from 7 Hz to 20 kHz.

Reporting—PSF must submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities, or 60 days prior to the requested issuance of any future IHAs for the project, or other projects at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days of following receipt of any NMFS comments on the draft report. If no comments are received from NMFS within 30 calendar days of receipt of the draft report, the report shall be considered final. The marine

mammal report would include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets and/or raw sighting data. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including: (a) the number and type of piles that were driven and the method (*e.g.,* vibratory, DTH driving); and (b) total duration of driving time for each pile (vibratory driving, DTH driving);
- PSO locations during marine mammal monitoring; and
- Environmental conditions during monitoring periods (at the beginning and end of a PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions, including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

Upon observation of a marine mammal, the following information must be reported:

- Name of PSO who sighted the animal(s) and PSO location and activity at the time of the sighting;
- Time of the sighting;
- Identification of the animal(s) (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;
- Distance and bearing of each observed marine mammal relative to the pile being driven or removed for each sighting;
- Estimated number of animals (min/max/best estimate);
- Estimated number of animals by cohort (*e.g.,* adults, juveniles, neonates, group composition, *etc.*);
- Animal's closest point of approach and estimated time spent within the harassment zone(s);
- Description of any marine mammal behavioral observations (*e.g.,* observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.,* no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching); description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown), time and location of the action;
- Number of marine mammals detected within the harassment zones, by species; and
- Summary information about implementation of any mitigation (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal.

Hydroacoustic Monitoring Report—The hydroacoustic monitoring report must, at minimum, include the following:

- Hydrophone equipment and methods, recording device, sampling rate, distance (m) from the pile where recordings were made; depth of water and recordings device(s);
- Type and size of pile being driven, substrate type, method of driving during recordings (*e.g.,* hammer model and energy), and total pile driving duration;
- Whether a sound attenuation device is used and, if so, a detailed description of the device used and the duration of its use per pile;
- For vibratory driving/extraction (per pile): Duration of driving per pile; mean, median, and maximum sound levels (dB re: 1 mPa): SPLrms, SEL_{cum} (and timeframe over which the sound is averaged).
- One-third octave band spectrum and power spectral density plot; and
- Transmission loss values for each pile size and type and installation method, when appropriate.

Reporting Injured or Dead Marine Mammals—In the event that personnel involved in the construction activities discover an injured or dead marine mammal, PSF must report the incident to the Office of Protected Resources, NMFS (*PR.ITP.MonitoringReports@noaa.gov*) and to the West Coast regional stranding network (866–767–6114) as soon as feasible. If the death or injury was clearly caused by the specified activity, PSF would immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. PSF would not resume their activities until notified by NMFS. The report would include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.,* intensity, duration), the context of any impacts or responses (*e.g.,* critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in table 3, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. There is little information about the nature or severity of the impacts, or the size, status, or structure of any of these species or stocks that would lead to a different analysis for this activity.

Level A harassment is extremely unlikely given the small size of the Level A harassment isopleths and the required mitigation measures designed to minimize the possibility of injury to marine mammals. No serious injury or mortality is anticipated given the nature of the activity.

Pile driving activities have the potential to disturb or displace marine mammals. Specifically, the project activities may result in take, in the form of Level B harassment from underwater sounds generated from vibratory pile

driving and DTH driving activities. Potential takes could occur if individuals move into the ensonified zones when these activities are underway.

The takes by Level B harassment would be due to potential behavioral disturbances. The potential for harassment is minimized through construction methods and the implementation of planned mitigation strategies (see Proposed Mitigation section).

Behavioral responses of marine mammals to vibratory pile driving and DTH driving at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the short duration of noise-generating activities per day and that pile driving and extraction would occur over approximately 32 days during a 46-day period, any harassment would be temporary. There are no other overlapping areas or times of known biological importance for any of the affected species. Take would occur within a limited, confined area of each stock's range. Further, the numbers of take proposed to be authorized are extremely small when compared to stock abundance.

No marine mammal stocks for which incidental take authorization is proposed are listed as threatened or endangered under the ESA. Only one stock, the Eastern North Pacific Stock of the northern fur seal, is listed as depleted under the MMPA. However, we do not expect the proposed authorized take included in this action to affect the stock. No injury or mortality is proposed for authorization, take by Level B harassment is limited (two takes over the duration of the project), and the proposed action should have no effect on the reproduction of this species. In addition, the two authorized takes for the northern fur seal include both the depleted Eastern North Pacific Stock and the California stock, which is not depleted.

The relatively low marine mammal occurrences in the area, shutdown zones, and planned monitoring make injury of marine mammals unlikely. The shutdown zones would be thoroughly monitored before the pile driving activities begin, and activities would be postponed if a marine mammal is sighted within the shutdown zone. There is a high likelihood that marine mammals would be detected by trained observers under environmental conditions described for the project. Limiting pile driving activities to daylight hours would also increase detectability of marine mammals in the area. Therefore, the mitigation and monitoring measures are expected to eliminate the potential for injury and Level A harassment as well as reduce the amount and intensity of Level B behavioral harassment. Furthermore, the pile driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations which have occurred with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment.

The project is not expected to have significant adverse effects on marine mammal habitat. There are no known BIA or ESA-designated critical habitat within the project area, and the activities would not permanently modify existing marine mammal habitat. In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- The specified activities and associated ensonified areas are very small relative to the overall habitat ranges of all species;
- The project area does not overlap known BIAs or ESA-designated critical habitat;
- The lack of anticipated significant or long-term effects or marine mammal habitat; and
- The presumed efficacy of the mitigation measures in reducing the effects of the specified activity.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The instances of take NMFS proposes to authorize are below one-third of the estimated stock abundance for all impacted stocks (table 7). In fact, take of individuals is 2 percent or less of the abundance for all affected stocks. Indeed, even if each take NMFS proposes to authorize occurred to a new individual, the number of animals would be considered small relative to the size of the relevant stocks or populations. Furthermore, the takes proposed for authorization would be limited to individuals occurring local to PSF's construction activities, an area that represents a small portion of the range for any of the eight species considered here. Thus, the likelihood that each take would occur to a new individual is low and, while some individuals may return multiple times in a day, PSOs would count them as separate takes if the individuals are not identifiable.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks, with no species take exceeding 2 percent of the best available population abundance estimate.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each

Federal agency ensures that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to PSF for conducting pile driving activities in SFB, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed construction. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: March 31, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–06484 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Pennsylvania Coastal Management Program; Notice of Public Meeting; Request for Comments

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of public meeting; opportunity to comment.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management, will hold a virtual public meeting to solicit input on the performance evaluation of the Pennsylvania Coastal Management Program. NOAA also invites the public to submit written comments.

DATES: NOAA will hold a virtual public meeting from 12 p.m. to 1 p.m. Eastern Time (ET) on Tuesday, May 19, 2026. NOAA may close the meeting 10 minutes after the conclusion of public testimony and after responding to any clarifying questions from meeting participants. NOAA will consider all relevant written comments received by Friday, May 29, 2026.

Comments may be submitted:

- *Virtually at Public Meeting:* Provide oral comments during the virtual public meeting on Tuesday, May 19, 2026, at 12 p.m. ET by registering as a speaker at *https://forms.gle/FeTssayfKAQfN6q56.* Please register by Monday, May 18, 2026, at 5 p.m. ET. Upon registration, NOAA will send a confirmation email. At least one hour prior to the start of the May 18, 2026, virtual meeting, NOAA will send an email to all registrants with a link to the public meeting and information about participating. While advance registration is requested, registration will remain open until the meeting closes, and any participant may provide oral comment after the registered speakers conclude. Meeting registrants may remain anonymous by typing ''Anonymous'' in the ''First Name'' and ''Last Name'' fields on the registration form.
- *Email:* Send written comments to Carrie Hall, Evaluator, NOAA Office for Coastal Management, at *czma.evaluations@noaa.gov.* Include ''Comments on Pennsylvania Coastal Management Program'' in the subject line. NOAA will accept anonymous comments; however, the written comments NOAA receives are part of the public record, and the entirety of the comment, including the name of the commenter, email address, attachments, and other supporting materials, will be publicly accessible. Do not submit confidential business information or otherwise sensitive or personally identifiable information, such as account numbers and Social Security numbers. Comments that are not related to the performance evaluation of the Pennsylvania Coastal Management Program or that contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, NOAA Office for Coastal Management, by email at *Carrie.Hall@noaa.gov* or by phone at (240) 410–3422. Copies of the previous evaluation findings may be viewed and downloaded at *https://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting Carrie Hall.

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved coastal management programs. The evaluation process includes holding one or more public

meetings, considering public comments, and consulting with interested Federal, State, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the Commonwealth of Pennsylvania has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the Act. When the evaluation is complete, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the final evaluation findings.

Authority: 16 U.S.C. 1458.

Keelin Kuipers,

Acting Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2026–06502 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF642]

South Atlantic Fishery Management Council—Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council's Snapper Grouper Advisory Panel.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Snapper Grouper Advisory Panel (AP) April 21–23, 2026.

DATES: The Snapper Grouper AP will meet from 1:30 p.m. on April 21, 2026, until 12 p.m. on April 23, 2026.

ADDRESSES: *Meeting address:* The meeting will be held at the Crowne Plaza Hotel Charleston, 4831 Tanger Outlet Blvd., N Charleston, SC 29418; phone (843) 744–4422. *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405. The meeting will also be available via webinar. See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Michael Schmidtke, Fishery Scientist, SAFMC; phone (843) 302–8433 or toll free (866) SAFMC–10; FAX (843) 769–4520; email: *mike.schmidtke@safmc.net*.

SUPPLEMENTARY INFORMATION: Meeting information, including the agenda, overview, briefing book materials, and an online public comment form will be posted on the Council's website at: *https://safmc.net/advisory-panel-meetings/* 2 weeks prior to the meeting. The meeting is open to the public and available via webinar as it occurs. The webinar registration link will be available from the Council's website. Public comment will also be taken during the meeting.

The agenda for the Snapper Grouper AP meeting includes discussions of developing amendments to the Fishery Management Plan (FMP) for the Snapper Grouper Fishery of the South Atlantic Region: Amendment 60 (commercial permit and trip efficiency) and Amendment 61 (fishery management unit revision). The AP will provide input and recommendations on these amendments for the Council's consideration.

The AP will also develop a fishery performance report and evaluate the stock risk rating for black grouper. The AP will receive an update on upcoming management actions for black sea bass, as well as provide feedback on black sea bass observations from last year. The AP will discuss potential future actions to change the golden tilefish recreational season and discuss whether the snapper grouper commercial 225-pound (SG 2) permit is working as intended. The AP will receive a presentation on results and trends from the Southeast Reef Fish Survey through 2025. The AP will receive results from a recent survey of recreational anglers that was conducted to inform the ongoing Snapper Grouper Management Strategy Evaluation and provide feedback. The AP will also receive updates on other ongoing Council projects and initiatives and address other items as needed.

Special Accommodations: The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 31, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–06460 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF627]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Eareckson Air Station Fuel Pier Repair in Alcan Harbor on Shemya Island, Alaska

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

ACTION: Notice; issuance of renewal of incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued a renewal incidental harassment authorization (IHA) to United States Air Force Pacific Regional Support Center (USAF) to incidentally harass marine mammals incidental to Eareckson Air Station Fuel Pier Repair in Alcan Harbor on Shemya Island, Alaska.

DATES: This renewal IHA is valid from April 21, 2026 until April 20, 2027.

ADDRESSES: Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed below.

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

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). NMFS must also prescribe requirements pertaining to monitoring and reporting of such takings. The definition of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in the MMPA and NMFS's implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed 1 year for each reauthorization. In the notice of proposed IHA for the initial IHA, NMFS described the circumstances under which we would consider issuing a renewal for this activity, and requested public comment on a potential renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

2. The request for renewal must include the following:

- An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).
- A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

3. Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed renewal. A description of the renewal process may be found on our website at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

History of Request

On April 21, 2025, NMFS issued an IHA to USAF to take marine mammals incidental to the Eareckson Fuel Pier Repair project in Alcan Harbor on Shemya Island, Alaska (90 FR 17410, April 25, 2025), effective from April 21, 2026 through April 20, 2027. On January 30, 2026, NMFS received an application for the renewal of that initial IHA. As described in the application for renewal, the activities for which incidental take is requested are nearly identical to those covered in the initial authorization, consisting of activities that are covered by the initial authorization but will not be completed prior to its expiration. USAF submitted a revised version on February 9, 2026, which was deemed adequate and complete. As required, the applicant also provided a preliminary monitoring report (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-pacific-air-forces-regional-support-centers-construction-0*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. The notice of the proposed renewal incidental harassment authorization was published on March 11, 2026 (91 FR 11956).

Description of the Specified Activities and Anticipated Impacts

The purpose of this construction project is to conduct long-term repairs on the only existing fuel pier at Eareckson Air Station on Shemya Island, Alaska. As described in detail in the notice for the initial 2025 IHA (90 FR 11952, March 13, 2025; 90 FR 17410, April 25, 2025) and the original 2024 notices (88 FR 74451, October 31, 2023; 89 FR 17423, March 11, 2024), the in-water construction activity includes installation and removal of temporary 30-inch (in) (0.8 meter (m)) steel pipe piles and installation of permanent 42-in (1 m) steel interlocking pipe piles with vibratory and impact hammers and down-the-hole (DTH) drilling. During the 2025 construction season, 11 out of 60 30-in temporary steel pipe piles and 32 out of 208 42-in permanent interlocking steel pipe piles were installed, and 10 out of 64 30-in temporary steel pipe piles were removed. This work was completed over 42 construction days. The remaining necessary activities include installation of 49 30-in temporary steel pipe piles and 176 42-in permanent steel interlocking pipe piles, and the removal of 54 30-in temporary steel piles.

A minor change to the activities conducted by USAF was described in the renewal letter. The initial 2025 IHA noted that the vibratory pile driving and removal of 30-in steel pipe piles would be limited to 60 minutes per day (4 piles at 15 minutes each), and vibratory pile driving of 42-in steel interlocking pipe piles would be limited to 120 minutes per day (4 piles at 30 minutes each). Under this renewal, USAF plans to increase the daily amount of vibratory pile driving or removal of 30-in steel pipe piles to 120 minutes (8 piles at 15 minutes each) and increase the daily amount of vibratory pile installation of 42-in interlocking steel pipe piles to 210 minutes (7 piles at 30 minutes each). Additionally, USAF plans to conduct vibratory pile driving activities during low-light conditions, where Protected Species Observers (PSOs) will use equipment such as infrared light bars, night vision devices, and thermal imaging to ensure sufficient visibility. USAF proposed these changes to help address slower production rates than originally estimated, given challenging environmental conditions and mechanical delays.

These changes increase the size of the estimated Level A harassment zones and the shutdown zones associated with vibratory pile driving and removal (see Description of Mitigation, Monitoring, and Reporting Measures). The increase to shutdown zones for vibratory pile driving and removal activities follows the same goals for mitigation articulated in the notice of the initial proposed 2025 IHA, *i.e.,* the shutdown zones are equal to the estimated Level A harassment zones, and there is no increase to the estimated take numbers. Therefore, NMFS has determined that these changes are minor and that the requested renewal IHA is appropriate. Given delays from mechanical failures and inclement weather, USAF estimates that construction will be completed in 173 construction days under this renewal rather than 160 days as estimated in the initial 2025 IHA. Sounds produced by these activities may result in take, by Level A harassment and Level B harassment, of marine mammals located in Alcan Harbor, Alaska.

NMFS has authorized incidental take at the same levels as authorized in the initial 2025 IHA, except for Steller sea lion (authorized take has been reduced by the amount of potential take reported during completion of activities under the 2025 IHA, to maintain consistency with the associated Biological Opinion). A total of 12 marine mammal species (15 stocks) are expected to experience Level B harassment and 8 species (10 stocks) have the potential for Level A harassment (see Estimated Take).

All documents related to the initial 2025 IHA and the original 2024 IHA are available on our website: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-pacific-air-forces-regional-support-centers-construction-0.*

Detailed Description of the Activity

A detailed description of the construction activities for which take is authorized may be found in the Notices of the Proposed (90 FR 11952, March 13, 2025) and Final 2025 IHA (90 FR 17410, April 25, 2025), and/or the Notices of the Proposed (88 FR 74451, October 31, 2023) and Final 2024 IHA (89 FR 17423, March 11, 2024). The location, timing, and nature of the activities, including the types of equipment planned for use, are a subset of and nearly identical to those described in the previous notices. The only minor change is the increase of vibratory installation and removal of 30-in steel pipe piles from 60 minutes per day to 120 minutes per day and the increase of vibratory installation of 42-in steel interlocking pipe piles from 160 minutes per day to 210 minutes per day (table 1). The longer duration of vibratory hammer use would create larger harassment and, therefore, larger shutdown zones than those analyzed in the initial 2025 IHA. USAF's plans include vibratory pile driving and removal at night, and anticipates that work will occur over 173 construction days rather than 160 days. NMFS has determined that the amount of take authorized through the initial 2025 IHA remains sufficient to cover the likely effects of the planned activity, and has made no changes to the authorized take, other than to account for reported potential takes of Steller sea lion.

USAF's revisions are summarized in table 1 below.

TABLE 1—PRODUCTION RATES FOR VIBRATORY PILE DRIVING AND REMOVAL ACTIVITIES INCLUDED IN THE INITIAL IHA AND USAF'S REVISIONS FOR THE RENEWAL

	Initial IHA		Revision	
	Temporary pile installation and removal: 30-in steel	Permanent pile installation: 42-in steel	Temporary pile installation and removal: 30-in steel	Permanent pile installation: 42-in steel
Maximum piles per day	4	4	8	7
Minutes per pile	15	30	15	30
Minutes per day	60	120	120	210

The renewal IHA is effective for a period not exceeding 1 year from the date of expiration of the initial 2025 IHA.

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized, including information on abundance, status, distribution, and hearing, may be found in the Notices of the Proposed (90 FR 11952, March 13, 2025) and Final 2025 IHA (90 FR 17410, April 25, 2025) for the initial 2025 authorization, and the Notices of the Proposed (88 FR 74451, October 31, 2023) and Final 2024 IHA (89 FR 17423, March 11, 2024). NMFS has reviewed the monitoring data from the initial 2025 IHA, current Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined there is no new information that affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the **Federal Register** notices of the Proposed (88 FR 74451, October 31, 2023) and Final 2024 IHA (89 FR 17423, March 11, 2024). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, other scientific literature, and the public comments, and determined that there is no new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods used to estimate take for the specified activity are found in the notices of the Notices of the Proposed (90 FR 11952, March 13, 2025) and Final 2025 IHAs (90 FR 17410, April 25, 2025), and the Notices of the Proposed (88 FR 74451, October 31, 2023) and Final 2024 IHA (89 FR 17423, March 11, 2024). The source levels and marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHAs.

USAF and NMFS reanalyzed the Level A harassment zones for vibratory pile installation and removal activities to reflect USAF's planned revisions (table 1), using the optional User Spreadsheet tool described in the initial

2025 IHA (90 FR 17410, April 25, 2025). Table 2 provides the calculated Level A harassment isopleths from the initial 2025 IHA, and table 3 provides the calculated Level A harassment isopleths given the revised minutes of vibratory pile driving planned by USAF.

TABLE 2—PROJECTED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS (m) BY MARINE MAMMAL HEARING GROUP BASED ON PRODUCTION RATES ANALYZED UNDER THE INITIAL 2025 IHA

[90 FR 17410, April 25, 2025]

Pile size/type	Level A harassment isopleths (m)					Level B harassment (m)
	LF	HF	VHF	PW	OW	
Vibratory Installation and Removal						
42-in interlocking steel	44.2	17.0	36.1	56.9	19.2	16,343
30-in steel pipe	19.9	7.6	16.2	25.6	8.6	11,659
DTH						
42-in interlocking steel	2,540	324.1	3,930.8	2,256.5	841.1	39,811
30-in steel pipe	2,249.4	287.0	3,480.9	1,998.2	744.9	39,811
Impact Pile Driving						
42-in interlocking steel	2,007.8	256.2	3,107.0	1,783.6	664.9	1,359
30-in steel pipe	930.4	118.7	1,439.9	826.6	308.1	1,166

Note: LF = Low frequency cetaceans; HF = high frequency cetaceans; VHF = Very high frequency cetaceans; PW = Phocids; OW = Otariids.

TABLE 3—PROJECTED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS (m) BY MARINE MAMMAL HEARING GROUP BASED ON PRODUCTION RATES PLANNED FOR THE RENEWAL

Pile size/type	Level A harassment isopleths (m)					Level B harassment (m)
	LF	HF	VHF	PW	OW	
Vibratory Installation and Removal						
42-in interlocking steel	**64.2**	**24.7**	**52.4**	**82.6**	**27.8**	16,343
30-in steel pipe	**31.5**	**12.1**	**25.6**	**40.6**	**13.7**	11,659
DTH						
42-in interlocking steel	2,540	324.1	3,930.8	2,256.5	841.1	39,811
30-in steel pipe	2,249.4	287.0	3,480.9	1,998.2	744.9	39,811
Impact Pile Driving						
42-in interlocking steel	2,007.8	256.2	3,107.0	1,783.6	664.9	1,359
30-in steel pipe	930.4	118.7	1,439.9	826.6	308.1	1,166

Note: Bolded values reflect changes from the 2025 IHA and are based on USAF's daily increase in the planned number of piles to be vibratory installed or removed.

USAF will continue to implement shutdown zones that are equivalent to the Level A harassment zones during all vibratory pile driving and removal activities for all hearing groups, as described in the initial 2025 IHA (90 FR 17410, April 25, 2025). While USAF estimates a small increase in the number of construction days needed to complete the project under this renewal, data reported by PSOs monitoring during the 2025 construction period do not suggest that authorization of additional take is warranted. Similarly, the stocks taken, methods of take, and types of take remain unchanged from the previously issued IHA, as do the number of takes, which are indicated in table 4.

TABLE 4—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Species	Stock	Take by Level B harassment	Take by Level A harassment	Authorized take as a percentage of stock abundance
Fin whale	Northeast Pacific	14	7	<1
Humpback whale	Western North Pacific	3	1	<1
	Mexico—North Pacific	10	2	1.3
	Hawai'i	118	20	<1
Minke whale	Alaska	5	3	<1
Sperm whale	North Pacific	40	0	16.2
Baird's beaked whale	Alaska	10	0	*

TABLE 4—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK—Continued

Species	Stock	Take by Level B harassment	Take by Level A harassment	Authorized take as a percentage of stock abundance
Stejneger's beaked whale	Alaska	8	0	*
Killer whale	ENP Alaska Resident	176	0	9.1
	ENP Gulf of Alaska, Aleutian Islands, and Bering Sea.			30
Dall's porpoise	Alaska	21	19	<1
Harbor porpoise	Bering sea	9	6	<1
Northern fur seal	Eastern Pacific	5	.....	<1
Steller sea lion	Western, U.S.	**87	10	<1
Harbor seal	Aleutian Islands	319	176	9

* Reliable abundance estimates for these stocks are currently unavailable.
** While NMFS authorized 89 takes by Level B harassment under the initial IHA, NMFS has authorized 87 takes by Level B harassment to stay consistent with the existing Biological Opinion for this project.

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial 2025 IHA (90 FR 17410, April 25, 2025). The discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA remains accurate. The following measures are required for this renewal:

- USAF must employ NMFS-approved PSOs and establish monitoring locations to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions.
- Monitoring must take place from 30 minutes prior to initiation of pile driving activity (*i.e.,* pre-start clearance monitoring) through 30 minutes post completion of pile driving activity.
- Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones are clear of marine mammals.
- If a marine mammal is observed entering or within the shutdown zones pile driving activity must be delayed or halted.
- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the required shutdown zones or 15 minutes have passed (delphinids and pinnipeds) or 30 minutes for all other species without re-detected of the animal.
- Soft start techniques must be used when impact pile driving.
- Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone.
- USAF must shut down construction operations if a marine mammal comes within 10 m of construction activity to avoid direct physical interaction with marine mammals.
- USAF must submit a draft marine mammal monitoring report to NMFS within 90 days after the completion of pile driving activities or 60 calendar days prior to the requested issuance of any subsequent IHA for construction activity at the same location, whichever comes first. A final report must be prepared and submitted within 30 calendar days following receipt of any NMFS comments on the draft report.
- All injured or dead marine mammals must be reported to the Office of Protected Resources and to the Alaska Regional stranding network.

As noted above, the increase in vibratory pile installation or removal time from 60 minutes per day to 120 minutes per day (30-in steel pipe piles) and from 120 minutes per day to 210 minutes per day (42-in steel interlocking pipe piles) has increased the size of the associated Level A harassment zones. As such, the shutdown zones for these same activities have been revised.

Consistent with the mitigation required through the initial IHA, during all vibratory pile driving and removal activities for all hearing groups, and during all other activities for high frequency cetaceans, USAF will implement shutdown zones equivalent to the estimated Level A harassment isopleths. For all other hearing groups, during DTH and impact pile driving, shutdown zones are established at the distance that these species are assumed to be able to be reliably observed under typical conditions at the location.

Table 5 provides the shutdown zones from the initial 2025 IHA, and table 6 provides the provides the revised shutdown zones under this renewal given the revised minutes of vibratory pile driving and removal planned by USAF.

TABLE 5—SHUTDOWN ZONES REQUIRED UNDER THE INITIAL IHA

Activity	Pile diameter	Shutdown zones				
		LF	HF	VHF	PW	OW
Vibratory Installation and Removal	42-in	50	50	50	60	50
	30-in	25	25	25	30	25
DTH	42-in	1,000	350	500	400	400
	30-in		290			
Impact	42-in		260			
	30-in		120			

TABLE 6—SHUTDOWN ZONES UNDER THE RENEWAL IHA

Activity	Pile diameter	Shutdown zones				
		LF	HF	VHF	PW	OW
Vibratory Installation and Removal	42-in	65	50	55	85	50
	30-in	35	25	30	45	25
DTH	42-in	1,000	350	500	400	400
	30-in		290			
Impact	42-in		260			
	30-in		120			

Note: Bold font represents a change from the initial IHA.

Comments and Responses

A notice of NMFS' proposal to issue a renewal IHA to USAF was published in the **Federal Register** on March 11, 2026 (91 FR 11956). That notice either described, or referenced descriptions of, the USAF's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, estimated amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received no substantive public comments.

Determinations

The construction activities are nearly identical to those analyzed for the initial IHA, as are the method of taking and the effects of the action. The higher minutes of vibratory pile driving and removal time each day does increase the size of the Level A harassment zones and shutdown zones slightly for these activities. This increase in zone sizes, however, does not change the anticipated take numbers analyzed in the initial IHA. In analyzing the effects of the activities for the initial IHA, NMFS determined that the USAF's activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.,* less than one-third of the abundance of all stocks). Aside from the revised shutdown zones associated with vibratory pile driving and removal activities, the mitigation measures and monitoring and reporting requirements as described above are identical to the initial 2025 IHA.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) USAF's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this renewal IHA.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA, 16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

The NMFS Alaska Regional Office issued a Biological Opinion under section 7 of the ESA (16 U.S.C. 1531 *et seq.*) on the issuance of an IHA and potential renewal IHA to USAF under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of ESA-listed fin whales (Northeast Pacific), humpback whales (Western North Pacific and Mexico North Pacific), sperm whales (North Pacific), and Steller sea lions (Western North Pacific).

Renewal

NMFS has issued a renewal IHA to USAF for the take of marine mammals incidental to conducting the Eareckson Fuel Pier Repair project in Alcan Harbor on Shemya Island, Alaska between April 21, 2026, and April 20, 2027.

Dated: March 31, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–06457 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF641]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Meeting of the South Atlantic Fishery Management Council's Snapper Grouper Commercial Sub-Committee.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Snapper Grouper

Commercial Sub-Committee (Sub-Committee).

DATES: The Sub-Committee will meet from 1 p.m. on Monday, April 20, 2026, until 12 p.m. on Tuesday, April 21, 2026.

ADDRESSES: *Meeting address:* The meeting will be held at the Crowne Plaza Hotel Charleston, 4831 Tanger Outlet Blvd., N. Charleston, SC 29418; phone (843) 744–4422. *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405. The meeting will also be available via webinar. See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Michael Schmidtke, Fishery Scientist, SAFMC; phone (843) 302–8433 or toll free (866) SAFMC–10; FAX (843) 769–4520; email: *mike.schmidtke@safmc.net*.

SUPPLEMENTARY INFORMATION: Meeting information, including the agenda, overview, briefing book materials, and an online public comment form will be posted on the Council's website at: *https://www.safmc.net/council-meetings/* 2 weeks prior to the meeting. The meeting is open to the public and available via webinar as it occurs. The webinar registration link will be available from the Council's website. Public comment will also be taken during the meeting.

The Snapper Grouper Commercial Sub-Committee will continue reviewing preliminary analyses and management measures proposed in Amendment 60 to the Snapper Grouper Fishery Management Plan to address permits and trip efficiency in the commercial fishery. The Sub-Committee will provide direction to staff for continued amendment development and will develop recommendations for the Council's Snapper Grouper Committee, as necessary.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: March 31, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–06461 Filed 4–2–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1024]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Demonstration Grants for Indian Children and Youth Program Grant Application Package (1894–0001)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 4, 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 Donna Bussell, 202–453–6813.

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: Demonstration Grants for Indian Children and Youth Program Grant Application Package (1894–0001).

OMB Control Number: 1810–0722.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 100.

Total Estimated Number of Annual Burden Hours: 3,000.

Abstract: The Office of Indian Education (OIE) of the U.S. Department of Education (ED) requests an extension of clearance for the Indian Education Demonstration Grant Application, a competitive discretionary grant program authorized under Title VI, Part A, of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The purpose of the Demonstration program is to provide financial assistance to projects that develop, test, and demonstrate the effectiveness of services and programs to improve the educational opportunities and achievement of Indian students in preschool, elementary, and secondary schools. The grant applications submitted for it are evaluated on the basis of how well an applicant addresses the selection criteria and are used to determine applicant eligibility and amount of award for projects selected for funding.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06491 Filed 4–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice Announcing Educational Opportunity Centers Program Competition

AGENCY: Department of Education (ED), Department of Labor (DOL).

ACTION: Notice.

SUMMARY: The Employment and Training Administration at the U.S. Department of Labor (DOL), is soliciting applications in support of the administration of the Educational

Opportunity Centers Program on behalf of the U.S. Department of Education (ED).

DATES: Complete proposals must be submitted electronically through the *Grants.gov* ''APPLY'' function by 11:59:59 p.m. Eastern Time on May 14, 2026.

FOR FURTHER INFORMATION CONTACT: Rachael Wiley, Ed.D.: Telephone: (202) 987–0396, Email: *Rachael.Wiley@ed.gov* or Sharon Easterling: Telephone: (202) 453–7425, Email: *Sharon.Easterling@ed.gov.*

SUPPLEMENTARY INFORMATION: The Educational Opportunity Centers (EOC) program (84.066A) is designed to provide information regarding financial and academic assistance available for qualified individuals who want to enter or continue to pursue a program of postsecondary education; provide assistance to those individuals in applying for admission to institutions that offer programs of postsecondary education, including assistance in preparing necessary applications for use by admissions and financial aid officers; and improve the financial and economic literacy of program participants. The FY 2026 competition includes priorities, selection criteria, and requirements. The priorities are: Expanding Education Choice, Returning Education to the States, and Expanding Access to Talent Marketplaces.

The program regulations for EOC require that ED publish the following elements of the grant competition in the **Federal Register:**

(1) Number of Applications

• An applicant may submit multiple applications if each separate application describes a project that will serve a different target area (34 CFR 644.10(a)). The term ''target area'' is defined as a geographic area served by a project (34 CFR 644.7(b)).

(2) Prior Experience

• As required by statute and program regulations, the Secretary will award prior experience points to applicants that have conducted an EOC project. Such points will be awarded based on the applicant's performance during second, third, and fourth years of the performance period.

(3) Maximum Annual Award

• For an applicant that has not been designated by their Governor as the state-level applicant, the annual maximum award is $1,300,000.

• For one state-level applicant that has been designated by their Governor as the state-level applicant, or for any Indian tribe receiving points under the competitive preference priority, the maximum annual award amount is $3,000,000.

(4) Number of Participants

• All projects must serve a minimum of 850 participants annually and have a per participant cost of no more than $280.

Program Authority: 20 U.S.C. 1070a–11 and 20 U.S.C. 1070a–16.

To Apply: The complete funding opportunity announcement and all information needed to apply, including all priorities and program requirements, are available on ED's website at *https://www.ed.gov/grants-and-programs/grants-higher-education/federal-trio-programs/educational-opportunity-centers,* on DOL's website at *https://www.dol.gov/agencies/eta/grants/apply/find-opportunities,* and on *Grants.gov* at *https://apply07.grants.gov/apply/opportunities/instructions/PKG00292292-instructions.pdf.* The full application package is available at *https://www.grants.gov/search-results-detail/361715.* The application notice and instructions on *Grants.gov* is the official document governing the grant competition.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format.

Note: Henry Maklakiewicz signs this notice in furtherance of DOL's role in providing support to ED.

David Barker,

Assistant Secretary, Office of Postsecondary Education, Department of Education.

In concurrence

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Department of Labor.

[FR Doc. 2026–06456 Filed 4–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1090]

Agency Information Collection Activities; Comment Request; Formula Grant EASIE Electronic Application System for Indian Education

AGENCY: Office of Elementary and Secondary Education (OESE), 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 June 2, 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–1090. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4B146, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Donna Bussell, 202–453–6813.

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: Formula Grant EASIE Electronic Application System for Indian Education.

OMB Control Number: 1810–0021.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 11,300.

Total Estimated Number of Annual Burden Hours: 4,900.

Abstract: This is an extension request for the Part I of grant applications for the Formula Grants to Local Educational Agencies Program (ALN 84.060A) and includes the Indian Parent Committee Approval form that is a part of the OMB approved 1810–0021 collection. The Indian Education Formula Grant (ALN 84.060A) provides support to LEAs and Indian Tribes in developing elementary school and secondary school programs for all Indian students. Program funding must be used to support comprehensive programs that are designed to meet cultural, language, and academic needs of Indian students and ensure they meet State academic standards. LEAs must develop projects with the participation and written approval of an Indian Parent Committee (IPC) and develop meaningful consultation and ongoing collaboration with nearby Indian Tribes. The instructions in this hard-copy representation of the application package can be used in developing Part I of your application. All applications must be submitted on-time to ED's provided electronic application system.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06548 Filed 4–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–1057]

Agency Information Collection Activities; Comment Request; Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children

AGENCY: Office of Elementary and Secondary Education (OESE), 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 April 3, 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–1057. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4C112, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Victoria Rosenboom, 202–987–1625.

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: Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children.

OMB Control Number: 1810–0060.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 2,812.

Total Estimated Number of Annual Burden Hours: 4,061.

Abstract: The U.S. Department of Education (ED) is requesting a three-year extension of the Annual Report of Children in Institutions for Neglected or Delinquent Children, Adult Correctional Institutions, and Community Day Programs for Neglected and Delinquent Children. Approval of this form is needed in order to continue the on-going collection of data used to allocate funds authorized under Title I, Part A and Title I, Part D, Subparts 1 and 2 of the Elementary and Secondary Education Act of 1965 (ESEA). Title I, Part A provides formula grants to local educational agencies (LEAs), through State educational agencies (SEAs), to improve the teaching and learning of at-risk students in high-poverty schools. In order to calculate Title, I, Part A allocations, ED must annually collect data on the number of children living in locally operated institutions for neglected or delinquent (N or D) children.

Ross Santy,

Chief Data Officer,Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–06539 Filed 4–2–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice.

SUMMARY: EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection

requests a three-year extension of its Petroleum Supply Reporting System (PSRS), OMB Control Number 1905–0165. The PSRS consists of seven weekly surveys that make up the Weekly Petroleum Supply Reporting System (WPSRS), eight monthly surveys that make up the Monthly Petroleum Supply Reporting System (MPSRS), and two annual surveys, one of which is a proposed new standby survey.

DATES: Comments on this information collection must be received no later than May 4, 2026. 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: If you need additional information, contact Debra Coaxum, U.S. Energy Information Administration Clearance Officer, at (202) 586–7876. The forms and instructions are available on EIA's website at *www.eia.gov/survey/.*

SUPPLEMENTARY INFORMATION: EIA uses WPSRS surveys to collect data from a sample of operators on input, production, imports, and inventory levels of crude oil, hydrocarbon gas liquids, petroleum products, and biofuels. EIA uses MPSRS surveys to collect data from all in-scope operators on input, production, imports, biofuel feedstocks consumed, refinery capacity, biofuel plant production capacity, and fuels consumed in plant operations of crude oil, hydrocarbon gas liquids petroleum products, and biofuels. EIA uses annual Form EIA–820 to collect data on refinery capacity, refinery fuels and feedstock consumed, and the quantity of crude oil received by method of transportation. EIA will use annual standby Form EIA–830 to collect data on storage capacity at refineries, crude oil tank farms, and terminals.

This information collection request contains

(1) *OMB No.* 1905–0165;

(2) *Information Collection Request Title:* Petroleum Supply Reporting System;

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* The surveys included in the PSRS collect information that is largely unavailable from other sources on production, input, inventory levels, imports, inter-regional movements, and fuels and feedstock consumed for plant operation, for crude oil, hydrocarbon gas liquids, petroleum products, and biofuels. PSRS surveys also collect storage capacities for crude oil, hydrocarbon gas liquids, petroleum products, and biofuels, refinery capacities, biofuel production capacities, and biofuel feedstocks consumed.

EIA requires data from PSRS surveys to meet the requirements of energy data users for credible, reliable, and timely energy information. EIA uses PSRS survey data in statistical reports including, but not limited to, the Weekly Petroleum Status Report (WPSR), Petroleum Supply Monthly (PSM), and the Monthly Energy Review (MER). EIA uses PSRS survey data to support analysis and projection work with results reported in the Short-Term Energy Outlook (STEO), Annual Energy Outlook (AEO), and other reports. EIA makes reports available at *https://www.eia.gov/.* EIA also uses PSRS data to complete monthly and annual reports of U.S. petroleum and biofuel supplies to the International Energy Agency to support U.S. participation as an IEA member county. In some cases, agencies outside of EIA publish data sourced from PSRS surveys in their own reports: for example, bioenergy statistics reported by the U.S. Department of Agriculture.

Data from PSRS surveys provide data to inform policy and business decisions. The data promote efficient markets by providing transparency to petroleum and biofuel supplies. Use of PSRS data by academic researchers, educators, news media, and the general public promotes understanding of energy and its interaction with the economy and the environment.

(4a) *Proposed Changes to Information Collection:*

EIA proposes minor modifications to all PSRS survey instructions to align the language with other PSRS surveys, without substantially changing the intention of the language.

Form EIA–804, Weekly Imports Report (Change to Form)

• EIA proposes updating the list of countries in Part 4 Total U.S. Crude Oil Imports by Country of Origin of the Form EIA–804. The current country list is out-of-date, demonstrating significant reductions in import volumes from listed countries and significant contributions to import volumes from unlisted countries, resulting in respondents reporting most of their imports in the Other category. EIA proposes removing Azerbaijan, China, Indonesia, Oman, and Thailand, replacing these five countries with Guyana, Kazakhstan, United Arab Emirates (UAE), Ghana, and Senegal. This change in the list of origin countries will improve EIA's published snapshot of U.S. crude oil trade in the *Weekly Petroleum Status Report (WPSR).*

Form EIA–819, Monthly Report of Fuels From Non-Biogenic Waste and Biofuels (Change to Form and Instructions)

EIA proposes three modifications to Form EIA–819 form and instructions:

1. EIA proposes changing the name of the form from *Monthly Biofuels Fuel Oxygenates, Isooctane, and Isooctene Report* to *Monthly Report of Fuels from Non-Biogenic Waste and Biofuels* to allow the data collection to evolve with industry changes in non-traditional technologies and feedstocks to produce fuels to supplement traditional petroleum fuels.

2. EIA proposes revision of the disclosure language in the instructions to align treatment of EIA–819 data with that of all other PSRS surveys. The current disclosure rules for feedstock consumption are a remnant of the discontinued EIA–22M, *Monthly Biodiesel Production Survey.* Industry has repeatedly expressed interest in getting more data on feedstock consumption for all plants and separately for biodiesel and renewablediesel plants. The current disclosure rules do not allow for publishing that level of detail.The proposed revision would treat biofuel feedstock consumption the same as all other petroleum supply feedstock data, allowing for publication of aggregate data that may allow for estimation of information reported by a specific respondent when few respondents report, or the data is dominated by one or two large respondents.

3. EIA proposes discontinuation of Part 10 of the Form EIA–819. Respondents have not reported any data in part 10a since its inception. EIA eliminated the data collected in part 10b from petroleum balances published in the *Petroleum Supply Monthly* beginning in 2019. We continued to collect and publish Methyl Tertiary Butyl Ether (MTBE) and Ethyl Tertiary Butyl Ether (ETBE) production, but EIA has determined this data collection has limited use.

Form EIA–810, Monthly Refinery Report (Change to Form and Instructions)

• EIA proposes removing Part 6 Annual Storage Capacity Supplement of the Form EIA–810. EIA is proposing a new Form EIA–830, *Annual Storage Capacity Report,* to collect storage capacity on an as-needed basis. The annual supplement to a monthly form

was confusing for respondents, resulting in unnecessary burden on respondents filling out the supplement monthly instead of annually, and additional burden on staff to perform non-response follow-up for respondents forgetting to file the annual supplement. The information collected on Part 6 will be moved to the proposed Form EIA–830, *Annual Storage Capacity Report* (standby).

Form EIA–813, Monthly Crude Oil Report (Change to Form and Instructions)

• EIA proposes removing Parts 6, 7, and 8 Annual Supplement for Storage Capacity and Stocks in Tanks and Underground Caverns of the Form EIA–813. The annual supplement to a monthly form was confusing for respondents, resulting in unnecessary burden on respondents filling out the supplement monthly instead of annually, and additional burden on staff to perform non-response follow-up for respondents forgetting to file the annual supplement. The information collected on Parts 6, 7, and 8 will be moved to the proposed Form EIA–830, *Annual Storage Capacity Report* (standby).

Form EIA–815, Monthly Bulk Terminal Report (Change to Form and Instructions)

• EIA proposes removing Part 4 Annual Supplement for Storage Capacity of the Form EIA–815. The annual supplement to a monthly form was confusing for respondents, resulting in unnecessary burden on respondents filling out the supplement monthly instead of annually, and additional burden on staff to perform non-response follow-up for respondents forgetting to file the annual supplement. The information collected on Part 4 will be moved to the proposed Form EIA–830, *Annual Storage Capacity Report* (standby).

Form EIA–830, Annual Storage Capacity Report (Standby) (Proposed New Form)

• EIA proposes collecting the data previously collected on annual supplements to monthly Forms EIA–810, EIA–813, and EIA–815 on a new form, EIA–830, *Annual Storage Capacity Report* (standby). Creating a stand-alone annual form for storage capacity eliminates unnecessary burden on respondents and staff caused by respondents filling out the annual supplement each month with the rest of their monthly submission, and the increased data collection efforts needed to obtain annual data that respondents are not accustomed to reporting on their monthly submissions. EIA proposes the new Form EIA–830 be designated as a standby form to be activated as needed in times of significant market change or emergency.

(5) *Annual Estimated Number of Respondents:* 6,523;

EIA–800 consists of 105 respondents
EIA–802 consists of 50 respondents
EIA–803 consists of 95 respondents
EIA–804 consists of 105 respondents
EIA–805 consists of 790 respondents
EIA–806 consists of 180 respondents
EIA- 809 consists of 150 respondents
EIA–810 consists of 133 respondents
EIA–812 consists of 110 respondents
EIA–813 consists of 240 respondents
EIA–814 consists of 290 respondents
EIA–815 consists of 1,475 respondents
EIA–816 consists of 450 respondents
EIA–817 consists of 40 respondents
EIA- 819 consists of 275 respondents
EIA- 820 consists of 133 respondents
EIA–830 consists of 1,852 respondents
Pretest methodology consists of 50 respondents

(6) *Annual Estimated Number of Total Responses:* 114,891;

(7) *Annual Estimated Number of Burden Hours:* 176,071;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $16,716,181 (176,071 estimated burden hours times $94.94). EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Statutory Authority: 15 U.S.C. 772(b), 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on April 1, 2026.

Debra Coaxum,

Acting Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2026–06550 Filed 4–2–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. UL26–4–000]

William Taylor; Notice of Pending Jurisdictional Inquiry, and Soliciting Comments, Protests, and Motions To Intervene

On February 4, 2026, the Federal Energy Regulatory Commission (Commission) received a request from the Vermont Department of Environmental Conservation (Vermont DEC) for a jurisdictional determination for the unlicensed Baldin Brook Hydroelectric Project. The project is located on Baldin Brook in Lamoille County, Vermont.

Pursuant to section 23(b)(1) of the Federal Power Act (FPA),[1] a non-federal hydroelectric project must be licensed if it: (a) is located on a navigable water of the United States; (b) occupies lands or reservations of the United States; (c) utilizes surplus water or waterpower from a government dam; [2] or (d) is located on a stream over which Congress has Commerce Clause jurisdiction, is constructed or modified on or after August 26, 1935, and affects the interests of interstate or foreign commerce.

Regarding condition (d) above, for purposes of FPA section 23(b)(1), headwaters and tributaries of navigable waters are Commerce Clause streams; [3] ''post-1935'' construction or modification at an existing project includes enlarging a project, such as increasing size of the reservoir, height of the dam, or generating capacity; [4] and projects that generate energy for transmission on the interstate grid affect interstate commerce.[5]

Vermont DEC requests that the Commission examine its jurisdiction for the Baldin Brook Hydroelectric Project on the grounds that the project is located on a stream over which Congress has Commerce Clause jurisdiction, was constructed after August 26, 1935, and is connected to the transmission grid.[6]

In response to Vermont DEC's requests, Commission staff is investigating the jurisdictional status of the Baldin Brook Hydroelectric Project (UL26–4–000). A copy of Vermont DEC's request may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number, UL26–4–000.

[1] 16 U.S.C. 817(1).

[2] A project that meets condition (a), (b), or (c) is not required to be licensed if it holds a still valid pre-1920 federal permit.

[3] *FPC* v. *Union Electric Co.,* 381 U.S. 90, 94–96 (1965).

[4] *See, e.g., L.S. Starrett Co.* v. *FERC,* 650 F.3d 19, 26–27 (1st Cir. 2011); *Cent. Vt. Pub. Serv. Corp.,* 54 FERC ¶ 61,132, at 61,434 (1991) (citing *Puget Sound Power & Light Co.* v. *FPC,* 557 F.2d 1311 (9th Cir. 1977); *Aquenergy Systems, Inc.,* 29 FERC ¶ 61,026 (1984)).

[5] *See FPC* v. *Union Elec. Co.,* 381 U.S. at 94–95. Moreover, it is well settled that small hydroelectric projects that are connected to the interstate grid, even if they have no interstate sales, affect interstate commerce by displacing power from the grid, and the cumulative effect of the national class of these small projects is significant for purposes of FPA section 23(b)(1). *See Habersham Mills* v. *FERC,* 976 F.2d 1381, 1384–85 (11th Cir. 1992).

[6] Vermont DEC February 4, 2026 Request for Determination of Commission Jurisdiction for the Baldin Brook Hydroelectric Project at 2.

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.

The Commission is soliciting comments, motions to intervene, and protests in these proceedings. Comments, motions to intervene, and protests must be filed by 45 days from notice or May 15, 2026, by 5:00 p.m. Eastern Time. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules and Practice and Procedure, 18 CFR 385.210, 211, and 214. In determining the appropriate action to take, the Commission will consider all protests or comments filed, but only those who file a motion to intervene in accordance with the Commission's Rule may become a party to the proceedings. Any comments, protests, or motions to intervene must be received on or before the specified comment date.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene 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.* You must include your name and contact information at the end of your comments. 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 Docket Number UL26–4–000.

For further information, please contact Rebecca Martin at (202) 502–6012 or *rebecca.martin@ferc.gov.*

(Authority: 18 CFR 2.1.)

Dated: March 31, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06505 Filed 4–2–26; 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: EC26–79–000.
Applicants: Bayonne Energy Center, LLC, Zone J Tolling Co., LLC.
Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Bayonne Energy Center, LLC, et al.
Filed Date: 3/26/26.
Accession Number: 20260326–5253.
Comment Date: 5 p.m. ET 4/16/26.

Docket Numbers: EC26–80–000.
Applicants: Heritage Power, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Heritage Power, LLC.
Filed Date: 3/27/26.
Accession Number: 20260327–5363.
Comment Date: 5 p.m. ET 4/17/26.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG26–191–000.
Applicants: Lake Iris Solar, LLC.
Description: Lake Iris Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/31/26.
Accession Number: 20260331–5341.
Comment Date: 5 p.m. ET 4/21/26.

Docket Numbers: EG26–192–000.
Applicants: SR Denmark, LLC.
Description: SR Denmark, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/31/26.
Accession Number: 20260331–5355.
Comment Date: 5 p.m. ET 4/21/26.

Docket Numbers: EG26–193–000.
Applicants: SR Magnolia, LLC.
Description: SR Magnolia, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 3/31/26.
Accession Number: 20260331–5359.
Comment Date: 5 p.m. ET 4/21/26.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER25–2232–003.
Applicants: Illinois Generation LLC.
Description: Tariff Amendment: Second Amended Shared Facilities Agreement, to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5390.
Comment Date: 5 p.m. ET 4/21/26.

Docket Numbers: ER25–2234–002.
Applicants: Heritage Prairie Solar LLC.
Description: Tariff Amendment: Second Amendment Certificate of Concurrence to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5394.
Comment Date: 5 p.m. ET 4/21/26.

Docket Numbers: ER26–1416–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment: TO: Amendment to Order No. 898 revisions to Formula Rate Model to be effective 1/1/2025.
Filed Date: 3/31/26.
Accession Number: 20260331–5168.
Comment Date: 5 p.m. ET 4/21/26.

Docket Numbers: ER26–1968–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2026–03–30 WEIS Tariff Revisions to be effective 4/1/2026.
Filed Date: 3/30/26.
Accession Number: 20260330–5369.
Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: ER26–1969–000.
Applicants: Wolf Hills Energy, LLC.
Description: Tariff Amendment: Cancellation Rate Schedule partial to be effective 12/31/9998.
Filed Date: 3/30/26.
Accession Number: 20260330–5372.
Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: ER26–1970–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: § 205(d) Rate Filing: 2026–03–31 SHAK—SISA—West Shakopee Sub—0.0.0–788 to be effective 3/31/2026.
Filed Date: 3/30/26.
Accession Number: 20260330–5374.
Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: ER26–1971–000.
Applicants: Seabrook Solar, LLC.
Description: § 205(d) Rate Filing: PURPA Power Purchase Agreement to be effective 6/1/2026.
Filed Date: 3/30/26.
Accession Number: 20260330–5384.
Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: ER26–1972–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–03–30_Request to Defer Expensing of Interest Related to GI Queue Payments to be effective 3/31/2026.
Filed Date: 3/30/26.
Accession Number: 20260330–5401.
Comment Date: 5 p.m. ET 4/20/26.

Docket Numbers: ER26–1973–000.
Applicants: Pathfinder Power, LLC.
Description: Initial Rate Filing: Application for Market-Based Rate

Authorization, Request for Related Waivers to be effective 5/14/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5001.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1974–000.
Applicants: Keystone Appalachian Transmission Company.
Description: § 205(d) Rate Filing: KATCo submits a Construction Agmt—SA No. 7496 to be effective 5/31/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5010.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1975–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 4687 BSH Kilgore GIA to be effective 3/2/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5087.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1976–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Attachment V Clean-Up Filing to be effective 3/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5124.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1977–000.
Applicants: Public Service Company of Colorado.
Description: § 205(d) Rate Filing: 2026–03–31 WAPA SISA Mt Elbert to be effective 3/13/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5135.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1978–000.
Applicants: Blossburg Power, LLC, Brunot Island Power, LLC, Gilbert Power, LLC, Hamilton Power, LLC, Hunterstown Power, LLC, Mountain Power, LLC, New Castle Power, LLC, Orrtanna Power, LLC, Portland Power, LLC, Shawnee Power, LLC, Tolna Power, LLC, Titus Power, LLC, Warren Generation, LLC, Shawville Power, LLC.
Description: Request for Limited Waiver of the 90-day prior notice requirement set forth in Schedule 2 to the PJM Tariff of Heritage Reactive Suppliers.
Filed Date: 3/27/26.
Accession Number: 20260327–5357.
Comment Date: 5 p.m. ET 4/17/26.
Docket Numbers: ER26–1979–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO-Greenridge Energy Engineering & Procurement Agreement to be effective 3/19/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5204.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1981–000.
Applicants: Neradean Energy Inc.
Description: § 205(d) Rate Filing: Initial Market-Based Rate Tariff Filing to be effective 3/31/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5240.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1982–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 631 to be effective 3/2/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5260.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1983–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 632 to be effective 3/2/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5261.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1984–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 633 to be effective 3/2/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5262.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1985–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–03–31_SA 4721 METC–DTE Electric GIA (E0007) to be effective 3/26/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5264.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1986–000.
Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Duke Energy Carolinas, LLC submits tariff filing per 35.13(a)(2)(iii: DEC–DEP Order No. 898 Revisions to Joint OATT Transmission Rates to be effective 5/31/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5300.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1987–000.
Applicants: Lake Iris Solar, LLC.
Description: § 205(d) Rate Filing: Application for Market-Based Rate Authorization to be effective 5/21/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5313.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1988–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–03–31 SA 4718 Entergy MS-Entergy MS GIA (E0047) to be effective 3/30/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5356.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1989–000.
Applicants: Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Duke Energy Carolinas, LLC submits tariff filing per 35.13(a)(2)(iii: DEF—Modification to FR to address revised Dep Rates and Order 898 Changes to be effective 5/31/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5360.
Comment Date: 5 p.m. ET 4/21/26.
Docket Numbers: ER26–1990–000.
Applicants: PSEG Energy Resources & Trade LLC.
Description: § 205(d) Rate Filing: Reactive Power Compensation for Salem Nuclear Generating Station to be effective 6/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5363.
Comment Date: 5 p.m. ET 4/21/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 31, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06503 Filed 4–2–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–687–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: § 4(d) Rate Filing: 2026 ETNG Fuel Filing to be effective 5/1/2026.
Filed Date: 3/30/26.
Accession Number: 20260330–5391.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–688–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Castleton 911826 & 911827 eff 4.1.26 to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5000.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–689–000.
Applicants: Midship Pipeline Company, LLC.
Description: Annual Operational Transactions Report of Midship Pipeline Company, LLC.
Filed Date: 3/30/26.
Accession Number: 20260330–5407.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–690–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Fuel Tracker Filing—Effective May 1, 2026 to be effective 5/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5002.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–691–000.
Applicants: Enable Gas Transmission, LLC.
Description: Compliance filing: 2026 Annual IT Revenue Crediting Filing to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5003.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–692–000.
Applicants: Enable Mississippi River Transmission, LLC.
Description: Compliance filing: 2026 Annual SCT Revenue Crediting Filing to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5004.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–693–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Compliance filing: Flow Through of Cashout Revenues filed on 3–31–26 to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5005.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–694–000.
Applicants: Panhandle Eastern Pipe Line Company, LP.
Description: Compliance filing: Flow Through of Penalty Revenues Report filed on 3–31–26 to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5007.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–695–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Compliance filing: 2024–2025 ETNG Cashout Report to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5042.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–696–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Electric Compressor Surcharge 2026 to be effective 5/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5057.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–697–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Amended Negotiated Rate Agreements—4/1/2026 to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5064.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–698–000.
Applicants: Kern River Gas Transmission Company.
Description: § 4(d) Rate Filing: 2026 Sequent Negotiated Rate TSA Filing to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5071.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–699–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO—Various NR Agmts Eff 4.1.26 to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5082.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–702–000.
Applicants: Elba Express Company, L.L.C.
Description: Compliance filing: Annual Interruptible Revenue Crediting Report 2026 to be effective N/A.
Filed Date: 3/31/26.
Accession Number: 20260331–5106.
Comment Date: 5 p.m. ET 4/13/26.

Docket Numbers: RP26–703–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: § 4(d) Rate Filing: MEP March 2026 NRA Filing to be effective 4/1/2026.
Filed Date: 3/31/26.
Accession Number: 20260331–5216.
Comment Date: 5 p.m. ET 4/13/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP25–473–005.
Applicants: National Grid LNG, LLC.
Description: Refund Report: 3/30/2026 National Grid LNG LLC Refund Report to be effective N/A.
Filed Date: 3/30/26.
Accession Number: 20260330–5358.
Comment Date: 5 p.m. ET 4/13/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 31, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–06504 Filed 4–2–26; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[CERCLA–04–2025–7004(b); FRL–13061–01–R4]

Lakes Parkway Lithium Battery Fire Superfund Site, Lawrenceville, Georgia, Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) is proposing to enter into an Administrative Settlement Agreement with Corporate Lakes Atlanta, LLC, concerning the Lakes Parkway Lithium Battery Fire Site located in Lawrenceville, Georgia. The proposed settlement addresses recovery of CERCLA costs incurred by EPA for a cleanup performed at the Site.

DATES: The Agency will consider public comments on the proposed settlement until May 4, 2026. The Agency will consider all comments received and may modify or withdraw its consent to the proposed settlement if comments received disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the proposed settlement are available from the Agency by contacting Mrs. Paula V. Painter, Program Analyst, using the contact information provided in this notice. Comments may also be submitted by referencing the Site's name through one of the following methods:

Internet: https://www.epa.gov/aboutepa/about-epa-region-4-southeast#r4-public-notices.

Email: Painter.Paula@epa.gov.

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at (404) 562–8887.

Maurice Horsey,

Branch Chief, Enforcement Branch, Superfund & Emergency Management Division.

[FR Doc. 2026–06490 Filed 4–2–26; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 26–264; FR ID 337499]

Notice Debarment; Federal E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Peretz Klein from the federal schools and libraries universal service support mechanism (E-Rate program) and all federal universal service support mechanisms for three years.

DATES: Debarment commences on the date Mr. Klein receives the debarment letter or April 3, 2026, whichever date comes first, and will continue for three years.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1686 or by email at *Christopher.Sova@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debars Mr. Klein from the E-Rate program and all federal universal service support mechanisms for three years pursuant to *47 CFR 54.8.* Attached is the debarment letter, DA 26–264, which was mailed to Mr. Klein and released on April 3, 2026. The complete text of the notice of debarment is available on the FCC's website at *https://docs.fcc.gov/public/attachments/DA-26-264A1.pdf.*

Federal Communications Commission.

Christopher Sova,

Chief, Investigations and Hearings Division, Enforcement Bureau.

BILLING CODE 6712–01–P

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

March 20, 2026

DA 26-264

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Peretz Klein
c/o Susan R. Necheles, Esq.
Necheles Law LLP
1120 Avenue of the Americas FL 4
New York, NY 10036-6700

Re: Notice of Debarment, File No. EB-IHD-24-00036790

Dear Mr. Klein:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) hereby notifies you that, pursuant to section 54.8 of the Commission's rules, you are prohibited from participating in activities associated with or related to the federal schools and libraries universal service support mechanism (E-Rate program) and any other program funded by federal universal service support mechanisms for three years, commencing on either the date of your receipt of this Notice of Debarment or of its publication in the Federal Register, whichever comes first (Debarment Date).[1]

On April 16, 2025, the Bureau sent you a notice of suspension and initiation of debarment proceeding (*Notice of Suspension*) that was published in the Federal Register on April 29, 2025.[2] The *Notice of Suspension* suspended you from participating in or receiving any benefit associated with the E-Rate program as well as any other program funded by federal universal service support mechanisms.[3] It also described the basis for initiating the debarment proceeding against you, the applicable debarment procedures, and the effect of debarment.[4]

As discussed in the *Notice of Suspension*, on February 12, 2020, you pleaded guilty to a wire fraud conspiracy that involved knowingly and willingly devising a scheme to obtain money from the E-Rate program fraudulently.[5] This scheme resulted in the fraudulent award of more than $14 million paid to corporations which in turn paid hundreds of thousands of dollars to you and your co-conspirators for

[1] 47 CFR 54.8 (e), (g); 47 CFR 0.111 (delegating to the Bureau authority to resolve universal service suspension and debarment proceedings). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms, including the E-Rate program. *See Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

[2] Letter from Christopher J. Sova, Acting Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Peretz Klein, Notice of Suspension and Initiation of Debarment Proceeding, 90 Fed. Reg. 17809 (April 29, 2025) (*Notice of Suspension*).

[3] *Id.*

[4] *Id.*

[5] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Judgment in a Criminal Case (S.D.N.Y., filed July 19, 2022) (detailing Peretz Klein's plea agreement with the government); *see also Notice of Suspension*.

participating in the scheme.[6] You enriched yourself at the expense of the underprivileged children the program was designed to serve by causing the disbursement of millions of dollars for services and equipment that were not provided.[7] Pursuant to section 54.8(c) of the Commission's rules, your conviction of criminal conduct in connection with the E-Rate program is the basis for this debarment.[8]

In accordance with the Commission's debarment rules, you were required to file with the Commission any opposition to the suspension or its scope, or to the proposed debarment or its scope, no later than 30 calendar days from either the date of your receipt of the *Notice of Suspension* or of its publication in the Federal Register, whichever date occurred first.[9] The Commission received no opposition.

For the above reasons, you are debarred from involvement with the E-Rate program for three years from the Debarment Date.[10] During this debarment period, you are excluded from participating in any activities associated with or related to the E-Rate program and any other program funded by federal universal service support mechanisms, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.[11]

Sincerely yours,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Fred Theobald, Universal Service Administrative Company (via e-mail)

[6] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Indictment (S.D.N.Y., filed Aug. 27, 2018).
[7] *Notice of Suspension*.
[8] 47 CFR 54.8(c).
[9] *Id.* 54.8 (e)(3)–(4). Any opposition had to be filed no later than May 29, 2025.
[10] 47 CFR 54.8(g).
[11] 47 CFR 54.8(a)(1), (d), (g).

[FR Doc. 2026–06535 Filed 4–2–26; 8:45 am]
BILLING CODE 6712–01–C

FEDERAL COMMUNICATIONS COMMISSION

[DA 26–268; FR ID 337509]

Notice Debarment; Federal E-Rate Program

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Susan Klein from the federal schools and libraries universal service support mechanism (E-Rate program) and all federal universal service support mechanisms for three years.

DATES: Debarment commences on the date Ms. Klein receives the debarment letter or April 3, 2026, whichever date comes first, and will continue for three years.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Sova, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, 45 L Street NE, Washington, DC 20554. Christopher Sova may be contacted by phone at (202) 418–1868 or by email at *Christopher.Sova@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debars Ms. Klein from the E-Rate program and all federal universal service support mechanisms for three years pursuant to *47 CFR 54.8.* Attached is the debarment letter, DA 26–268, which was mailed to Ms. Klein and released on April 3, 2026. The complete text of the notice of debarment is available on the FCC's website at *https://docs.fcc.gov/public/attachments/DA-26-268A1.pdf.*

Federal Communications Commission.

Christopher Sova,

Chief, Investigations and Hearings Division, Enforcement Bureau.

BILLING CODE 6712–01–P

Federal Communications Commission
Enforcement Bureau
Investigations and Hearings Division
45 L Street, NE
Washington, DC 20554

March 20, 2026

DA 26-268

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Susan Klein
c/o Justine A. Harris, Esq.
Sher Tremonte LLP
90 Broad Street FL 23
New York, NY 10004-2283

Re: Notice of Debarment, File No. EB-IHD-24-00036792

Dear Ms. Klein:

The Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) hereby notifies you that, pursuant to section 54.8 of the Commission's rules, you are prohibited from participating in activities associated with or related to the federal schools and libraries universal service support mechanism (E-Rate program) and any other program funded by federal universal service support mechanisms for three years, commencing on either the date of your receipt of this Notice of Debarment or of its publication in the Federal Register, whichever comes first (Debarment Date).[1]

On April 16, 2025, the Bureau sent you a notice of suspension and initiation of debarment proceeding (*Notice of Suspension*) that was published in the Federal Register on April 30, 2025.[2] The *Notice of Suspension* suspended you from participating in or receiving any benefit associated with the E-Rate program as well as any other program funded by federal universal service support mechanisms.[3] It also described the basis for initiating the debarment proceeding against you, the applicable debarment procedures, and the effect of debarment.[4]

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[1] 47 CFR 54.8 (e), (g); 47 CFR 0.111 (delegating to the Bureau authority to resolve universal service suspension and debarment proceedings). In 2007, the Commission extended the debarment rules to apply to all federal universal service support mechanisms, including the E-Rate program. *See Comprehensive Review of the Universal Service Fund Management, Administration, & Oversight*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering Section 54.521 of the universal service debarment rules as Section 54.8 and amending subsections (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

[2] Letter from Christopher J. Sova, Acting Chief, Investigations and Hearings Division, FCC Enforcement Bureau, to Susan Klein, Notice of Suspension and Initiation of Debarment Proceeding, 90 Fed. Reg. 17922 (April 30, 2025) (*Notice of Suspension*).

[3] *Id.*

[4] *Id.*

[5] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Judgment in a Criminal Case (S.D.N.Y., filed July 18, 2022) (detailing Susan Klein's plea agreement with the government); *see also Notice of Suspension.*

participating in the scheme.[6] You enriched yourself at the expense of the underprivileged children the program was designed to serve by causing the disbursement of millions of dollars for services and equipment that were not provided.[7] Pursuant to section 54.8(c) of the Commission's rules, your conviction of criminal conduct in connection with the E-Rate program is the basis for this debarment.[8]

In accordance with the Commission's debarment rules, you were required to file with the Commission any opposition to the suspension or its scope, or to the proposed debarment or its scope, no later than 30 calendar days from either the date of your receipt of the *Notice of Suspension* or of its publication in the Federal Register, whichever date occurred first.[9] The Commission received no opposition.

For the above reasons, you are debarred from involvement with the E-Rate program for three years from the Debarment Date.[10] During this debarment period, you are excluded from participating in any activities associated with or related to the E-Rate program and any other program funded by federal universal service support mechanisms, including the receipt of funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.[11]

Sincerely yours,

Christopher J. Sova
Chief
Investigations and Hearings Division
Enforcement Bureau

cc: Fred Theobald, Universal Service Administrative Company (via e-mail)

[6] *See United States v. Goldbrener et al.*, Case No. 7:18-cr-00614, Indictment (S.D.N.Y., filed Aug. 27, 2018).
[7] *Notice of Suspension*.
[8] 47 CFR 54.8(c).
[9] *Id.* 54.8 (e)(3)–(4). Any opposition had to be filed no later than May 30, 2025.
[10] 47 CFR 54.8(g).
[11] 47 CFR 54.8(a)(1), (d), (g).

[FR Doc. 2026–06536 Filed 4–2–26; 8:45 am]
BILLING CODE 6712–01–C

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate Receivership

Notice is hereby given that the Federal Deposit Insurance Corporation (FDIC or Receiver), as Receiver for the institution listed below, intends to terminate its receivership for said institution.

NOTICE OF INTENT TO TERMINATE RECEIVERSHIP

Fund	Receivership name	City	State	Date of appointment of receiver
10063	Citizens National Bank	Macomb	IL	05/22/2009

The liquidation of the assets for the receivership has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing, identify the receivership to which the comment pertains, and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Section, 600 North Pearl, Suite 700, Dallas, TX 75201. No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

(Authority: 12 U.S.C. 1819.)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on April 1, 2026.

Jennifer M. Jones,

Deputy Executive Secretary.

[FR Doc. 2026–06525 Filed 4–2–26; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Benjamin W. McDonough, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 20, 2026.

A. Federal Reserve Bank of Cleveland (Jenni M. Frazer, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *Russell A. Weaver II and Sandra M. Weaver, both of Shippenville, Pennsylvania, and Wanda K. Weaver-Marshall, Venus, Pennsylvania;* to form the Weaver Family Control Group, a group acting in concert, to retain voting shares of Fryburg Banking Company Inc., and thereby indirectly retain voting shares of First United National Bank, both of Fryburg, Pennsylvania.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *James N. Carson, Stillwell, Oklahoma;* to retain voting shares of Carson Financial Holding Company, Inc., and thereby indirectly retain voting shares of Carson Community Bank, both of Stilwell, Oklahoma.

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2026–06545 Filed 4–2–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3479–PN]

Medicare and Medicaid Programs; Application From Joint Commission (JC) for Continued CMS-Approval of Its Home Health Agency (HHA) Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Proposed notice.

SUMMARY: This proposed notice acknowledges the receipt of an application from Joint Commission for continued recognition as a national accrediting organization for home health agencies that wish to participate in the Medicare or Medicaid programs. It also provides the public with the opportunity to submit comments on the applicant's request.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 4, 2026.

ADDRESSES: In commenting, refer to file code CMS–3479–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3479–PN, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3479–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Joy Webb, (410) 786–1667.

Kristen Shifflett, (410)-786–4166.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a home health agency (HHA) provided certain requirements are met. Sections 1861(m) and (o), and 1891 of the Social Security Act (the Act) establish criteria for entities seeking to participate in Medicare as an HHA. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of HHAs and other entities are at 42 CFR part 488. The regulations at 42 CFR part 484 further specify the minimum conditions that an HHA must meet to participate in the Medicare program. Generally, to enter into a provider agreement with the Medicare program, an HHA must first be certified by a state survey agency (SA) as complying with the conditions or requirements set forth in 42 CFR part 484 of our regulations. Thereafter, the HHA is subject to regular surveys by an SA to determine whether it continues to meet these requirements. However, there is an alternative to survey by SAs.

Section 1865(a)(1)(A) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization (AO) that all applicable Medicare conditions are met or exceeded, we must deem that provider entity as having met the requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

A national AO applying for CMS approval of its accreditation program under 42 CFR 488.5 must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that meet or exceed the applicable Medicare conditions. The regulation at § 488.5(e)(2)(i) permits CMS to approve or re-approve an AO application for a period not to exceed 6 years.

Joint Commission's (JC's) current term of approval for its HHA program expires March 30, 2026.

II. Approval of Deeming Organization

Section 1865(a)(2) of the Act and § 488.5 require CMS' review of an AO's application consider, among other factors: the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that the Secretary, through CMS, publish, within 60 days of receipt of an organization's complete application, a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of JC's request for continued CMS-approval of its HHA accreditation program. This notice also solicits public comment on whether JC's requirements meet or exceed the Medicare conditions of participation (CoPs) for HHAs.

III. Evaluation of Deeming Authority Request

JC submitted all the necessary materials to enable us to make a determination concerning its request for continued CMS approval of its HHA accreditation program. This application was determined to be complete on September 2, 2025. Under section 1865(a)(2) of the Act and § 488.5, our review and evaluation of JC may include:

- The equivalency of JC's standards for HHAs as compared with Medicare's CoPs for HHAs.
- The assessment of JC's survey process.
- The comparability of JC's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.
- JC's processes and procedures for monitoring an HHA found out of compliance with JC's program requirements.
- JC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.
- JC's capacity to provide CMS with information extracted from each accreditation survey for a specified provider as part of its data submission.
- An assessment of JC's financial viability.
- JC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or

third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Dr. Mehmet Oz, having reviewed and approved this document, authorizes Chyana Woodyard, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Chyana Woodyard,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026–06508 Filed 4–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3475–FN]

Medicare and Medicaid Programs: Application From the Accreditation Commission for Health Care Inc. (ACHC) for Continued Approval of Its Critical Access Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces our decision to approve the Accreditation Commission for Health Care Inc. (ACHC) for continued recognition as a national accrediting organization for critical access hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is applicable from December 27, 2025, to December 27, 2031.

FOR FURTHER INFORMATION CONTACT:

Danielle Adams, (410) 786–8818.

Lillian Williams, (410) 786–8636.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a critical access hospital (CAH), provided that the facility meets certain requirements. Sections 1820(c)(2)(B), 1820(e), and 1861(mm)(1) of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as a CAH. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. Our regulations at 42 CFR part 485, subpart F specify the conditions of participation (CoPs) that a CAH must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for CAHs. The regulations at § 485.647 specify that a CAH's psychiatric or rehabilitation distinct part unit (DPU), if any, must meet the hospital requirements specified in subparts A, B, C, and D of part 482 in order for the CAH DPU to participate in the Medicare program.

Prior to becoming a CAH, to enter into an agreement, a CAH must first be certified by a state survey agency as a hospital complying with the conditions of participation at 42 CFR part 482. It then can convert to a CAH by complying with the conditions or requirements at part 485, subpart F. Thereafter, the CAH is subject to regular surveys by a state survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies. Certification by a nationally recognized accreditation program can substitute for ongoing state review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (AO) that all applicable Medicare requirements are met or exceeded, we will deem those provider entities as having met such requirements. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary of the Department of Health and Human Services (the Secretary) as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare requirements. A national AO applying for approval of its accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare requirements.

Our regulations concerning the approval of AOs are at §§ 488.4 and 488.5. The regulations at § 488.5(e)(2)(i) require an AO to reapply for continued approval of its accreditation program every 6 years or sooner, as determined by CMS. This notice is to announce our continued approval of ACHC's CAH accreditation program for a period of 6 years.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On July 23, 2025, we published a proposed notice in the **Federal Register** (90 FR 34661), announcing ACHC's request for continued approval of its Medicare critical hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of ACHC's Medicare CAH accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to, the following:

- An administrative review of ACHC's: (1) corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of ACHC's accreditation to our current Medicare CAH conditions of participation (CoPs).
- A documentation review of ACHC's survey process to:

++ Determine the composition of the survey team, surveyor qualifications,

and ACHC's ability to provide continuing surveyor training.

++ Compare ACHC's processes to those of state survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ Evaluate ACHC's procedures for monitoring CAHs out of compliance with ACHC's program requirements. The monitoring procedures are used only when ACHC identifies noncompliance. If noncompliance is identified through validation reviews, the state survey agency monitors corrections as specified at § 488.7(d).

++ Assess ACHC's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ Establish ACHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of staff and other resources.

++ Confirm ACHC's ability to provide adequate funding for performing required surveys.

++ Confirm ACHC's policies with respect to whether surveys are unannounced.

++ Obtain ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the July 23, 2025 proposed notice also solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare CoPs for CAHs. We received one comment in favor ACHC's CAH renewal application. We thank the commenters for their input and have taken it into consideration when making our decision.

V. Provisions of the Final Notice

A. Differences Between ACHC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared ACHC's CAH requirements and survey process with the Medicare CoPs and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of ACHC's CAH application were conducted as described in section III. of this notice and has yielded the following areas where, as of the date of this notice, ACHC has completed revising its standards and certification processes in order to:

- Meet the standard's requirements of all of the following regulations:

++ Section 485.623(c)(1)(i), revised standards to include a reference to applicable Life Safety Code (LSC) section(s) in the standards that did not include all of the applicable LSC requirements.

++ Section 485.623(d), revised standards to include a reference to applicable Health Care Facility Code (HCFC) section(s) in the standards that did not include all of the applicable HCFC requirements.

In addition to the standards review, we also reviewed ACHC's comparable survey processes, which were conducted as described in section III. of this notice, and yielded the following areas where, as of the date of this notice, ACHC has completed revising its survey processes, in order to demonstrate that it uses survey processes that are comparable to state survey agency processes by:

- Revising ACHC's survey process documentation to include both the 2012 editions of Life Safety Code (LSC) and Health Care Facilities Code (HCFC), and 2013 edition of the Fire Safety Evaluation System (FSES) NFPA 101A Fire Safety for Health Care Occupancies.
- Revising ACHC's survey process eligibility requirements for organizations to also meet the 2012 HCFC (NFPA 99).
- Providing additional survey training to CAH surveyors on citing levels as it relates to the initial comprehensive assessment, for example, standard versus conditional level, to ensure compatibility with § 488.26(b).

B. Term of Approval

Based on our review and observations described in sections III. and V. of this notice, we approve ACHC as a national AO for CAHs that request participation in the Medicare program. The decision announced in this final notice is effective December 27, 2025, through December 27, 2031.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Mehmet Oz, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026–06499 Filed 4–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3473–FN]

Medicare and Medicaid Programs; Approval of Application by the Accreditation Commission for Health Care Inc. (ACHC) for Continued CMS-Approval of its Hospice Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services, (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice acknowledges the approval of an application from the Accreditation Commission for Health Care Inc., for continued CMS approval as a national accrediting organization for hospice programs that wish to participate in the Medicare or Medicaid programs.

DATES: The decision announced in this notice is applicable from November 27, 2025, through November 27, 2031.

FOR FURTHER INFORMATION CONTACT: Lillian Williams, (410) 786–8636. Kristin Shifflett, (410) 786–4133.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a hospice provided certain requirements are met. Section 1861(dd) of the Social Security Act (the Act) establishes distinct definitions relating to hospices. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 418 specify the conditions that a hospice must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospices.

Generally, to enter into an agreement with Medicare, a hospice must first be certified as complying with the

conditions of participation (CoPs) set forth in part 418, subparts C and D, and recommended to the Centers for Medicare & Medicaid (CMS) for participation by a State survey agency. Thereafter, the hospice is subject to periodic surveys by a State survey agency to determine whether it continues to meet these conditions. However, there is an alternative to certification surveys by state agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1)(A) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national Accrediting Organization (AO) meets or exceeds all applicable Medicare conditions, the Secretary shall treat the provider entity as having met those conditions; that is, CMS will ''deem'' the provider entity to be in compliance. Accreditation by an AO is voluntary and is not required for Medicare participation.

If an AO is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting organization's approved program may be deemed to meet the Medicare conditions. A national AO applying for CMS approval or re-approval of their accreditation program under 42 CFR part 488, subpart A, must provide CMS with reasonable assurance that the AO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of AOs are set forth at § 488.5. Section 488.5(e)(2)(i) permits CMS to grant a term of approval of up to 6 years, and an accrediting organization must reapply for continued approval of its Medicare accreditation program . The Accreditation Commission for Health Care Inc. (ACHC) currently has a term of approval as a recognized accreditation program for its hospice accreditation program that expires November 27, 2025.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our application review process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

In the June 25, 2025, **Federal Register** (90 FR 27020 and 27021), we published a proposed notice with request for comment announcing ACHC's request for continued approval of its Medicare hospice accreditation program. In the June 25, 2025, proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of ACHC's Medicare hospice accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- A virtual administrative review of ACHC's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospice surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospices; and (5) survey review and decision-making process for accreditation.
- A comparison of ACHC's Medicare hospice accreditation program standards to our current Medicare hospice CoPs.
- A documentation review of ACHC's survey process to—

++ Determine the composition of survey teams, surveyor qualifications, and ACHC's ability to provide continuing surveyor training.

++ Compare ACHC's processes to those we require of state survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospices.

++ Evaluate ACHC's procedures for monitoring hospices it has found to be out of compliance with ACHC's program requirements. (This pertains only to monitoring procedures when ACHC identifies non-compliance. If noncompliance is identified by a state survey agency through a validation survey, the state survey agency monitors corrections as specified at § 488.9(c)).

++ Assess ACHC's ability to report deficiencies to the surveyed hospice and respond to the hospice's plan of correction in a timely manner.

++ Establish ACHC's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of ACHC's staff and other resources.

++ Confirm ACHC's ability to provide adequate funding for performing required surveys.

++ Confirm ACHC's policies with respect to surveys being unannounced.

++ Confirm ACHC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

++ Obtain ACHC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

IV. Analysis of and Responses to Public Comments on the Proposed Notice

In accordance with section 1865(a)(3)(A) of the Act, the June 25, 2025, proposed notice with request for comment, we also solicited public comments regarding whether ACHC 's requirements met or exceeded the Medicare CoPs for hospice. We received several comments. All comments were in favor of ACHC's hospice renewal application. We thank the commenters for their input and have considered it when making our decision.

V. Provisions of the Final Notice

A. Differences Between ACHC's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared ACHC's hospice accreditation requirements and survey process with the Medicare CoPs of part 418, and the survey and certification process requirements of parts 488 and 489. Our review and evaluation of ACHC's hospice application, which were conducted as described in section III. of this final notice, yielded the following areas where, as of the date of this notice, ACHC has completed revising its standards and certification processes in order to meet the requirements at:

- Section 418.52(c)(5), to address the requirement regarding confidential clinical records.
- Section 418.54(b), to include reference to § 418.24.
- Section 418.54(c), to address comfort or well-being as part of the comprehensive assessment focus.
- Section 418.54(c)(1), to address the patient's well-being and comfort as part of the comprehensive assessment and

the presence or lack of objective data and subjective complaints requirement.

- Section 418.58(c)(2), to address the requirement of tracking adverse patient events and analyzing their cause.
- Section 418.100(f)(2), to address the requirements of subparts A and C of this section.
- Section 418.104(a)(2), to include references to § 418.52 and § 418.24.
- Section 418.104(a)(4), to include reference to § 418.54(e).
- Section 418.104(a)(5), to include references to § 418.25, § 418.102(b), and § 418.102(c).
- Section 418.52(a)(6), to include reference to § 418.52(a)(2).
- Section 418.112(b), to address the requirement to make any arrangements necessary for hospice-related inpatient care.
- Section 418.112 (c), to require an agreement that specifies the provision of hospice services in the facility.
- Section 418.112(f), to address the usage of appropriate forms.
- Section 418.114(b)(3)(i)(A), to address the Master of Social Work (MSW) requirement.
- Section 418.116(a), to require a hospice to have a license in accordance with State licensure laws.

In addition to the standards review, CMS also reviewed ACHC's comparable survey processes, which were conducted as described in section III. of this notice, and yielded the following areas where, as of the date of this notice, ACHC has completed revising its survey processes in order to demonstrate that it uses survey processes that are comparable to state survey agency processes by:

- Revising ACHC's survey process documentation to include both the 2012 editions of Life Safety Code (LSC) and Health Care Facilities Code (HCFC), and 2013 edition of the Fire Safety Evaluation System (FSES) NFPA 101A Fire Safety for Health Care Occupancies.
- Ensuring that all new ACHC LSC surveyors complete LSC Preceptor Evaluations in accordance with ACHC's surveyor training policy and have supporting records on file.
- Providing additional survey training to hospice surveyors on citing levels as it relates to the initial comprehensive assessment, for example standard versus conditional level to ensure compatibility with § 488.26(b).

B. Term of Approval

Based on our review and observations described in section III. and V. of this final notice, we find that ACHC has provided reasonable assurance that hospices accredited under the program will meet or exceed the applicable Medicare conditions or requirements. Therefore, we approve ACHC as a national accreditation organization for hospices that request participation in the Medicare program, effective from November 27, 2025 through November 27, 2031.

VI. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Mehmet Oz, having reviewed and approved this document, authorizes Vanessa Garcia, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Vanessa Garcia,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2026–06500 Filed 4–2–26; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2025–E–3073; FDA–2025–E–3074]

Determination of Regulatory Review Period for Purposes of Patent Extension; EMRELIS

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for EMRELIS and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–E–3073; and FDA–2025–E–3074 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; EMRELIS.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product EMRELIS (telisotuzumab vedotin). EMRELIS is indicated for the treatment of adult patients with locally advanced or metastatic, non-squamous non-small cell lung cancer (NSCLC) with high c-Met protein overexpression [≥50% of tumor cells with strong (3+) staining], as determined by an FDA-approved test, who have received a prior systemic therapy. This indication is approved under accelerated approval based on overall response rate (ORR) and duration of response (DOR). Continued approval for this indication may be contingent upon verification and description of clinical benefit in a confirmatory trial(s). Subsequent to this approval, the USPTO received patent term restoration applications for EMRELIS (U.S. Patent Nos. 10,383,948; 10,603,389) from AbbVie Manufacturing Management Unlimited Company.

AbbVie Manufacturing Management Unlimited Company and the USPTO requested FDA's assistance in determining these patents' eligibility for patent term restoration. In a letter dated October 15, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of EMRELIS represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for EMRELIS is 5,027 days. Of this time, 4,797 days occurred during the testing phase of the regulatory review period, while 230 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* August 11, 2011. AbbVie Manufacturing Management Unlimited Company claims that April 24, 2014, is the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 11, 2011, which was the first date after receipt of the IND that the investigational studies were allowed to proceed of an earlier IND.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* September 27, 2024. FDA has verified the applicant's claim that the biologics license application (BLA) for EMRELIS (BLA 761384) was initially submitted on September 27, 2024.

3. *The date the application was approved:* May 14, 2025. FDA has verified the applicant's claim that BLA 761384 was approved on May 14, 2025.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 727 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask

for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06480 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No FDA–2026–N–2740]

Agency Information Collection Activities; Proposed Collection; Comment Request; Customer/Partner Customer Service Satisfaction Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on customer service satisfaction surveys.

DATES: Either electronic or written comments on the collection of information must be submitted by June 2, 2026.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2026–N–2740 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Customer/Partner Customer Service Satisfaction Surveys.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Kelly Covington, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–402–5661, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of

information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Agency Information Collection Activities; Proposed Collection; Comment Request; Customer/Partner Customer Service Satisfaction Surveys

OMB Control Number 0910–0360—Extension

Under section 1003 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393), FDA is authorized to conduct research and public information programs about regulated products and responsibilities of the Agency. Executive Order 12862, entitled ''Setting Customer Service Standard,'' directs Federal Agencies that ''provide significant services directly to the public'' to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.'' FDA is seeking to extend OMB approval to conduct customer service satisfaction surveys to implement Executive Order 12862. Participation in the surveys is voluntary. This request covers customer/partner (including State and local governments) service satisfaction surveys of regulated entities, such as food processors; cosmetic, drug, biologic, and medical device manufacturers; animal drugs, animal food and feed; tobacco products; and consumers and health professionals.

FDA will use the information from these surveys to identify strengths and weaknesses in service to customers/partners and to make improvements. The surveys will measure timeliness, appropriateness, clarity, and accuracy of information, courtesy, and problem resolution in the context of individual programs.

FDA estimates conducting approximately 20 customer/partner service satisfaction surveys per year, each requiring an average of 25 minutes for review and completion. We estimate respondents to these surveys to be between 100 and 20,000 customers/partners. Some of these surveys will be repeats of earlier surveys for purposes of monitoring customer/partner service and developing long-term data. Respondents to this collection of information cover a broad range of stakeholders who have experience with certain products regulated by or services provided by FDA.

FDA estimates the burden of this collection of information as follows:

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Mail, telephone, web-based survey	85,000	1	85,000	.42 (25 minutes)	35,700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06482 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2025–E–0845; FDA–2025–E–0863; FDA–2025–E–0864; FDA–2025–E–0865; FDA–2025–E–0866; FDA–2025–E–0867; FDA–2025–E–0868; FDA–2025–E–0869; FDA–2025–E–0870; FDA–2025–E–0871; FDA–2025–E–0872]

Determination of Regulatory Review Period for Purposes of Patent Extension; VYLOY

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for VYLOY and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by

mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2025–E–0845; FDA–2025–E–0863; FDA–2025–E–0864; FDA–2025–E–0865; FDA–2025–E–0866; FDA–2025–E–0867; FDA–2025–E–0868; FDA–2025–E–0869; FDA–2025–E–0870; FDA–2025–E–0871 and FDA–2025–E–0872 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; VYLOY.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product VYLOY (zolbetuximab-clzb). VYLOY in combination with fluoropyrimidine and platinum-containing chemotherapy, is indicated for the first-line treatment of adults with locally advanced unresectable or metastatic human epidermal growth factor receptor 2 (HER2)-negative gastric or gastroesophageal junction (GEJ) adenocarcinoma whose tumors are claudin (CLDN) 18.2 positive as determined by an FDA-approved test. Subsequent to this approval, the USPTO received patent term restoration applications for VYLOY (U.S. Patent Nos. 9,212,228; 9,499,609; 9,751,934; 10,017,564; 10,022,444; 10,137,195; 10,174,104; 10,738,108; 10,813,996; 11,395,852; and 12,059,464) from Astellas Pharma Inc./TRON-Translationale Onkologie an der Universitästsmedizin der Johannes Gutenberg-Univeristät Mainz Gemeinnützige GmbH, and the USPTO requested FDA's assistance in determining these patents' eligibility for patent term restoration. In a letter dated June 27, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of VYLOY represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO

requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for VYLOY is 2,471 days. Of this time, 1,945 days occurred during the testing phase of the regulatory review period, while 526 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* January 14, 2018. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on January 14, 2018.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* May 12, 2023. FDA has verified the applicant's claim that the biologics license application (BLA) for VYLOY 9212228 (BLA 761365) was initially submitted on May 12, 2023.

3. *The date the application was approved:* October 18, 2024. FDA has verified the applicant's claim that BLA 761365 was approved on October 18, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 66; 671; 990; 1,028; 1,319; 1,340; 1,406; 1410; or 1,499 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06478 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–E–2328]

Determination of Regulatory Review Period for Purposes of Patent Extension; INJECTAFER

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for INJECTAFER and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–E–2328 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; INJECTAFER.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper

submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biological product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product, INJECTAFER (ferric carboxymaltose). INJECTAFER is indicated for the treatment of iron deficiency anemia in adult patients who have intolerance to oral iron or have had unsatisfactory response to oral iron; and who have non-dialysis dependent chronic kidney disease. After this approval, the USPTO received a patent term restoration application for INJECTAFER (U.S. Patent No. 7,612,109) from Vifor Internationasl, AG, and the USPTO requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 29, 2025, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of INJECTAFER represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for INJECTAFER is 3,450 days. Of this time, 853 days occurred during the testing phase of the regulatory review period, while 2,597 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(i)) became effective:* February 15, 2004. The applicant claims February 21, 2004, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was February 15, 2004, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the FD&C Act:* June 16, 2006. The applicant claims June 15, 2006, as the date the new drug application (NDA) for INJECTAFER (NDA 22054/203565) was initially submitted. However, FDA records indicate that NDA 22054/203565 was submitted on June 16, 2006.

3. *The date the application was approved:* July 25, 2013. FDA has verified the applicant's claim that NDA 22054/203565 was approved on July 25, 2013.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,267 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06483 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–E–0158]

Determination of Regulatory Review Period for Purposes of Patent Extension; HYMPAVZI

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for HYMPAVZI and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–E–0158 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; HYMPAVZI.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must

be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product HYMPAVZI (marstacimab-hncq). HYMPAVZI is indicated for routine prophylaxis to prevent or reduce the frequency of bleeding episodes in adult and pediatric patients 12 years of age and older with:

- hemophilia A (congenital factor VIII deficiency) without factor VIII inhibitors, or
- hemophilia B (congenital factor IX deficiency) without factor IX inhibitors.

Subsequent to this approval, the USPTO received a patent term restoration application for HYMPAVZI (U.S. Patent No. 10,550,200) from Pfizer Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 23, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of HYMPAVZI represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for HYMPAVZI is 2,858 days. Of this time, 2,491 days occurred during the testing phase of the regulatory review period, while 367 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* December 16, 2016. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on December 16, 2016.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* October 11, 2023. FDA has verified the applicant's claim that the biologics license application (BLA) for HYMPAVZI (BLA 761369) was initially submitted on October 11, 2023.

3. *The date the application was approved:* October 11, 2024. FDA has verified the applicant's claim that BLA 761369 was approved on October 11, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 462 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06481 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–E–1672]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENCELTO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ENCELTO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–E–1672 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ENCELTO.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ENCELTO (revakinagene taroretcel-lwey). ENCELTO is indicated for the treatment of adults with idiopathic macular telangiectasia type 2 (Mac Tel). Subsequent to this approval, the USPTO received a patent term restoration application for ENCELTO (U.S. Patent No. 10,195,140) from Neurotech USA, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 15, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ENCELTO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ENCELTO is 7,903 days. Of this time, 7,581 days occurred during the testing phase of the regulatory review period, while 322 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 18, 2003. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 18, 2003.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* April 18, 2024. FDA has verified the applicant's claim that the biologics license application (BLA) for ENCELTO (BLA 125798) was initially submitted on April 18, 2024.

3. *The date the application was approved:* March 5, 2025. FDA has verified the applicant's claim that BLA 125798 was approved on March 5, 2025.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 950 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must

comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06477 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–E–3626]

Determination of Regulatory Review Period for Purposes of Patent Extension; ENFLONSIA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ENFLONSIA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

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Written/Paper Submissions

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- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–E–3626 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ENFLONSIA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years

so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ENFLONSIA (clesrovimab-cfor). ENFLONSIA is indicated for the prevention of respiratory syncytial virus (RSV) lower respiratory tract disease in neonates and infants who are born during or entering their first RSV season. Subsequent to this approval, the USPTO received a patent term restoration application for ENFLONSIA (U.S. Patent No. 9,963,500) from Merck Sharp & Dohme LLC, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 15, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ENFLONSIA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ENFLONSIA is 2,956 days. Of this time, 2,713 days occurred during the testing phase of the regulatory review period, while 243 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* May 8, 2017. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on May 8, 2017.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* October 10, 2024. FDA has verified the applicant's claim that the biologics license application (BLA) for ENFLONSIA (BLA 761432) was initially submitted on October 10, 2024.

3. *The date the application was approved:* June 9, 2025. FDA has verified the applicant's claim that BLA 761432 was approved on June 9, 2025.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 955 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

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Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06479 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2025–E–0372]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZIIHERA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for ZIIHERA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect must submit either electronic or written comments and ask for a redetermination by June 2, 2026. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by September 30, 2026. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 2, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

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• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2025–E–0372 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; ZIIHERA.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Patrick Clouser, Office of the Commissioner, Food and Drug Administration, 12420 Parklawn Drive, Rockville, MD 20852, 240–402–5276.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product ZIIHERA (zanidatamab-hrii). ZIIHERA is indicated for the treatment of adults with previously treated, unresectable or metastatic HER2-positive (IHC 3+) biliary tract cancer (BTC), as detected by an FDA-approved test. This indication is approved under accelerated approval based on overall response rate and duration of response. Continued approval for this indication may be contingent upon verification and description of clinical benefit in a confirmatory trial(s). Subsequent to this approval, the USPTO received a patent term restoration application for ZIIHERA (U.S. Patent No. 10,000,576) from Zymeworks BC Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated October 8, 2025, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of ZIIHERA represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for ZIIHERA is 3,038 days. Of this time, 2,801 days occurred during the testing phase of the regulatory review period, while 237 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 29, 2016. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on July 29, 2016.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (42 U.S.C. 262):* March 29, 2024. The applicant claims December 15, 2023, as the date the biologics license application (BLA) for ZIIHERA (BLA 761416) was initially submitted. However, FDA records indicate that BLA 761416 was submitted on March 29, 2024.

3. *The date the application was approved:* November 20, 2024. The applicant claims November 21, 2024, as the date the biologics license application was approved. However, FDA records indicate that BLA 761416 was approved on November 20, 2024.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,346 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–06476 Filed 4–2–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) is issuing this notice to revise its Statement of Organization, Functions, and Delegations of Authority for the Office of the Secretary (OS). This reorganization removes the Office of the Chief Information Officer (OCIO) from the organizational description for the Office of the Assistant Secretary for Administration (ASA), and establishes the OCIO as a stand-alone organization that reports directly to the Secretary and Deputy Secretary. These changes supersede the OCIO-related organizational language contained in the notice published at 74 FR 57747 (November 9, 2009) (document number E9–26963) and any subsequent amendments, as well as corresponding OCIO references in the Assistant Secretary for Administration **Federal Register** notice published at 90 FR 3655 (January 10, 2025) (document number 2025–00382).

DATES: This reorganization is effective upon date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bobby D. Flanders, Jr., Office of the Chief Information Officer, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201, telephone: 202–969–3622, email: *bobby.flanders@hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Office of the Assistant Secretary for Administration (ASA)

Under the heading ''Office of the Assistant Secretary for Administration'' in the **Federal Register** notice published at 90 FR 3655 (January 10, 2025) (document number 2025–00382), all references to the ''Office of the Chief Information Officer'' (OCIO), including its subcomponents, functions, and delegations, are removed.

Any functions, responsibilities, or delegations previously assigned to OCIO under the ASA are reassigned to the Office of the Chief Information Officer established in Section II of this notice.

II. Office of the Chief Information Officer (OCIO)

A. Mission

The Office of the Chief Information Officer (OCIO) is established within the Office of the Secretary as an independent organization that reports directly to the Secretary and Deputy Secretary. OCIO supports the HHS mission by leading the development, modernization, and secure operation of enterprise information technology across the Department; setting strategy and governance for IT, data, cybersecurity, and artificial intelligence; and delivering shared technology capabilities that enable HHS programs to focus on their unique missions while providing better, more efficient, and more affordable services to the American people.

B. Organization

The Office of the Chief Information Officer (OCIO) is led by the Chief Information Officer (CIO). The Deputy Chief Information Officer (DCIO), the Chief Technology Officer (CTO), who leads the Office of the Chief Technology Officer (OCTO), and the Chief Artificial Intelligence Officer (CAIO), who leads the Office of the Chief Artificial Intelligence Officer (OCAIO), report directly to the CIO.

The OCIO consists of the following components:

1. Immediate Office (AO1)
2. Office of Information Security (AO2)
3. Office of Operations (AO3)
4. Office of HR IT Modernization (AO4)
5. Office of the Chief Data Officer (AO5)
6. Office of the Chief Technology Officer (AO6)
7. Office of the Chief Artificial Intelligence Officer (AO7)

The Executive Officer (XO), who leads the Immediate Office (IO); the Chief Data Officer (CDO), who leads the Office of the Chief Data Officer (OCDO); the Chief Information Security Officer (CISO) and Executive Director, Office of Information Security (OIS), who leads OIS; the Executive Director, Operations (Ops), who leads Ops; and the Executive Director, HR IT Modernization, who leads HRITMod, all report to the DCIO.

C. Functions

1. Immediate Office (AO1)

The Immediate Office (IO), led by the Executive Officer (XO), provides executive leadership, strategic planning, and overall management of OCIO. The IO leads enterprise-wide IT governance; coordinates with HHS Operating Divisions and Staff Divisions; and manages budget formulation and

execution, acquisitions strategy and oversight for department-wide IT investments (including category management, major investment governance, and vendor management), and other business operations for OCIO. The IO also provides policy development and review, communications and stakeholder engagement, audit liaison and enterprise risk management coordination, and support for Department-wide IT data calls, reporting, and related cross-cutting initiatives on behalf of the Chief Information Officer.

2. Office of Information Security (AO2)

The Office of Information Security (OIS), led by the Chief Information Security Officer (CISO) and Executive Director, OIS, serves as the central organization for HHS cybersecurity and information security risk management. OIS develops and implements department-wide information security policies and standards; oversees implementation of Federal information security and cybersecurity requirements; conducts security operations, continuous monitoring, and incident response; and provides security engineering, guidance, and oversight for HHS systems and networks. OIS also provides leadership for privacy and information management, including collaboration with privacy officials on safeguarding sensitive information; coordinates department-wide activities related to information collection under the Paperwork Reduction Act; and oversees records management policy and guidance for information and IT resources, in alignment with applicable law and HHS policy. In addition, OIS supports Health Sector cybersecurity coordination and information sharing activities to help protect critical health and public health sector infrastructure.

3. Office of Operations (AO3)

The Office of Operations (Ops), led by the Executive Director, Ops, is responsible for planning, delivering, and sustaining enterprise IT infrastructure and shared services that support HHS missions. Ops designs, builds, and operates enterprise networks, data centers, cloud and platform environments, identity and access management services, collaboration and mobility solutions, and end-user computing services; manages IT service management processes, performance, and resilience; and leads continuity of operations and disaster recovery planning for enterprise IT services. Ops also provides engineering, deployment, and lifecycle management of shared technology platforms; supports modernization and optimization of infrastructure and hosting; and delivers integrated operational support to HHS Operating and Staff Divisions to promote reliable, secure, and cost-effective IT service delivery.

4. Office of HR IT Modernization (AO4)

The Office of HR IT Modernization (HRITMod), led by the Executive Director, HR IT Modernization, provides leadership for modernizing enterprise human resources information technology. HRITMod collaborates with HHS human resources and IT stakeholders to plan and manage HR IT transformation efforts; supports implementation, integration, and optimization of HR IT systems and services; and promotes continuous improvement of HR technology solutions that align with Departmental IT, data, and security frameworks and support workforce management and employee services.

5. Office of the Chief Data Officer (AO5)

The Office of the Chief Data Officer (OCDO), led by the Chief Data Officer, provides Department-wide leadership for data strategy and governance. OCDO develops and oversees HHS-wide data policies, standards, and governance frameworks; promotes effective, lawful, and ethical use of data to support HHS programs, public health, research, and decision-making; and advances data interoperability and data-sharing consistent with applicable privacy and security requirements. OCDO also supports enterprise data architecture, data cataloging, and metadata practices, and coordinates cross-cutting activities related to analytical, statistical, and geospatial data in collaboration with HHS Operating and Staff Divisions and other senior officials.

6. Office of the Chief Technology Officer (AO6)

The Office of the Chief Technology Officer (OCTO), led by the Chief Technology Officer, provides strategic leadership on emerging technologies and digital innovation for HHS. OCTO advises on enterprise technology direction and standards; collaborates with HHS components to identify, explore, and support innovative technology approaches and pilot initiatives; and promotes the use of modern digital, cloud, and platform capabilities to enhance HHS programs and services, in coordination with the Chief Information Officer and other senior officials.

7. Office of the Chief Artificial Intelligence Officer (AO7)

The Office of the Chief Artificial Intelligence Officer (OCAIO), led by the Chief Artificial Intelligence Officer, provides Department-wide leadership for artificial intelligence strategy and governance. OCAIO develops and coordinates policies and guidance for responsible and trustworthy use of AI; supports planning and implementation of AI capabilities that advance HHS missions; and works with HHS components and other senior officials to integrate AI considerations into enterprise information, data, and technology management frameworks, in alignment with applicable Federal requirements and Departmental priorities.

III. Delegations of Authority

All delegations of authority to the HHS Chief Information Officer and to OCIO that were previously issued under the Office of the Assistant Secretary for Administration are unaffected by this reorganization and are deemed to be delegations to the Office of the Chief Information Officer established by this notice, unless otherwise modified or revoked.

The Secretary delegates to the Chief Information Officer the authority to carry out the functions described in this notice and as otherwise assigned under applicable law and HHS policy.

Robert F. Kennedy Jr.,

Secretary, U.S. Department of Health and Human Services.

[FR Doc. 2026–06549 Filed 4–2–26; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: May 12, 2026.

Time: 8:05 a.m. to 5:40 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institute on Drug Abuse, NIH Biomedical Research Center, 251 Bayview Boulevard, Baltimore, MD 21224.

Meeting Format: Virtual Meeting.

Contact Person: Megan E. Bollinger, M.S., Management Analyst, Office of the Scientific Director, National Institute on Drug Abuse, 251 Bayview Boulevard, Suite 200, Baltimore, MD 21224, (443) 740–2466, *Megan.Bollinger@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 31, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06485 Filed 4–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases (NIAID), an institute of the National Institutes of Health (NIH), Department of Health and Human Services (HHS), is giving notice of the invention listed below, which is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Inquiries related to this licensing opportunity should be directed to: Benjamin Hurley at 240–276–5489, or *benjamin.hurley@nih.gov*. Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852: tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION: Technology description follows:

Human Antibodies With Anti-Lymphocyte Specificities and Lytic Activity

Description of Technology

Antibody therapies that target human B cells are a promising way to treat diseases like B-cell cancers and autoimmune conditions like lupus and multiple sclerosis. Traditionally, these antibodies are made in animals and modified to resemble human antibodies to reduce immune rejection. Researchers in the Laboratory of Immunoregulation (LIR) at the National Institute of Allergy and Infectious Diseases (NIAID) have developed a new approach of using blood plasma from a patient with the rare immune disorder idiopathic CD4 lymphocytopenia (ICL) to find naturally occurring human antibodies.

By using advanced genetic sequencing, the researchers discovered and reproduced several new antibodies that could effectively attack and kill B-cell tumors, normal B cells, and T cells, demonstrating potential for eliminating cancerous or disease-causing immune cells. One potent antibody, NIH58.9, killed B cells at low concentrations of 0.01 nanomolar. These new antibodies may be used as treatments, combined with other therapies, or engineered into special formats like bispecific antibodies or antibody-drug conjugates.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications

- Development of monoclonal antibody therapies, bispecific antibodies, and antibody-targeted drugs for use in organ transplantation, B-cell lymphomas, and autoimmune conditions.

Competitive Advantages

- First fully human IgM antibody that binds to and kills B cells at concentrations as low as 0.01Nm.
- Versatile antibody that may be used directly, engineered as IgG1 antibody, and possibly developed into bispecifics or antibody-drug conjugates.

Development Stage

- Pre-Clinical

Inventors: Dr. Ainhoa Pérez-Díez, Dr. Irini Sereti, both of NIAID.

Intellectual Property: HHS Reference No. E–025–2025. U.S. Provisional Patent Application 63/787,190, filed on April 11, 2025.

Licensing Contact: To license this technology, please contact Benjamin Hurley at 240–276–5489, or *benjamin.hurley@nih.gov,* and reference E–025–2025.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. For collaboration opportunities, please contact Benjamin Hurley at 240–276–5489, or *benjamin.hurley@nih.gov.*

Dated: March 31, 2026.

Surekha Vathyam,

Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2026–06501 Filed 4–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–AG–26–014: Aging Mammalian Tissues In Vitro (R21).

Date: April 28, 2026.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Kaitlyn N. Hardell, MPH, Ph.D., Center for Scientific Review, National

Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3328, *kaitlyn.hardell@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Oral, Dental and Craniofacial Sciences.

Date: April 29, 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: Amber Taylor Collins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5245, *amber.collins@nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: April 29, 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: Maddalena Tilli Shiffert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 710P, Bethesda, MD 20892, (301) 594–4257, *shiffertmt@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Institutional Training and Education Review Panel.

Date: April 29–30, 2026.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, 9609 Medical Center Drive, Room 7W116, National Cancer Institute, Rockville, MD 20892–9750, (240) 276–5413, *klaus.piontek@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Mental Health and Alzheimer's Disease & Related Dementias (ADRD) Interventions and Outcomes.

Date: April 29–30, 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: Karin Eyrich Garg, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20892, *karin.garg@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Environmental Influences in Pregnancy and Offspring Health.

Date: April 29, 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: Nijaguna Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5197, *prasadnb@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Career Development Grants in Clinical Care, Disease Management and HIV/AIDS.

Date: April 29, 2026.

Time: 9:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Xinli Nan, MD, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7784, *Xinli.Nan@nih.gov*.

Name of Committee: Social and Community Influences on Health Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.

Date: April 29, 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: Abigail Alexander Haydon, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 435–4806, *haydonaba@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Limited Competition Training Grants for the Clinical and Translational Science Awards (CTSA) Program.

Date: April 29, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Priya Srinivasan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 276–6459, *priya.srinivasan@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Surgery, and Cardiology.

Date: April 29, 2026.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Evon Sami Abisaid, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (227) 259–7968, *evon.abisaid@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA/REAP and SuRE/SuRE-First: Cardiovascular and Respiratory Sciences.

Date: April 29, 2026.

Time: 1:00 p.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: Rupali Das, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0023, *rupali.das@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: HIV/AIDS Behavioral Applications.

Date: April 29, 2026.

Time: 2:31 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Xinli Nan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7784, *Xinli.Nan@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: April 1, 2026.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06551 Filed 4–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neuromodulation and Imaging of Neuronal Circuits Study Section, April 16, 2026, 09:00 a.m. to April 17, 2026, 06:00 p.m., National

Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on March 27, 2026, FR Doc No. 2026–059579, FR 14861.

This meeting is being amended to change the meeting date from April 16th–April 17th 2026 to July 9th–July 10th 2026. The meeting is closed to the public.

Dated: March 31, 2026,

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–06486 Filed 4–2–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

DEPARTMENT OF THE ARMY

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF COMMERCE

Endangered Species Committee

AGENCY: Office of the Secretary, Interior; Department of the Army; Environmental Protection Agency; Department of Agriculture; Council of Economic Advisors, Executive Office of the President; Department of Commerce.

ACTION: Notice.

SUMMARY: The Endangered Species Committee held a public meeting on Tuesday, March 31, 2026, in Washington, DC, to address the Secretary of War's finding that it is necessary for reasons of national security to exempt Gulf of America Oil and Gas Activities (defined below) from the requirements of the Endangered Species Act. By unanimous vote, the Committee exempted under section 7(h) of the Endangered Species Act the Gulf of America Oil and Gas Activities, which include the avoidance or minimization measures described in the National Marine Fisheries Service's (NMFS) 2025 biological opinion and in the U.S. Fish and Wildlife Service's (FWS) 2018 and 2025 consultation decisions.

SUPPLEMENTARY INFORMATION: A notice in the March 16, 2026 **Federal Register**, 91 FR 12672, advised that the Secretary of the Interior, who is also the Chairman of the Endangered Species Committee, had called a meeting of the Endangered Species Committee for Tuesday, March 31, 2026, in Washington, DC, with the meeting open to the public through livestreaming.

Decision

On March 13, 2026, the Chairman of the Endangered Species Committee received from the Secretary of War a March 13, 2026 Letter regarding the Endangered Species Act. The Secretary of War notified the Chairman that he found it necessary for reasons of national security that the Endangered Species Committee grant an exemption from the Endangered Species Act's requirements for the agency action reviewed in NMFS's 2025 biological opinion and in FWS's 2018 and 2025 consultation decisions. That agency action is defined in the Secretary of War's National Security Findings (paragraphs 90 and 103) and covers all oil and gas exploration, development, and production activities associated with the Bureau of Ocean Energy Management's (BOEM) and the Bureau of Safety and Environmental Enforcement's (BSEE) Outer Continental Shelf Oil and Gas Program.[1] The agency action is referred to here as ''Gulf of America Oil and Gas Activities.'' The Gulf of America Oil and Gas Activities include both the oil and gas exploration, development, and production activities, as well as the avoidance or minimization measures that are described in the agency action analyzed in NMFS's 2025 biological opinion and in FWS's 2018 and 2025 consultation decisions.

Section 7(j) of the Endangered Species Act provides: ''Notwithstanding any other provision of this chapter, the Committee shall grant an exemption for any agency action if the Secretary of [War] finds that such exemption is necessary for reasons of national security.'' 16 U.S.C. 1536(j). The Secretary of War, after making this finding, requested that the Chairman convene a meeting of the Endangered Species Committee as soon as practicable to grant an exemption to safeguard and protect the national security. The Chairman then called a meeting for March 31, 2026, and the Committee convened that day.

Based on the Secretary of War's National Security Findings, the Committee grants pursuant to section 7(h) an exemption from the requirements of the Endangered Species Act for Gulf of America Oil and Gas Activities. 16 U.S.C. 1536(h). With this exemption, the federal agencies implementing the Gulf of America Oil and Gas Activities are not required to comply with the section 7(a)(2) procedural consultation and substantive ''jeopardy'' and ''adverse modification'' mandates when they authorize, fund, or carry out covered agency actions. 16 U.S.C. 1536(h). Further, any action that would ordinarily be considered a take shall not be prohibited under the Endangered Species Act. 16 U.S.C. 1536(o)(1). This exemption applies to the full scope of the Gulf of America Oil and Gas Activities, and for the duration of those actions. Because the covered agency action includes robust avoidance or minimization measures, those measures shall continue to be implemented under this Order.

The Committee recognizes that the Endangered Species Act sets out a process for the Committee to consider an application for an exemption and standards for the Committee to apply when considering an application. 16 U.S.C. 1536(g), (h)(1). The Committee concludes that these other provisions of Section 7, including the application requirements and standards, do not apply when the Secretary of War finds that an exemption is necessary for reasons of national security. When the Secretary of War makes such a finding, the statute and regulations require the Committee to grant an exemption ''[n]otwithstanding any other provision of this chapter.'' 16 U.S.C. 1536(j); 50 CFR 453.03(d). ''[A]ny other provision'' includes the application requirements and standards, and all other provisions in the Endangered Species Act.

The Endangered Species Act also states: ''If the Committee determines under subsection (h) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) which shall be carried out and paid for by the exemption applicant in implementing the agency action.'' 16 U.S.C. 1536(*l*)(1). The Order need not specify any such mitigation and enhancement measures here because the application and other related requirements do not apply. The mitigation-and-enhancement requirement contemplates an application and an ''exemption applicant,'' which are not present in this situation where the Secretary of War determines that an exemption is necessary for reasons of national security. But even if the requirement applied, it would be satisfied here based on mitigation measures included in the Secretary of War's findings. Specifically, the agency action that is the subject of the Secretary of War's findings includes the avoidance or minimization measures described in NMFS's 2025 biological

[1] The Secretary of War attached his National Security Findings to the March 13 Letter that he sent to the Chairman.

opinion and in FWS's 2018 and 2025 consultation documents.

The Committee understands that any person may obtain judicial review of this decision, which is made under 16 U.S.C. 1536(h), ''in the United States Court of Appeals for . . . any circuit wherein the agency action concerned will be, or is being, carried out.'' 16 U.S.C. 1536(n). Here, the agency action is being carried out in the federal waters of the Gulf of America and state waters and lands, including coastal areas, ports, airspaces, and waterways, which means that a person may obtain judicial review exclusively in the U.S. Courts of Appeals for the Fifth or Eleventh Circuits. If this decision is challenged in litigation, the Committee designates attorneys at the U.S. Department of Justice to appear for and represent the Committee. 16 U.S.C. 1536(n).

Order

On the basis of the decision and findings stated above, the Committee grants an exemption for Gulf of America Oil and Gas Activities, which include the avoidance or minimization measures described in NMFS's 2025 biological opinion and in FWS's 2018 and 2025 consultation decisions.

This decision and order are effective immediately.

Dated: March 31, 2026.

Doug Burgum,

Secretary of the Interior.

Dan Driscoll,

Secretary of the Army.

Lee Zeldin,

Administrator of Environmental Protection Agency.

Brooke Rollins,

Secretary of Agriculture.

Pierre Yared,

Acting Chairman of the Council of Economic Advisors.

Neil Jacobs,

Under Secretary of Commerce for Oceans and Atmosphere and National Oceanic Atmospheric Administration Administrator.

[FR Doc. 2026–06458 Filed 4–2–26; 8:45 am]

BILLING CODE 4334–63–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–767 and 731–TA–1750 (Final)]

L-Lysine From China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–767 and 731–TA–1750 (Final) pursuant to the Tariff Act of 1930 to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of animal feed-grade l-lysine from China, provided for in subheading 2922.41.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.

DATES: March 6, 2026.

FOR FURTHER INFORMATION CONTACT: Caitlyn Costello ((202) 205–2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as ''. . . animal feed grade L-lysine (lysine). Lysine is an essential amino acid added to animal feed that is used in the biosynthesis of proteins. The scope covers lysine regardless of form, including lysine monohydrochloride, also referred to as lysine HCL, lysine sulfate, and liquid lysine. The scope includes lysine that has been coated or encapsulated for use with ruminants to ensure bioavailability.

Lysine HCL in the dry form has the molecular formula $C_6 H_{14} N_2 O_2$ HCl. The Chemical Abstracts Service (CAS) registry number for lysine HCL is 657–27–2. Lysine HCL contains a minimum of 78 percent lysine by weight, as well as additional amino acids, carbohydrates, mineral salts, and organic acids. Lysine sulfate is the sulfate salt of lysine, and in the dry form it has the molecular formula $C_6 H_{16} N_2 O_6$ S. The CAS registry number for lysine sulfate is 60343–69–3. Lysine sulfate typically contains approximately 40–70 percent lysine by weight, as well as additional amino acids, carbohydrates, mineral salts, and organic acids. Liquid lysine is a concentrated form of lysine in an aqueous solution with the molecular formula $C_6 H_{14} N_2 O_2$. The CAS registry number for liquid lysine is 56–87–1. Liquid lysine normally contains at least 50 percent lysine by weight, as well as additional amino acids, carbohydrates, mineral salts, and organic acids.

The scope includes animal feed grade lysine that is combined with other products, including for example, by mixing, blending, compounding, or granulating (*e.g.,* base mixes, premixes, and concentrates). For such combined products, only the lysine component is covered by the scope of this investigation.

Subject merchandise also includes lysine that has been processed in a third country, including by commingling, diluting, adding or removing additives, refining, converting from liquid to dry or dry to liquid form, coating or encapsulating, or performing any processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country . . .''

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of animal feed-grade l-lysine, and that such products are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on May 28, 2025, by Archer Daniels Midland Company, Chicago, IL (''ADM''), CJ Bio America, Inc. an Iowa corporation (''CJ America''), and Evonik Corporation, Piscataway, NJ (''Evonik'').

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to

participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 30, 2026, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, July 14, 2026. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Thursday, July 9, 2026. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Friday, July 10, 2026. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on July 13, 2026. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is July 7, 2026. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 22, 2026. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 22, 2026. On August 11, 2026, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 13, 2026, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: April 1, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06529 Filed 4–2–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–752 and 731–TA–1730 (Final)]

Active Anode Material from China; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that the establishment of an industry in the United States is not materially retarded by reason of imports of active anode material from China, provided for in subheadings 2504.10.10, 2504.10.50, 3801.10.50, and 3801.90.00 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be subsidized and sold

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

in the United States at less than fair value (''LTFV'').[2] [3]

Background

The Commission instituted these investigations effective December 18, 2024, following receipt of petitions filed with the Commission and Commerce by the American Active Anode Material Producers, the members of which are Anovion Technologies, Sanborn, New York; Syrah Technologies LLC, Vidalia, Louisiana; NOVONIX Anode Materials LLC, Chattanooga, Tennessee; Epsilon Advanced Materials, Leland, North Carolina; and SKI US, Inc., Marietta, Georgia. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of active anode material from China were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on August 13, 2025 (90 FR 38993).[4] The Commission conducted its hearing on February 12, 2026. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on March 31, 2026. The views of the Commission are contained in USITC Publication 5719 (March 2026), entitled *Active Anode Material from China: Investigation Nos. 701–TA–752 and 731–TA–1730 (Final).*

By order of the Commission.

Issued: March 31, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–06488 Filed 4–2–26; 8:45 am]

BILLING CODE 7020–02–P

[2] 90 FR 22465, May 28, 2025, and 90 FR 34423, July 22, 2025.

[3] Commissioner Jason E. Kearns dissenting.

[4] Due to the lapse in appropriations and ensuing cessation of Commission operations, the Commission tolled its schedule for this proceeding. The schedule was revised in a subsequent notice published in the **Federal Register** on December 11, 2025 (90 FR 57484).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1699]

Importer of Controlled Substances Application: Blue Rabbit Veterinary LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Blue Rabbit Veterinary LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 4, 2026. Such persons may also file a written request for a hearing on the application on or before May 4, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 23, 2026, Blue Rabbit Veterinary LLC, 405 Heron Drive, Suite 300, Swedesboro, New Jersey 08085–1749, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Etorphine HCL	9059	II
Thiafentanil	9729	II

The company plans to import the listed controlled substances for sale to their customers (veterinarians). No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06520 Filed 4–2–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1700]

Importer of Controlled Substances Application: Lipomed/LGC Standards

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Lipomed/LGC Standards has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before May 4, 2026. Such persons may also file a written request for a hearing on the application on or before May 4, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public

view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 11, 2026, Lipomed/LGC Standards, 150 Cambridgepark Drive, Suite 705, Cambridge, Massachusetts 02140–2300, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
3-Fluoro-N-methylcathinone (3-FMC)	1233	I
Cathinone	1235	I
Methcathinone	1237	I
4-Fluoro-N-methylcathinone (4-FMC)	1238	I
Para-Methoxymethamphetamine (PMMA), 1-(4-methoxyphenyl)-N-methylpropan-2-amine	1245	I
Pentedrone (α-methylaminovalerophenone)	1246	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
4-Methyl-N-ethylcathinone (4-MEC)	1249	I
Naphyrone	1258	I
N-Ethylamphetamine	1475	I
N,N-Dimethylamphetamine	1480	I
Fenethylline	1503	I
Aminorex	1585	I
4-Methylaminorex (cis isomer)	1590	I
4,4′-Dimethylaminorex (4,4′-DMAR; 4,5-dihydro-4-methyl-5-(4-methylphenyl)-2-oxazolamine; 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine).	1595	I
Gamma Hydroxybutyric Acid	2010	I
Methaqualone	2565	I
Mecloqualone	2572	I
Etizolam (4-(2-chlorophenyl)-2-ethyl-9-methyl-6H-thieno[3,2-f][1,2,4]triazolo[4,3-a][1,4]diazepine	2780	I
Flualprazolam (8-chloro-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine)	2785	I
Clonazolam (6-(2-chlorophenyl)-1-methyl-8-nitro-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2786	I
Flubromazolam (8-bromo-6-(2-fluorophenyl)-1-methyl-4H-benzo[f][1,2,4]triazolo[4,3-a][1,4]diazepine	2788	I
Diclazepam (7-chloro-5-(2-chloro-5-(2-chlorophenyl)-1-methyl-1,3-dihydro-2H-benzo[e][1,4]diazepin-2-one	2789	I
JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl) indole)	6250	I
SR-18 (Also known as RCS-8) (1-Cyclohexylethyl-3-(2-methoxyphenylacetyl) indole)	7008	I
ADB-FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7010	I
5-Fluoro-UR-144 and XLR11 ([1-(5-Fluoro-pentyl)1H-indol-3-yl] (2,2,3,3-tetramethylcyclopropyl)methanone)	7011	I
AB-FUBINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide)	7012	I
(1-(4-Fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone	7014	I
JWH-019 (1-Hexyl-3-(1-naphthoyl) indole)	7019	I
MDMB-FUBINACA (Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7020	I
FUB-AMB, MMB-FUBINACA, AMB-FUBINACA (2-(1-(4-fluorobenzyl)-1Hindazole-3-carboxamido)-3-methylbutanoate)	7021	I
AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-)3-carboxamide	7023	I
THJ-2201 ([1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone)	7024	I
5F-AB-PINACA (N-(1-amino-3methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7025	I
AB-CHMINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7031	I
MAB-CHMINACA (N-(1-amino-3,3dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide)	7032	I
5F-AMB (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate)	7033	I
5F-ADB; 5F-MDMB-PINACA (Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate)	7034	I
ADB-PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide)	7035	I
Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido) 3,3-dimethylbutanoate)	7036	I
Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate	7041	I
MDMB-CHMICA, MMB-CHMINACA (Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate)	7042	I
MMB-CHMICA, AMB-CHMICA (methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate)	7044	I
N-(Adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboximide)	7047	I
APINACA and AKB48 (N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide)indazole-3-carboxamide)	7048	I
5F-APINACA, 5F-AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide)	7049	I
JWH-081 (1-Pentyl-3-(1-(4-methoxynaphthoyl) indole)	7081	I
1-(5-Fluoropentyl)-1H-indazole-3-carboxamide	7083	I
5F-CUMYL-P7AICA (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide)	7085	I
4-CN-CUMYL-BUTINACA, 4-cyano-CUMYL-BUTINACA, 4-CN-CUMYL BINACA, CUMYL-4CN-BINACA, SGT-78 (1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboximide).	7089	I
SR-19 (Also known as RCS-4) (1-Pentyl-3-[(4-methoxy)-benzoyl] indole)	7104	I
JWH-018 (also known as AM678) (1-Pentyl-3-(1-naphthoyl)indole)	7118	I
JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl) indole)	7122	I
UR-144 (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone)	7144	I
JWH-073 (1-Butyl-3-(1-naphthoyl)indole)	7173	I
JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)indole)	7200	I
AM2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl) indole)	7201	I
JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl) indole)	7203	I
NM2201, CBL2201 (Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7221	I
PB-22 (Quinolin-8-yl 1-pentyl-1H-indole-3-carboxylate)	7222	I

Controlled substance	Drug code	Schedule
5F-PB-22 (Quinolin-8-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate)	7225	I
4-methyl-alpha-ethylaminopentiophenone (4-MEAP)	7245	I
N-ethylhexedrone	7246	I
Alpha-ethyltryptamine	7249	I
Ibogaine	7260	I
2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (methoxetamine)	7286	I
CP-47,497 (5-(1,1-Dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl-phenol)	7297	I
CP-47,497 C8 Homologue (5-(1,1-Dimethyloctyl)-2-[(1R,3S)3-hydroxycyclohexyl]-phenol)	7298	I
Lysergic acid diethylamide	7315	I
2,5-Dimethoxy-4-(n)-propylthiophenethylamine (2C-T-7)	7348	I
Marihuana extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Parahexyl	7374	I
Mescaline	7381	I
2C-T-2, (2-(4-Ethylthio-2,5-dimethoxyphenyl) ethanamine)	7385	I
3,4,5-Trimethoxyamphetamine	7390	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
4-Methyl-2,5-dimethoxyamphetamine	7395	I
2,5-Dimethoxyamphetamine	7396	I
JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl) indole)	7398	I
2,5-Dimethoxy-4-ethylamphetamine	7399	I
3,4-Methylenedioxyamphetamine	7400	I
5-Methoxy-3,4-methylenedioxyamphetamine	7401	I
N-Hydroxy-3,4-methylenedioxyamphetamine	7402	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Alpha-methyltryptamine	7432	I
Bufotenine	7433	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
4-chloro-alpha-pyrrolidinovalerophenone (4-chloro-a-PVP)	7443	I
N-Ethyl-1-phenylcyclohexylamine	7455	I
1-(1-Phenylcyclohexyl)pyrrolidine	7458	I
1-[1-(2-Thienyl)cyclohexyl]piperidine	7470	I
1-[1-(2-Thienyl)cyclohexyl]pyrrolidine	7473	I
N-Ethyl-3-piperidyl benzilate	7482	I
N-Methyl-3-piperidyl benzilate	7484	I
N-Benzylpiperazine	7493	I
4-MePPP (4-Methyl-alphapyrrolidinopropiophenone)	7498	I
2C-D (2-(2,5-Dimethoxy-4-methylphenyl) ethanamine)	7508	I
2C-E (2-(2,5-Dimethoxy-4-ethylphenyl) ethanamine)	7509	I
2C-H (2-(2,5-Dimethoxyphenyl) ethanamine)	7517	I
2C-I (2-(4-iodo-2,5-dimethoxyphenyl) ethanamine)	7518	I
2C-C (2-(4-Chloro-2,5-dimethoxyphenyl) ethanamine)	7519	I
2C-N (2-(2,5-Dimethoxy-4-nitro-phenyl) ethanamine)	7521	I
2C-P (2-(2,5-Dimethoxy-4-(n)-propylphenyl) ethanamine)	7524	I
2C-T-4 (2-(4-Isopropylthio)-2,5-dimethoxyphenyl) ethanamine)	7532	I
MDPV (3,4-Methylenedioxypyrovalerone)	7535	I
25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7536	I
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7537	I
25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)	7538	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Butylone	7541	I
Pentylone	7542	I
N-Ethylpentylone, ephylone (1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one)	7543	I
α-PHP, alpha-Pyrrolidinohexanophenone	7544	I
α-PVP (alpha-pyrrolidinopentiophenone)	7545	I
α-PBP (alpha-pyrrolidinobutiophenone)	7546	I
Ethylone	7547	I
PV8, alpha-Pyrrolidinoheptaphenone	7548	I
AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl) indole)	7694	I
Acetyldihydrocodeine	9051	I
Benzylmorphine	9052	I
Codeine-N-oxide	9053	I
Cyprenorphine	9054	I
Desomorphine	9055	I
Etorphine (except HCl)	9056	I

Controlled substance	Drug code	Schedule
Codeine methylbromide	9070	I
Brorphine (1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one)	9098	I
Dihydromorphine	9145	I
Difenoxin	9168	I
Heroin	9200	I
Hydromorphinol	9301	I
Methyldesorphine	9302	I
Methyldihydromorphine	9304	I
Morphine methylbromide	9305	I
Morphine methylsulfonate	9306	I
Morphine-N-oxide	9307	I
Myrophine	9308	I
Nicocodeine	9309	I
Nicomorphine	9312	I
Normorphine	9313	I
Pholcodine	9314	I
Thebacon	9315	I
Acetorphine	9319	I
Drotebanol	9335	I
U-47700 (3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide)	9547	I
AH-7921 (3,4-dichloro-N-[(1-dimethylamino)cyclohexylmethyl]benzamide))	9551	I
MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine))	9560	I
Acetylmethadol	9601	I
Allylprodine	9602	I
Alphacetylmethadol except levo-alphacetylmethadol	9603	I
Alphameprodine	9604	I
Alphamethadol	9605	I
Benzethidine	9606	I
Betacetylmethadol	9607	I
Betameprodine	9608	I
Betamethadol	9609	I
Betaprodine	9611	I
Clonitazene	9612	I
Dextromoramide	9613	I
Diampromide	9615	I
Diethylthiambutene	9616	I
Dimenoxadol	9617	I
Dimepheptanol	9618	I
Dimethylthiambutene	9619	I
Dioxaphetyl butyrate	9621	I
Dipipanone	9622	I
Ethylmethylthiambutene	9623	I
Etonitazene	9624	I
Etoxeridine	9625	I
Furethidine	9626	I
Hydroxypethidine	9627	I
Ketobemidone	9628	I
Levomoramide	9629	I
Levophenacylmorphan	9631	I
Morpheridine	9632	I
Noracymethadol	9633	I
Norlevorphanol	9634	I
Normethadone	9635	I
Norpipanone	9636	I
Phenadoxone	9637	I
Phenampromide	9638	I
Phenoperidine	9641	I
Piritramide	9642	I
Proheptazine	9643	I
Properidine	9644	I
Racemoramide	9645	I
Trimeperidine	9646	I
Phenomorphan	9647	I
Propiram	9649	I
1-Methyl-4-phenyl-4-propionoxypiperidine	9661	I
1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine	9663	I
Tilidine	9750	I
Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide)	9811	I
Para-Fluorofentanyl	9812	I
3-Methylfentanyl	9813	I
Alpha-Methylfentanyl	9814	I
Acetyl-alpha-methylfentanyl	9815	I
N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide	9816	I
Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide)	9821	I

Controlled substance	Drug code	Schedule
Butyryl Fentanyl	9822	I
Para-fluorobutyryl fentanyl	9823	I
4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide)	9824	I
2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide	9825	I
Para-chloroisobutyryl fentanyl	9826	I
Isobutyryl fentanyl	9827	I
Beta-hydroxyfentanyl	9830	I
Beta-hydroxy-3-methylfentanyl	9831	I
Alpha-methylthiofentanyl	9832	I
3-Methylthiofentanyl	9833	I
Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide)	9834	I
Thiofentanyl	9835	I
Beta-hydroxythiofentanyl	9836	I
Para-methoxybutyryl fentanyl	9837	I
Ocfentanil	9838	I
Valeryl fentanyl	9840	I
N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide)	9843	I
Cyclopropyl Fentanyl	9845	I
Cyclopentyl fentanyl	9847	I
Fentanyl related compounds as defined in 21 CFR 1308.11(h)	9850	I
Amphetamine	1100	II
Methamphetamine	1105	II
Lisdexamfetamine	1205	II
Phenmetrazine	1631	II
Methylphenidate	1724	II
Amobarbital	2125	II
Pentobarbital	2270	II
Secobarbital	2315	II
Glutethimide	2550	II
Dronabinol in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration (FDA).	7365	II
Nabilone	7379	II
1-Phenylcyclohexylamine	7460	II
Phencyclidine	7471	II
ANPP (4-Anilino-N-phenethyl-4-piperidine)	8333	II
Norfentanyl (N-phenyl-N-(piperidin-4-yl)propionamide)	8366	II
Phenylacetone	8501	II
1-Piperidinocyclohexanecarbonitrile	8603	II
Alphaprodine	9010	II
Anileridine	9020	II
Cocaine	9041	II
Codeine	9050	II
Etorphine HCl	9059	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Diphenoxylate	9170	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Hydrocodone	9193	II
Levomethorphan	9210	II
Levorphanol	9220	II
Isomethadone	9226	II
Meperidine	9230	II
Meperidine-intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Metazocine	9240	II
Methadone	9250	II
Methadone intermediate	9254	II
Metopon	9260	II
Dextropropoxyphene, bulk (non-dosage forms)	9273	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Dihydroetorphine	9334	II
Levo-alphacetylmethadol	9648	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Phenazocine	9715	II
Thiafentanil	9729	II
Piminodine	9730	II
Racemethorphan	9732	II
Racemorphan	9733	II

Controlled substance	Drug code	Schedule
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Bezitramide	9800	II
Fentanyl	9801	II
Moramide-intermediate	9802	II

The company plans to import analytical reference standards for distribution to its customers for research and analytics purposes. Placement of these drug codes onto company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06521 Filed 4–2–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1680]

Bulk Manufacturer of Controlled Substances Application: Purisys, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Purisys, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before June 2, 2026. Such persons may also file a written request for a hearing on the application on or before June 2, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 4, 2026, Purisys, LLC, 1550 Olympic Drive, Athens, Georgia 30601–1602, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Ethylphenidate (ethyl 2-phenyl-2-(piperidin-2-yl)acetate)	1727	I
Gamma Hydroxybutyric Acid	2010	I
Ibogaine	7260	I
Lysergic acid diethylamide	7315	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
5-Methoxy-N,N-dimethyltryptamine	7431	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
5-Methoxy-N,N-diisopropyltryptamine	7439	I
Methylone (3,4-Methylenedioxy-N-methylcathinone)	7540	I
Codeine-N-oxide	9053	I
Dihydromorphine	9145	I
Heroin	9200	I
Hydromorphinol	9301	I
Morphine-N-oxide	9307	I
Normorphine	9313	I
Norlevorphanol	9634	I
Fentanyl-related substances as defined in 21CFR 1308.1 (h)	9850	I
Amphetamine	1100	II

Controlled substance	Drug code	Schedule
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Pentobarbital	2270	II
Nabilone	7379	II
4-Anilino-N-phenethyl-4-piperidine (ANPP)	8333	II
Cocaine	9041	II
Codeine	9050	II
Dihydrocodeine	9120	II
Oxycodone	9143	II
Hydromorphone	9150	II
Ecgonine	9180	II
Hydrocodone	9193	II
Levorphanol	9220	II
Meperidine	9230	II
Meperidine intermediate-A	9232	II
Meperidine intermediate-B	9233	II
Meperidine intermediate-C	9234	II
Methadone	9250	II
Methadone intermediate (4-cyano-2-dimethylamino4,4-diphenylbutane)	9254	II
Morphine	9300	II
Oripavine	9330	II
Thebaine	9333	II
Opium tincture	9630	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Oxymorphone	9652	II
Noroxymorphone	9668	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II
Carfentanil	9743	II
Tapentadol	9780	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for the production of active pharmaceutical ingredients and analytical reference standards for sale to its customers. The company plans to manufacture the above listed controlled substances as clinical trial and starting materials to make compounds for distribution to its customers. No other activities for these drug codes are authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06524 Filed 4–2–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1698]

Bulk Manufacturer of Controlled Substances Application: Research Triangle Institute

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Research Triangle Institute has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before June 2, 2026. Such persons may also file a written request for a hearing on the application on or before June 2, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 3, 2026, Research Triangle Institute, 3040 East Cornwallis Road, Hermann Building, Room 106, Durham, North Carolina 27713, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The company plans to bulk manufacture the listed controlled substance synthetically for distribution to its customers for research and as analytical reference standards. No other activity for this drug code is authorized for this registration.

Thomas Prevoznik,

Deputy Assistant Administrator.

[FR Doc. 2026–06522 Filed 4–2–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by an Employee Benefit Plan

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 4, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: PTE 92–6 exempts from the prohibited transaction restrictions the sale of individual life insurance or annuity contracts held by an employee benefit plan to: (1) plan participants insured under such contracts; (2) a relative of such participant who is the beneficiaries under the contract, (3) an employer any of whose employees are covered by the plan; (4) another employee benefit plan; (5) plan participants who are owner-employees (as defined in section 401(c)(3) of the Code), or shareholder-employees (as defined in section 1379 of the Internal Revenue Code of 1954 as in effect on the day before the enactment of the Subchapter S Revision Act of 1982), or (6) trusts established by or for the benefit of plan participants (1) or (2), provided certain conditions set forth in the class exemption are met. With respect to sales of the policy to the employer, a relative of the insured, a trust, or another plan, the participant insured under the policy is first informed of the proposed sale and is given the opportunity to purchase such contract from the plan, and delivers a written document to the plan stating that he or she elects not to purchase the policy and consents to the sale by the plan of such policy to such employer, relative, trust or other plan. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 11, 2025 (90 FR 30984).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by an Employee Benefit Plan.

OMB Control Number: 1210–0063.

Affected Public: Private sector.

Total Estimated Number of Respondents: 25,770.

Total Estimated Number of Responses: 25,770.

Total Estimated Annual Time Burden: 5,154 hours.

Total Estimated Annual Other Costs Burden: $834.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–06510 Filed 4–2–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Benefit Plan Claims Procedure Under the Employee Retirement Income Security Act

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before May 4, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: In November 2000, the Department issued a final regulation establishing minimum claims procedure requirements that all employee benefit plans under ERISA must meet in order to satisfy the requirements of section 503 of ERISA. Section 505 of ERISA authorizes the Secretary to prescribe regulations as appropriate or necessary to carry out the provisions of Title I of ERISA. The regulation requires plans to provide every claimant who is denied a claim with a written or electronic notice that contains the specific reasons for denial, a reference to the relevant plan provisions on which the denial is based, a description of any additional information necessary to perfect the claim, and a description of steps to be taken if the participant or beneficiary wishes to appeal the denial. The

regulation also requires that any adverse decision upon review be in writing (including electronic means) and include specific reasons for the decision, as well as references to relevant plan provisions. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 11, 2025 (90 FR 30984).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Employee Benefit Plan Claims Procedure Under the Employee Retirement Income Security Act.

OMB Control Number: 1210–0053.

Affected Public: Private sector.

Total Estimated Number of Respondents: 4,336,356.

Total Estimated Number of Responses: 1,910,577,375.

Total Estimated Annual Time Burden: 38,050,660 hours.

Total Estimated Annual Other Costs Burden: $501,736,152.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2026–06509 Filed 4–2–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Marfork Coal Company, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0102 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0102.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–004–C.

Petitioner: Marfork Coal Company, LLC, 500 Cutler Trico Road, Percy, IL 62272.

Mine: Glen Alum Tunnel Mine, MSHA ID No. 46–09375, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.1002 (a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.1002(a) to permit alternative methods of compliance to permit the use of additional respirable dust protection. Specifically, the petitioner is requesting to permit the use of a 3M Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator (PAPR) motor/blower and battery.

The petitioner states that:

(a) The petitioner seeks modification of 30 CFR 75.1002(a), as it pertains to the use of battery-powered respirable protection.

(b) That standard 30 CFR 75.1002(a) provides in relevant part:

Electric equipment must be permissible and maintained in a permissible condition when such equipment is located within 150 feet of pillar workings or longwall faces.

(c) Currently, the petitioner does not use a battery powered respirator unit but would like to add a PAPR to the units available to miners in certain situations.

(d) Currently there are no battery powered respirators that meet applicable MSHA standards for permissibility. Electronic equipment used in underground mines in potentially explosive atmospheres is required to be approved by MSHA per 30 CFR. 3M and other competitor manufacturers do offer alternative products for many other environments and applications.

(e) One of the main benefits of a PAPR is that they provide a constant flow of

air inside the headtop or helmet. This constant airflow helps to provide both respiratory protection and comfort in warm working environments.

(f) A strict application of the standard (*i.e.*—objecting to the use of the requested PAPR) results in a diminution of safety at the mine.

(g) The petitioner is requesting to permit the use of a 3M product, the Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

(h) The Versaflow TR–800–HIK motor/blower and battery qualifies as intrinsically safe in the US, Canada, and any other country accepting IECEx reports. (IECEx is the International Electrotechnical Commissions System for Certification to Standards. Relating to Equipment for Use in Explosive Atmosphere). The TR–800–HIK PAPR has a blower that is UL-certified with an intrinsically safe (IS) rating of Division 1: IS Class I, II, III; Division 1 (includes Division 2) Groups C, D, E, F, G; T4, under the most current standard (UL 60079, 6th Edition, 2013). ATEX-certified with an intrinsically safe (IS) rating of ''ia''. The TR–800 is rated and marked with Exia I Ma, Exia IIB T4 Ga, Ex ia IIIC 135 °C Da, $-20\ °C \leq Ta \leq +55\ °C$, under the current standard (IEC 60079).

(i) The 3M Versaflow TR–800 Intrinsically Safe Powered Air Purifying Respirator is not MSHA approved as permissible and 3M is not pursuing approval to our knowledge.

(j) The standards for approval of these respirators are an acceptable alternative to MSHA's standards and provide an equivalent level of protection.

(k) The petitioner seeks an alternative method to the mandatory safety standard, asserting it will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) Affected mine employees must be trained in the proper use and maintenance of the Versaflo TR–800 PAPR in accordance with established manufacturer guidelines. This training shall alert the affected employee that the Versaflo TR–800 PAPR is approved under 30 CFR part 18 and must be de-energized when 1.0 or more percent methane is detected. The training shall also include the proper method to de-energize the PAPR. In addition to manufacturer guidelines, the petitioner will require that mine employees be trained to inspect the units before use to determine if there is any damage to the units that would negatively impact intrinsic safety as well as all stipulations in this petition.

(b) The PAPR, battery pack, and all associated wiring and any connections must be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR must be removed from service.

(c) The operator will maintain a separate logbook for the 3M Versaflo TR–800 PAPR that shall be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Since float coal dust is removed by the air filter prior to reaching the motor, the PAPR user shall conduct regular examinations of the filter and perform periodic testing for proper operation of the ''high filter load alarm'' on the 3M Versaflo TR–800 PAPR.

(d) All 3M Versaflo TR–800 to be used within 150 feet of pillar workings or longwall faces, shall be physically examined prior to initial use and each unit will be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is being used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case;

(2) Remove the battery and inspect for corrosion;

(3) Inspect the contact points to ensure a secure connection to the battery;

(4) Reinsert the battery and power up and shut down to ensure proper connections; and

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size. The pre-use examination is limited to inspecting the equipment for indications of physical damage.

(e) The petitioner shall ensure that all 3M Versaflo TR–800 units are serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and shall include a description of the work performed.

(f) The 3M Versaflo TR–800 units that will be used within 150 feet of pillar workings or longwall faces, or in areas where methane may enter the air current, shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the Proposed Decision and Order (PDO) granted by MSHA.

(g) Prior to energizing the 3M Versaflo TR–800 inby the last open crosscut, methane tests must be made in accordance with 30 CFR 75.323(a).

(h) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors must provide visual and audible warnings when methane is detected at or above 1.0 percent.

(i) A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of the 3M Versaflo TR–800 PAPR within 150 feet of pillar workings or longwall faces or in areas where methane may enter the air current.

(j) The 3M Versaflo TR–800 PAPR shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the Versaflo TR–800 is being used, the equipment shall be de-energized immediately and the equipment withdrawn outby the last open crosscut.

(k) The petitioner will use only 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR.

(l) The battery packs must be ''changed out'' in intake air outby the last open crosscut. Before each shift when the 3M Versaflo TR–800 is to be used, all batteries and power units for the equipment must be charged sufficiently so that they are not expected to be replaced on that shift.

(m) The following maintenance and use conditions shall apply to equipment containing lithium-type batteries:

(1) Always correctly use and maintain the lithium-ion battery packs. The 3M TR–830 Battery Pack may not be disassembled or modified by anyone other than persons permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack must only be charged in an area free of combustible material, readily monitored and located on the surface of the mine. The 3M TR–830 Battery Pack is to be charged by either:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The batteries must not be allowed to get wet. This does not preclude incidental exposure of sealed battery packs.

(4) The batteries shall not be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. The batteries must not be placed in direct sunlight or used or stored near a source of heat.

(5) The batteries will not be used at the end of their life cycle (*i.e.,* when there is a performance decrease of greater than 20% in battery-operated equipment). The battery will be disposed of properly.

(n) Personnel engaged in the use of the 3M Versaflo TR–800 and shall be properly trained to recognize the hazards and limitations associated with the use of the equipment in areas where methane could be present. Additionally, personnel shall be trained regarding proper procedures for donning Self Contained Self Rescuers (SCSRs) during a mine emergency while wearing the 3M VersaFlow TR–800 or PAPR. The mine operator shall submit proposed revisions to update the Mine Emergency Evacuation and Firefighting Program of Instruction under 30 CFR 75.1502 to address this issue.

(o) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Mine Safety and Health Enforcement District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO. When training is conducted on the terms and conditions in this Order, an MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the 3M Versaflo TR–800.

(p) All personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR shall receive training in accordance with 30 CFR 48.7 on the requirements of this Order within 60 days of the date the PDO becomes final. Such training must be completed before any 3M Versaflo TR–800 can be used within 150 feet of pillar workings or longwall faces. The operator shall keep a record of such training and provide such record to MSHA upon request.

(q) The operator shall provide annual retraining to all personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and shall train experienced miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

(r) Once approved, the operator shall post the PDO in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted.

There are no representatives of miners at Glen Alum Tunnel Mine. A copy of this Petition has been posted on the bulletin board as of January 7, 2026.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06512 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Act of 1977 governs the application, processing, and disposition of petitions for modification of mandatory safety standards. Any mine operator or representative of miners may petition for an alternative method of complying with an existing safety standard. MSHA reviews the content of each submitted petition, assesses the equipment and system(s) proposed at the mine in question, and ultimately issues a decision on the petition. This notice includes a list of petitions for modification that were granted after MSHA's review and investigation, between July 1, 2025, and December 31, 2025.

ADDRESSES: Copies of the final decisions are posted on MSHA's website at *https://www.msha.gov/regulations/rulemaking/petitions-modification*. The public may inspect the petitions and final decisions in person at MSHA. To arrange an in-person visit, call 202–693–9440 or contact *petitionsformodification@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances, MSHA at 202–693–9440 (voice), *petitionsformodification@dol.gov* (email), or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101(c) of the Federal Mine Safety and Health Act of 1977, any mine operator or representative of miners may petition to use an alternative approach to comply with a mandatory safety standard. In response, the Secretary of Labor (Secretary) or his or her designee may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the proposed equipment, system(s), and conditions at the mine. In some instances, MSHA may grant a petition for modification on the condition that the mine operator complies with other requirements noted in the decision. In other instances, MSHA may deny, dismiss, or revoke a petition for modification. In accordance with 30 CFR 44.5, MSHA publishes every final action granting a petition for modification.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA granted or partially granted the petitions for modification below. The previous **Federal Register** notice (90 FR 31683) included petitions granted through June 30, 2025. This notice includes petitions granted between July 1, 2025, and December 31, 2025. The granted petitions are shown in the order that MSHA received them.

- *Docket Number:* M–2025–003–M.
  FR Notice: 90 FR 16567 (4/18/2025).
  Petitioner: 3M Company, 18750 Minnesota Road, Corona, CA 92881.

Mine: 3M Corona Plant, MSHA ID No. 04–00191, located in Riverside County, California.

Regulation Affected: 30 CFR 56.13020, Use of compressed air.

• *Docket Number:* M–2025–039–C.

FR Notice: 90 FR 31694 (7/15/2025).

Petitioner: Mach Mining, LLC, 16468 Liberty School Road, Marion IL 62959.

Mine: Mach #1 Mine, MSHA ID No. 11–03141, located in Williamson County, IL.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

• *Docket Number:* M–2025–040–C.

FR Notice: 90 FR 31693 (7/15/2025).

Petitioner: Mach Mining, LLC, 16468 Liberty School Road, Marion IL 62959.

Mine: Mach #1 Mine, MSHA ID No. 11–03141, located in Williamson County, IL.

Regulation Affected: 30 CFR 75.507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

• *Docket Number:* M–2025–041–C.

FR Notice: 90 FR 31689 (7/15/2025).

Petitioner: Mach Mining, LLC, 16468 Liberty School Road, Marion IL 62959.

Mine: Mach #1 Mine, MSHA ID No. 11–03141, located in Williamson County, IL.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

• *Docket Number:* M–2025–042–C.

FR Notice: 90 FR 31681 (7/15/2025).

Petitioner: M-Class Mining, LLC, 11351 North Thompsonville Road, Macedonia IL 62860.

Mine: MC#1 Mine, MSHA ID No. 11–03189, located in Franklin County, IL.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

• *Docket Number:* M–2025–043–C.

FR Notice: 90 FR 31696 (7/15/2025).

Petitioner: M-Class Mining, LLC, 11351 North Thompsonville Road, Macedonia IL 62860.

Mine: MC#1 Mine, MSHA ID No. 11–03189, located in Franklin County, IL.

Regulation Affected: 30 CFR 75.507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

• *Docket Number:* M–2025–044–C.

FR Notice: 90 FR 31699 (7/15/2025).

Petitioner: M-Class Mining, LLC, 11351 North Thompsonville Road, Macedonia IL 62860.

Mine: MC#1 Mine, MSHA ID No. 11–03189, located in Franklin County, IL.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

• *Docket Number:* M–2025–045–C.

FR Notice: 90 FR 31682 (7/15/2025).

Petitioner: Patton Mining, LLC, 12051 9th Avenue, Hillsboro IL 62049.

Mine: Deer Run Mine, MSHA ID No. 11–03182, located in Montgomery, IL.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

• *Docket Number:* M–2025–046–C.

FR Notice: 90 FR 31695 (7/15/2025).

Petitioner: Patton Mining, LLC, 12051 9th Avenue, Hillsboro IL 62049.

Mine: Deer Run Mine, MSHA ID No. 11–03182, located in Montgomery, IL.

Regulation Affected: 30 CFR 75.507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

• *Docket Number:* M–2025–047–C.

FR Notice: 90 FR 31692 (7/15/2025).

Petitioner: Patton Mining, LLC, 12051 9th Avenue, Hillsboro IL 62049.

Mine: Deer Run Mine, MSHA ID No. 11–03182, located in Montgomery, IL.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

• *Docket Number:* M–2025–050–C.

FR Notice: 90 FR 44721 (9/16/2025).

Petitioner: Wolf Run Mining, LLC, 21550 Barbour County Highway, Philippi, WV 26416.

Mine: Leer South Mine, MSHA ID No. 46–04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

• *Docket Number:* M–2025–051–C.

FR Notice: 90 FR 44719 (9/16/2025).

Petitioner: Wolf Run Mining, LLC, 21550 Barbour County Highway, Philippi, WV 26416.

Mine: Leer South Mine, MSHA ID No. 46–04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a), Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements.

• *Docket Number:* M–2025–052–C.

FR Notice: 90 FR 44723 (9/16/2025).

Petitioner: Wolf Run Mining, LLC, 21550 Barbour County Highway, Philippi, WV 26416.

Mine: Leer South Mine, MSHA ID No. 46–04168, located in Barbour County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a), Installation of electric equipment and conductors; permissibility.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06513 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Knight Hawk Coal, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0103 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0103.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov.*

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–005–C.

Petitioner: Knight Hawk Coal, LLC, 500 Cutler-Trico Road, Percy, IL 62272.

Mine: Prairie Eagle Underground Mine, MSHA ID No. 11–03147, located in Perry County, IL.

Regulation Affected: 30 CFR 75.312(c), Main mine fan examinations and records.

Modification Request: The petitioner is requesting a modification to 30 CFR 75.312(c) to permit an alternative method of compliance to permit the testing of the automatic fan signal device every 31 days without stopping the fan each time the device is tested.

The petitioner states that:

(a) Prairie Eagle Underground Mine seeks modification of 30 CFR 75.312(c): At least every 31 days, the automatic fan signal device for each main mine fan shall be tested by stopping the fan. Only persons necessary to evaluate the effect of the fan stoppage or restart, or to perform maintenance or repair work that cannot otherwise be made while the fan is operating, shall be permitted underground. Notwithstanding the requirement of § 75.311(b)(3), underground power may remain energized during this test provided no one, including persons identified in § 75.311(b)(1), is underground. If the fan is not restarted within 15 minutes, underground power shall be deenergized and no one shall enter any underground area of the mine until the fan is restarted and an examination of the mine is conducted as described in § 75.360 (b) through (e) and the mine has been determined to be safe.

(b) The mine's existing automatic fan signal device is a pressure transducer. The device continuously monitors and records the fans operating pressure electronically.

(c) The alternative method will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) The testing of the automatic fan signal device will be conducted at least every 31 days without stopping the fan each time the fan signal device is tested.

(b) A lockable ball valve will be installed in between the tubing connecting the pressure transducer to the fan ductwork where pressure is measured and another between the tubing and the atmosphere.

(c) An alarm signal will be activated when the fan pressure falls below the normal operating pressure by 2'' W.G. or more.

(d) During the 31 day checks without stopping the fan, the valve to the fan ductwork will be closed and the valve to the atmosphere will be opened allowing the pressure to the transducer to drop below the normal operating pressure and signal the alarm indicating loss of ventilating quantity to the mine.

(e) A fan signal check will be made by stopping the fan, per 30 CFR 75.312(c), at intervals not to exceed 6 months.

(f) The methods described are in accordance with the Proposed Decision and Order (PDO) granted by MSHA under docket No. M–2015–017–C.

(g) The miners at Prairie Eagle Underground Mine are not represented by a labor organization and the petition has been posted at the mine on January 7, 2026. In support of the proposed alternative method, the petitioner has also submitted drawings of the fan ductwork setup: currently; during fan normal operation under the proposed alternative method; and fan testing under the proposed alternative method.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06511 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Marfork Coal Company, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0101 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0101.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov.*

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–003–C.

Petitioner: Marfork Coal Company, LLC, 500 Cutler Trico Road, Percy, IL 62272.

Mine: Glen Alum Tunnel Mine, MSHA ID No. 46–09375, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a), Permissible electric equipment.

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.507–1(a) to permit alternative methods of compliance to permit the use of additional respirable dust protection. Specifically, the petitioner is requesting to permit the use of a 3M Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator (PAPR) motor/blower and battery.

The petitioner states that:

(a) The petitioner seeks modification of 30 CFR 75.507–1(a), as it pertains to the use of battery-powered respirable protection.

(b) That standard provides in relevant part:

All electric equipment, other than power-connection points, used in return air outby the last open crosscut in any coal mine shall be permissible except as provided in paragraphs (b) and (c) of this section.

(c) Currently, the petitioner does not use a battery powered respirator unit but would like to add a PAPR to the units available to miners in certain situations.

(d) Currently there are no battery powered respirators that meet applicable MSHA standards for permissibility. Electronic equipment used in underground mines in potentially explosive atmospheres is required to be approved by MSHA per 30 CFR. 3M and other competitor manufacturers do offer alternative products for many other environments and applications.

(e) One of the main benefits of a PAPR is that they provide a constant flow of air inside the headtop or helmet. This constant airflow helps to provide both respiratory protection and comfort in warm working environments.

(f) A strict application of the standard (*i.e.,*—objecting to the use of the requested PAPR) results in a diminution of safety at the mine.

(g) The petitioner is requesting to permit the use of a 3M product, the Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

(h) The Versaflow TR–800–HIK motor/blower and battery qualifies as intrinsically safe in the US, Canada, and any other country accepting IECEx reports. (IECEx is the International Electrotechnical Commissions System for Certification to Standards. Relating to Equipment for Use in Explosive Atmosphere). The TR–800–HIK PAPR has a blower that is UL-certified with an intrinsically safe (IS) rating of Division 1: IS Class I, II, III; Division 1 (includes Division 2) Groups C, D, E, F, G; T4, under the most current standard (UL 60079, 6th Edition, 2013). ATEX-certified with an intrinsically safe (IS) rating of ''ia''. The TR–800 is rated and marked with Exia I Ma, Exia IIB T4 Ga, Ex ia IIIC 135 °C Da, $-20\,°C \leq Ta \leq +55\,°C$, under the current standard (IEC 60079).

(i) The 3M Versaflow TR–800 Intrinsically Safe Powered Air Purifying Respirator is not MSHA approved as permissible and 3M is not pursuing approval to our knowledge.

(j) The standards for approval of these respirators are an acceptable alternative to MSHA's standards and provide an equivalent level of protection.

(k) The petitioner seeks an alternative method to the mandatory safety standard, asserting it will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) Affected mine employees must be trained in the proper use and maintenance of the Versaflo TR–800 PAPR in accordance with established manufacturer guidelines. This training shall alert the affected employee that the Versaflo TR–800 PAPR is approved under 30 CFR part 18 and must be de-energized when 1.0 or more percent methane is detected. The training shall also include the proper method to de-energize the PAPR. In addition to manufacturer guidelines, the petitioner will require that mine employees be trained to inspect the units before use to determine if there is any damage to the units that would negatively impact intrinsic safety as well as all stipulations in this petition.

(b) The PAPR, battery pack, and all associated wiring and any connections must be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR must be removed from service.

(c) The operator will maintain a separate logbook for the 3M Versaflo TR–800 PAPR that shall be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Since float coal dust is removed by the air filter prior to reaching the motor, the PAPR user shall conduct regular examinations of the filter and perform periodic testing for proper operation of the ''high filter load alarm'' on the 3M Versaflo TR–800 PAPR.

(d) All 3M Versaflo TR–800 to be used in return air outby the last open crosscut, shall be physically examined prior to initial use and each unit will be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is being used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case;

(2) Remove the battery and inspect for corrosion;

(3) Inspect the contact points to ensure a secure connection to the battery;

(4) Reinsert the battery and power up and shut down to ensure proper connections; and

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size. The pre-use examination is limited to inspecting the equipment for indications of physical damage.

(e) The petitioner shall ensure that all 3M Versaflo TR–800 units are serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and shall include a description of the work performed.

(f) The 3M Versaflo TR–800 units that will be used in return air outby the last open crosscut, or in areas where methane may enter the air current, shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the Proposed Decision and Order (PDO) granted by MSHA.

(g) Prior to energizing the 3M Versaflo TR–800 inby the last open crosscut, methane tests must be made in accordance with 30 CFR 75.323(a).

(h) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors must

provide visual and audible warnings when methane is detected at or above 1.0 percent.

(i) A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of the 3M Versaflo TR–800 PAPR in return air outby the last open crosscut or in areas where methane may enter the air current.

(j) The 3M Versaflo TR–800 PAPR shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the Versaflo TR–800 is being used, the equipment shall be de-energized immediately and the equipment withdrawn outby the last open crosscut.

(k) The petitioner will use only 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR.

(l) The battery packs must be ''changed out'' in intake air outby the last open crosscut. Before each shift when the 3M Versaflo TR–800 is to be used, all batteries and power units for the equipment must be charged sufficiently so that they are not expected to be replaced on that shift.

(m) The following maintenance and use conditions shall apply to equipment containing lithium-type batteries:

(1) Always correctly use and maintain the lithium-ion battery packs. The 3M TR–830 Battery Pack may not be disassembled or modified by anyone other than persons permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack must only be charged in an area free of combustible material, readily monitored and located on the surface of the mine. The 3M TR–830 Battery Pack is to be charged by either:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The batteries must not be allowed to get wet. This does not preclude incidental exposure of sealed battery packs.

(4) The batteries shall not be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. The batteries must not be placed in direct sunlight or used or stored near a source of heat.

(5) The batteries will not be used at the end of their life cycle (*i.e.,* when there is a performance decrease of greater than 20% in battery-operated equipment). The battery will be disposed of properly.

(n) Personnel engaged in the use of the 3M Versaflo TR–800 and shall be properly trained to recognize the hazards and limitations associated with the use of the equipment in areas where methane could be present. Additionally, personnel shall be trained regarding proper procedures for donning Self Contained Self Rescuers (SCSRs) during a mine emergency while wearing the 3M VersaFlow TR–800 or PAPR. The mine operator shall submit proposed revisions to update the Mine Emergency Evacuation and Firefighting Program of Instruction under 30 CFR 75.1502 to address this issue.

(o) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Mine Safety and Health Enforcement District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO. When training is conducted on the terms and conditions in this Order, an MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the 3M Versaflo TR–800.

(p) All personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR shall receive training in accordance with 30 CFR 48.7 on the requirements of this Order within 60 days of the date the PDO becomes final. Such training must be completed before any 3M Versaflo TR–800 can be used in return air outby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(q) The operator shall provide annual retraining to all personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and shall train experienced miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

(r) Once approved, the operator shall post the PDO in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted.

There are no representatives of miners at Glen Alum Tunnel Mine. A copy of this Petition has been posted on the bulletin board as of January 7, 2026.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06518 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Mountain Coal Company, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0199 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0199.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the

Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–006–C.

Petitioner: Mountain Coal Company, LLC, 5174 Highway 133, Somerset CO 81434.

Mine: West Elk Mine, MSHA ID No. 05–03672, located in Gunnison County, Colorado.

Regulation Affected: 30 CFR 75.503 (18.35(a)(5)(i), Portable (trailing) cables and cords).

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.503 (18.35(a)(5)(i)), to allow the use of up to 1,100 feet of No. 2 AWG G–GC trailing cable supplying 995 volts AC to the Komatsu Shuttle Cars Model 10SC32. The petitioner also requests a modification of the existing standard, 30 CFR 75.503 (18.35(a)(5)(i)), to allow the use of 1,100 feet of No. 2 AWG–SHD–GC trailing cable supplying 995 volts AC to their mobile roof bolter.

The petitioner states that:

(a) Shuttle Cars

(1) On December 10, 1997, a petition under Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 811(c) and 30 Code of Federal Regulations (30 CFR) 44.11, *et seq.,* was issued to Mountain Coal Company, LLC, to modify 30 CFR 75.503. The petition became final on January 14, 1998. The petitioner requested a modification to the existing petition (Docket No. M–96–104–C) to allow the use of 1,100 feet of No. 4/0 AWG trailing cable for continuous miners at the mine. As a result, MSHA issued Docket No. M–2012–096–C, and revoked petition Docket No. M–96–104–C. On May 21, 2013, MSHA issued an Amended Proposed Decision and Order (PDO) granting the referenced petition for modification with sixteen (16) additional stipulations.

(2) On August 28, 2023, Mountain Coal Company, LLC, submitted a new petition to further amend the granted petition for modification. The mine had purchased four (4) Fletcher Mobile Roof Support machines (995 volts), Model MRS17, and was in the process of acquiring Komatsu 10SC32 Shuttle Cars. On March 3, 2025, a PDO was granted for trailing cables supplying three-phase power to 995 VAC trailing cables supplying the Fletcher Mobile Roof Support machines, Model MRS17, (MRS 2 s/n 2018902, MRS 3 s/n 2018903, MRS 5 s/n 2017913 and MRS 6 s/n 2017914) and the Komatsu Shuttle Cars. The petition was granted for the maximum lengths of 1,100 feet of No. 4 trailing cables for Mobile Roof Support Machines and 1,100 feet of No. 2 trailing cable for the shuttle cars used in West Elk Mine, subject to the terms and conditions of the PDO, which included the following provision: The maximum length of No. 4 AWG SHD–GC trailing cables supplying 995 volts AC to the Fletcher Mobile Roof Support Machines Model MRS17 shall be 1,100 feet. The maximum length of No. 2 AWG SHD–GC trailing cables supplying 995 volts AC to the Komatsu Shuttle Cars Model 10SC32 shall be 1,100 feet (Docket No. M–2023–027–C).

(3) West Elk Mine files this petition for modification to allow the use of up to 1,100 feet (maximum length) of No. 2 AWG G–GC trailing cable supplying 995 volts AC to the Komatsu Shuttle Cars Model 10SC32 in addition to the No. 2 AWG SHD–GC trailing cables. As stated above, West Elk Mine has previously been granted a PDO for the use of up to 1,100 feet (maximum length) of No. 2 AWG SHD–GC trailing cables supplying 995 volts AC to the Komatsu Shuttle Cars Model 10SC32.

(4) As shown in the short circuit analysis (using the minimum amount of current available and having the instantaneous overcurrent protection set at 800 amps), the use of 1,100 feet of non-shielded No. 2 trailing cable does not compromise miner safety nor does it adversely impact electrical protection of the cable. The goal of the fault analysis is to demonstrate that there is enough current available to trip the short circuit protection at the time of a fault. The fault study was prepared using the minimum amount of current available. The study used the maximum distances from the substation according to the current mining plan. The program used (Short-Circuit Version 6.03) for the study was provided by MSHA's Approval & Certification Center. As shown by the study, the 1,100 feet of No. 2 AWG G–GC non-shielded trailing cable with the instantaneous overcurrent protection set at 800 amps does not compromise the protection for the cable or the personnel. The non-shield No. 2 AWG G–GC cable provides a higher fault current than the shielded No. 2 AWG G–GC cable that is currently in the cable length petition.

(b) Mobile Roof Bolters

(1) On August 9, 1996, Mountain Coal Company, LLC, filed a petition under Section 101(c) of the Mine Act, 30 U.S.C. 811(c) and 30 CFR 44.11, et. Seq. seeking to modify 30 CFR 75.503. A PDO granting a modification of the application of the standard was issued on December 17, 1997, and the petition became final on January 14, 1998. The petition was granted modifying the application of 30 CFR 75.503 (18.35(a)(5)(i) of part 18), subject to the terms and conditions of the PDO, which included the following provisions: The maximum length of the trailing cable supplying three-phase, 995-volt, power to the mobile roof bolter shall not exceed 1,000 feet of No. 2 AWG, SHD–GC cable (Docket No. M–96–104–C).

(2) West Elk Mine files this petition for modification to include the use of 1,100 feet of No. 2 AWG–SHD–GC trailing cable for the mobile roof bolters, increasing the distance by an additional 100 feet.

(3) As shown in the short circuit analysis (using the minimum amount of current available and having the instantaneous overcurrent protection set at 800 amps), the use of 1,100 feet of No. 2 AWG SHD–GC trailing cable does not compromise miner safety nor does it adversely impact electrical protection of the cable. The goal of the fault analysis is to demonstrate that there is enough current available to trip the short circuit protection at the time of a fault. The fault study was prepared using the minimum amount of current available. The study used the maximum distances from the substation according to the current mining plan. The program used (Short-Circuit Version 6.03) for the study was provided by MSHA's Approval & Certification Center. As shown by the study, the 1,100 feet of No. 2 AWG SHDGC trailing cable with the instantaneous overcurrent protection set at 800 amps does not compromise the protection for the cable or the personnel.

(c) The alternatives will provide at least an equal measure of protection as the original standard.

The petitioner proposes the following alternative method:

(a) Shuttle Cars

(1) The maximum length of No. 2 AWG G–GC trailing cables supplying 995 volts AC to the Komatsu Shuttle Cars Model 10SC32 shall be 1,100 feet.

(2) All circuit breakers used to protect the No. 2 AWG G–GC trailing cables exceeding 700 feet in length for the 995-volt AC powered Komatsu Shuttle Cars Model 10SC32 shall have instantaneous trip units calibrated to trip at 800 amps. The trip setting of these circuit breakers shall be sealed or locked so that the setting cannot be changed, and these circuit breakers shall have permanent legible labels displaying the maximum short circuit setting. Calibration, sealing and labeling of circuit breakers shall be performed by the circuit breaker manufacturer or an authorized repair facility outfitted with calibrated test equipment. Each label shall identify the circuit breaker as being suitable for protecting No. 2 AWG G–GC cables. The labels shall be maintained legible.

(3) Replacement instantaneous trip units used to protect the No. 2 AWG G–GC trailing cables shall be calibrated to trip at 800 amps and this setting shall be sealed or locked. Calibration, sealing, and labeling of the replacement units shall be conducted by the device manufacturer or an authorized repair facility outfitted with calibrated test equipment.

(4) All components that provide short-circuit protection shall have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(5) The trailing cables for the Komatsu Shuttle Cars shall be protected by being hung on well-installed insulated hangers from the section transformer to the slack pile of the trailing cable for each machine or to the last open crosscut, whichever is further outby.

(6) Prior to putting the Komatsu Shuttle Cars in service for each shift, examinations by persons designated by the mine operator shall be made to visually examine the trailing cables to ensure that the cables are in a safe operating condition. The instantaneous settings of the specially calibrated circuit breakers shall also be visually examined to ensure that the peals or locks have not been removed and that they do not exceed the settings stipulated in items (2) and (4).

(7) Permanent warning labels shall be installed and maintained on the covers of each circuit breaker and the trailing cable disconnecting device indicating that the cable can only be connected to a circuit breaker that is set to trip at its predetermined instantaneous value. These labels shall warn miners not to change or alter these sealed short-circuit settings and warn them not to connect the trailing cable to an improperly adjusted circuit breaker.

(8) Any trailing cable that is not in a safe operating condition or damaged in any way shall be removed from service immediately and repaired or replaced. Each splice or repair in the trailing cables shall be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair materials. The splice or repair shall comply with 30 CFR 75.603 and 75.604.

(9) Excessive cable shall be stored behind the anchors on equipment that use cable reels to prevent cables from overheating. Trailing cable anchoring points located along haulage roads, belt tailpiece or feeder shall be arranged to prevent the shuttle cars from running over their trailing cables, to minimize the need for secondary (temporary) trailing cable anchoring points and minimize back spooling.

(b) Mobile Roof Bolters

(1) The maximum length of No. 2 AWG SHD–GC trailing cables supplying 995 volts AC to mobile roof bolter shall be 1,100 feet.

(2) All circuit breakers used to protect the No. 2 AWG, SHD–GC, trailing cables that exceed 700 feet in length and supply 995-volt, three-phase power to the mobile roof drill shall have instantaneous trip unit(s) calibrated to trip at 800 amps. The trip setting of these circuit breaker(s) shall be sealed, and these circuit breakers shall have permanent, legible labels. The label shall identify the circuit breaker(s) as being specially calibrated circuit breaker(s) and as being suitable for protection of No. 2 AWG, SHD–GC cables. This label shall be maintained legible.

(3) Replacement circuit breakers and/or instantaneous trip units, used to protect the 995-volt, No. 2 AWG, SHD–GC cables, shall be calibrated to trip at 800 amps and this setting shall be sealed.

(4) During each production shift, persons designated by the operator shall visually examine the trailing cables to ensure that the cables are in a safe operating condition and that the instantaneous settings of the specially calibrated circuit breaker settings stipulated in item (2) do not have seals broken or removed. A record of this examination shall be kept by the operator and made available to an authorized representative of the Secretary and to miners in this mine.

(5) Any trailing cable that is not in a safe operating condition shall be removed from service immediately and repaired or replaced.

(6) Each splice or repair in the trailing cables to the mobile roof supports shall be made in a workmanlike manner and in accordance with the instructions of the manufacturer of the splice or repair kit. The outer jacket of each splice or repair shall be vulcanized with flame-resistant material or made with material that has been accepted by MSHA as flame-resistant.

(7) In the event that the mining methods or operating procedures cause or contribute to the damage of any trailing cable, the cable shall be removed from service immediately, repaired or replaced and additional precautions shall be taken to ensure that, in the future, the cable is protected and maintained in a safe operating condition.

(8) Permanent warning labels shall be installed and maintained on the cover(s) of each circuit breaker and the trailing cable disconnecting device(s) indicating that the cable can only be connected to a circuit breaker that is set to trip at its pre-determined instantaneous value. These labels shall warn miners not to change or alter the sealed short-circuit settings and warn them not to connect the trailing cable to an improperly adjusted circuit breaker.

(c) The miners at West Elk Mine are not represented by a labor organization and the petition for modification is posted on the mine bulletin board as of January 21, 2026.

In support of the proposed alternative method, the petitioner has also submitted copies of previously granted PDOs (Docket No. M–2023–027–C and M–96–104–C) and copies of fault analyses.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06519 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to

the Mine Safety and Health Administration (MSHA) by Marfork Coal Company, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0100 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0100.

2. *Fax:* 202–693–9441.

3. *Email: petitioncomments@dol.gov.*

4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–002–C.

Petitioner: Marfork Coal Company, LLC, 500 Cutler Trico Road, Percy, IL 62272.

Mine: Glen Alum Tunnel Mine, MSHA ID No. 46–09375, located in Raleigh County, West Virginia.

Regulation Affected: 30 CFR 75.500(d), Permissible electric equipment.

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 75.500(d) to permit alternative methods of compliance to permit the use of additional respirable dust protection. Specifically, the petitioner is requesting to permit the use of a 3M Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator (PAPR) motor/blower and battery.

The petitioner states that:

(a) The petitioner seeks modification of 30 CFR 75.500(d), as it pertains to the use of battery-powered respirable protection.

(b) That standard 30 CFR 75.500(d) provides in relevant part:

All other electric face equipment which is taken into or used inby the last crosscut of any coal mine, except a coal mine referred to in § 75.501, which has not been classified under any provision of law as a gassy mine prior to March 30, 1970, shall be permissible.

(c) Currently, the petitioner does not use a battery powered respirator unit but would like to add a PAPR to the units available to miners in certain situations.

(d) Currently there are no battery powered respirators that meet applicable MSHA standards for permissibility. Electronic equipment used in underground mines in potentially explosive atmospheres is required to be approved by MSHA per 30 CFR. 3M and other competitor manufacturers do offer alternative products for many other environments and applications.

(e) One of the main benefits of a PAPR is that they provide a constant flow of air inside the headtop or helmet. This constant airflow helps to provide both respiratory protection and comfort in warm working environments.

(f) A strict application of the standard (*i.e.,*—objecting to the use of the requested PAPR) results in a diminution of safety at the mine.

(g) The petitioner is requesting to permit the use of a 3M product, the Versaflow TR–800–HIK Intrinsically Safe Powered Air Purifying Respirator motor/blower and battery.

(h) The Versaflow TR–800–HIK motor/blower and battery qualifies as intrinsically safe in the US, Canada, and any other country accepting IECEx reports. (IECEx is the International Electrotechnical Commissions System for Certification to Standards. Relating to Equipment for Use in Explosive Atmosphere). The TR–800–HIK PAPR has a blower that is UL-certified with an intrinsically safe (IS) rating of Division 1: IS Class I, II, III; Division 1 (includes Division 2) Groups C, D, E, F, G; T4, under the most current standard (UL 60079, 6th Edition, 2013). ATEX-certified with an intrinsically safe (IS) rating of ''ia''. The TR–800 is rated and marked with Exia I Ma, Exia IIB T4 Ga, Ex ia IIIC 135 °C Da, $-20\,°C \leq Ta \leq +55\,°C$, under the current standard (IEC 60079).

(i) The 3M Versaflow TR–800 Intrinsically Safe Powered Air Purifying Respirator is not MSHA approved as permissible and 3M is not pursuing approval to our knowledge.

(j) The standards for approval of these respirators are an acceptable alternative to MSHA's standards and provide an equivalent level of protection.

(k) The petitioner seeks an alternative method to the mandatory safety standard, asserting it will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

The petitioner proposes the following alternative method:

(a) Affected mine employees must be trained in the proper use and maintenance of the Versaflo TR–800 PAPR in accordance with established manufacturer guidelines. This training shall alert the affected employee that the Versaflo TR–800 PAPR is approved under 30 CFR part 18 and must be de-energized when 1.0 or more percent methane is detected. The training shall also include the proper method to de-energize the PAPR. In addition to manufacturer guidelines, the petitioner will require that mine employees be trained to inspect the units before use to determine if there is any damage to the units that would negatively impact intrinsic safety as well as all stipulations in this petition.

(b) The PAPR, battery pack, and all associated wiring and any connections must be inspected before use to determine if there is any damage to the units that would negatively impact intrinsic safety. If any defects are found, the PAPR must be removed from service.

(c) The operator will maintain a separate logbook for the 3M Versaflo TR–800 PAPR that shall be kept with the equipment, or in a location with other mine record books and shall be made available to MSHA upon request. The equipment shall be examined at least weekly by a qualified person as

defined in 30 CFR 75.512–1 and the examination results recorded in the logbook. Since float coal dust is removed by the air filter prior to reaching the motor, the PAPR user shall conduct regular examinations of the filter and perform periodic testing for proper operation of the ''high filter load alarm'' on the 3M Versaflo TR–800 PAPR.

(d) All 3M Versaflo TR–800 to be used in or inby the last open crosscut, shall be physically examined prior to initial use and each unit will be assigned a unique identification number. Each unit shall be examined by the person to operate the equipment prior to taking the equipment underground to ensure the equipment is being used according to the original equipment manufacturer's recommendations and maintained in a safe operating condition. The examinations for the 3M Versaflo TR–800 PAPRs shall include:

(1) Check the equipment for any physical damage and the integrity of the case;

(2) Remove the battery and inspect for corrosion;

(3) Inspect the contact points to ensure a secure connection to the battery;

(4) Reinsert the battery and power up and shut down to ensure proper connections; and

(5) Check the battery compartment cover or battery attachment to ensure that it is securely fastened.

(6) For equipment utilizing lithium type cells, ensure that lithium cells and/or packs are not damaged or swelled in size. The pre-use examination is limited to inspecting the equipment for indications of physical damage.

(e) The petitioner shall ensure that all 3M Versaflo TR–800 units are serviced according to the manufacturer's recommendations. Dates of service will be recorded in the equipment's logbook and shall include a description of the work performed.

(f) The 3M Versaflo TR–800 units that will be used in or inby the last open crosscut, or in areas where methane may enter the air current, shall not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions of the Proposed Decision and Order (PDO) granted by MSHA.

(g) Prior to energizing the 3M Versaflo TR–800 inby the last open crosscut, methane tests must be made in accordance with 30 CFR 75.323(a).

(h) All hand-held methane detectors shall be MSHA-approved and maintained in permissible and proper operating condition as defined by 30 CFR 75.320. All methane detectors must provide visual and audible warnings when methane is detected at or above 1.0 percent.

(i) A qualified person as defined in existing 30 CFR 75.151 shall continuously monitor for methane immediately before and during the use of the 3M Versaflo TR–800 PAPR in or inby the last open crosscut or in areas where methane may enter the air current.

(j) The 3M Versaflo TR–800 PAPR shall not be used if methane is detected in concentrations at or above 1.0 percent methane. When 1.0 percent or more of methane is detected while the Versaflo TR–800 is being used, the equipment shall be de-energized immediately and the equipment withdrawn outby the last open crosscut.

(k) The petitioner will use only 3M TR–830 Battery Pack, which meets lithium battery safety standard UL 1642 or IEC 62133, in the 3M Versaflo TR–800 PAPR.

(l) The battery packs must be ''changed out'' in intake air outby the last open crosscut. Before each shift when the 3M Versaflo TR–800 is to be used, all batteries and power units for the equipment must be charged sufficiently so that they are not expected to be replaced on that shift.

(m) The following maintenance and use conditions shall apply to equipment containing lithium-type batteries:

(1) Always correctly use and maintain the lithium-ion battery packs. The 3M TR–830 Battery Pack may not be disassembled or modified by anyone other than persons permitted by the manufacturer of the equipment.

(2) The 3M TR–830 Battery Pack must only be charged in an area free of combustible material, readily monitored and located on the surface of the mine. The 3M TR–830 Battery Pack is to be charged by either:

(i) 3M Battery Charger Kit TR–641N, which includes one 3M Charger Cradle TR–640 and one 3M Power Supply TR–941N, or,

(ii) 3M 4-Station Battery Charger Kit TR–644N, which includes four 3M Charger Cradles TR–640 and one 3M 4-Station Battery Charger Base/Power Supply TR–944N.

(3) The batteries must not be allowed to get wet. This does not preclude incidental exposure of sealed battery packs.

(4) The batteries shall not be used, charged or stored in locations where the manufacturer's recommended temperature limits are exceeded. The batteries must not be placed in direct sunlight or used or stored near a source of heat.

(5) The batteries will not be used at the end of their life cycle (*i.e.,* when there is a performance decrease of greater than 20% in battery-operated equipment). The battery will be disposed of properly.

(n) Personnel engaged in the use of the 3M Versaflo TR–800 and shall be properly trained to recognize the hazards and limitations associated with the use of the equipment in areas where methane could be present. Additionally, personnel shall be trained regarding proper procedures for donning Self Contained Self Rescuers (SCSRs) during a mine emergency while wearing the 3M VersaFlow TR–800 or PAPR. The mine operator shall submit proposed revisions to update the Mine Emergency Evacuation and Firefighting Program of Instruction under 30 CFR 75.1502 to address this issue.

(o) Within 60 days after the PDO becomes final, the operator shall submit proposed revisions for its approved 30 CFR part 48 training plans to the Mine Safety and Health Enforcement District Manager. These proposed revisions shall specify initial and refresher training regarding the terms and conditions stated in the PDO. When training is conducted on the terms and conditions in this Order, an MSHA Certificate of Training (Form 5000–23) shall be completed. Comments shall be included on the Certificate of Training indicating that the training received was for use of the 3M Versaflo TR–800.

(p) All personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR shall receive training in accordance with 30 CFR 48.7 on the requirements of this Order within 60 days of the date the PDO becomes final. Such training must be completed before any 3M Versaflo TR–800 can be used in or inby the last open crosscut. The operator shall keep a record of such training and provide such record to MSHA upon request.

(q) The operator shall provide annual retraining to all personnel who will be involved with or affected by the use of the 3M Versaflo TR–800 PAPR in accordance with 30 CFR 48.8. The operator shall train new miners on the requirements of the PDO in accordance with 30 CFR 48.5, and shall train experienced miners on the requirements of the PDO in accordance with 30 CFR 48.6. The operator shall keep a record of such training and provide such record to MSHA upon request.

(r) Once approved, the operator shall post the PDO in unobstructed locations on the bulletin boards and/or in other conspicuous places where notices to miners are ordinarily posted.

There are no representatives of miners at Glen Alum Tunnel Mine. A copy of this Petition has been posted on the bulletin board as of January 7, 2026.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06517 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by Kepler Processing Company, LLC.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before May 4, 2026.

ADDRESSES: You may submit comments identified by Docket No. MSHA–2026–0001 by any of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments for MSHA–2026–0001.
2. *Fax:* 202–693–9441.
3. *Email: petitioncomments@dol.gov.*
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, Room C3522, 200 Constitution Ave. NW, Washington, DC 20210.

Attention: Jessica D. Senk, Acting Director, Office of Standards, Regulations, and Variances. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202–693–9440 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Jessica D. Senk, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M–2026–001–C.

Petitioner: Kepler Processing Company, LLC 3864 R.D. Bailey Highway State Route 97, Pineville, WV 24874.

Mine: Kepler No. 1 Prep Plant, MSHA ID No. 46–04637, located in Wyoming County, West Virginia.

Regulation Affected: 30 CFR 77.214(a), Refuse Piles; general.

Modification Request: The petitioner requests a modification of the existing standard, 30 CFR 77.214(a) as it pertains to coarse coal refuse highwall backfill. Specifically, the petitioner requests approval for backfilling and reclamation of the abandoned mine openings associated with the inactive Road Fork Development Company, Inc.—Kepler Sewell Mine (MSHA ID No. 46–09287) using coarse coal refuse as the backfill material.

The petitioner states that:

(a) The petitioner seeks modification of 30 CFR 77.214(a), as it pertains to the Kepler Processing Company, LLC's proposed coarse coal refuse highwall backfill.

(b) Specifically, the petitioner requests approval to backfill five mine openings, associated with the inactive Road Fork Development Company, Inc.—Kepler Sewell Mine (Sewell coal seam) portal area, with coarse coal refuse as an alternative method to those methods described in § 77.214(a).

(c) The portals are located at approximate Elevation 1622.

(d) The petitioner proposes that the construction of the coarse coal refuse fill will cover the portal entries and reclaim the highwall; however, § 77.214(a) generally states that refuse piles shall not be located over abandoned openings.

(e) The apparent intent of § 77.214(a) is to limit the potential for a ''blowout'' of mine water and to limit the potential for combustion of the refuse and/or coal seam.

(f) The proposed modification addresses these concerns and provides a practical method of backfilling the openings with coarse coal refuse that will provide an equivalent or greater measure of protection afforded by the standard (§ 77.214(a)).

(g) The petitioner states that mining of the Road Fork Development Company, Inc. Kepler Sewell Mine may resume in the near future and the coal blended with coal from the Road Fork No. 52 Mine when needed.

(h) Upon completion of the mining in the Kepler Sewell No. 1 Mine, the mine openings shall be sealed and the highwall reclaimed as presented herein.

(i) The petitioner seeks an alternative method to the mandatory safety standard, asserting it will provide the same or greater level of safety for miners.

The petitioner proposes the following alternative method:

(a) The petitioner proposes to use coarse coal refuse as a construction material to cover the openings and reclaim the highwall.

(b) Each of the five openings associated with the Kepler Sewell Fork Mine No. 1 portal area shall be back-stowed with soil and rock to a length of 25 feet as specified in 30 CFR 75.1711–2.

(c) A 6-inch, SDR 17 high density polyethylene (HDPE) pipe shall also be installed through the soil/rock in each of the seals to convey pooled water from the mine.

(d) Existing canopies, structures, and loose debris shall be removed prior to placing the backfill/pipe.

(e) An underdrain system consisting of durable rock cobbles and a perforated pipe wrapped with filter fabric shall be installed at the base of the mine openings along the entire portal area.

(f) The wet seal mine opening pipes shall be connected to the perforated pipe within the underdrain.

(g) The proposed mine opening pipes shall be extended approximately 40 feet inby the opening and positioned along the rib to minimize damage to, and movement of, the pipes during backfilling operations.

(h) The underdrain shall be extended to discharge beyond the limits of the proposed coarse coal refuse fill.

(i) Additional soil and rock shall be placed at the openings and along the exposed coal seam between the openings to provide a 4-foot (minimum) barrier in all directions between the coal and proposed coarse coal refuse fill.

(j) An internal drainage system is proposed to provide a controlled outlet for any water that accumulates inby the portal area.

(k) The proposed soil and rock backfill zone isolates the mine workings and coal seam from the proposed coarse coal refuse fill minimizing any potential for a mine fire to spread to the refuse fill.

(l) Any exposed areas of the Sewell coal seam within the fill footprint shall be covered with at least four feet of soil and rock as the coal refuse backfill is placed.

(m) The coarse coal refuse shall be placed in 2-foot (max) thick compacted lifts. This requirement should preclude the potential for the refuse to spontaneously combust.

(n) The coarse coal refuse shall be placed in a manner which precludes the fill from impounding water.

There are no representatives of miners at Kepler No. 1 Prep Plant. A copy of this Petition has been posted on the bulletin board as of February 26, 2026. In support of the proposed alternative method, the petitioner has also submitted a location map, plan and sections of the proposed coarse coal refuse fill and mine opening seal details, and photographs of the existing conditions of the openings.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Jessica D. Senk,

Acting Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2026–06516 Filed 4–2–26; 8:45 am]

BILLING CODE 4520–43–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–331 and 72–32; NRC–2026–0298]

In the Matter of NextEra Energy Duane Arnold, LLC; Central Iowa Power Cooperative; Corn Belt Power Cooperative; Duane Arnold Energy Center; Direct Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order approving the direct transfer of partial ownership of Renewed Facility License (RFL) No. DPR–49 for the Duane Arnold Energy Center (DAEC) and of the associated general license for the DAEC Independent Spent Fuel Storage Installation (ISFSI) from two of the current owners, Central Iowa Power Cooperative and Corn Belt Power Cooperative, to the third current owner, NextEra Energy Duane Arnold, LLC (NEDA). Following the transfer, NEDA will be the 100-percent owner of RFL No. DPR–49 and the associated general license for the DAEC ISFSI. The NRC is also approving a conforming amendment to RFL No. DPR–49 for administrative purposes to reflect the license transfer.

DATES: The order was issued on March 30, 2026, and is effective for one year.

ADDRESSES: Please refer to Docket ID NRC–2026–0298 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0298. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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.

FOR FURTHER INFORMATION CONTACT: Brent Ballard, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0680; email: *Brent.Ballard@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the order is attached.

Dated: April 1, 2026.

For the Nuclear Regulatory Commission.

Ilka Berrios,

Chief, Plant Licensing Branch III, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Order Approving Direct Transfer of Licenses and Conforming Amendment

UNITED STATES OF AMERICA

Nuclear Regulatory Commission

In the Matter of: NextEra Energy Duane Arnold, LLC, Central Iowa Power Cooperative, Corn Belt Power Cooperative. (Duane Arnold Energy Center and the Associated Independent Spent Fuel Storage Installation). Docket Nos. 50–331 and 72–32, Renewed License No. DPR–49.

Order Approving Direct Transfer of Licenses and Conforming Amendment

I.

NextEra Energy Duane Arnold, LLC (NEDA), Central Iowa Power Cooperative (CIPCO), and Corn Belt Power Cooperative (Corn Belt) are the owners of the Duane Arnold Energy Center (DAEC). With respect to their ownerships, they are co-holders of U.S. Nuclear Regulatory Commission (NRC, the Commission) Renewed Facility License No. DPR–49 for the DAEC and of the associated general license for the DAEC independent spent fuel storage installation (ISFSI). NEDA, the current operator licensee, holds 70 percent ownership of the DAEC, CIPCO holds 20 percent ownership of the DAEC, and Corn Belt holds 10 percent ownership of the DAEC. The DAEC is located in Linn County, Iowa.

II.

By application dated November 25, 2025 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML25330A015), as supplemented by letter dated February 23, 2026 (ML26055A092), NEDA, CIPCO, and Corn Belt requested, pursuant to Section 184, ''Inalienability of Licenses,'' of the Atomic Energy Act of 1954, as amended (AEA), and title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.80, ''Transfer of licenses,'' that the NRC consent to the direct transfer of CIPCO's 20-percent ownership interest and Corn Belt's 10-percent ownership interest of Renewed Facility License No. DPR–49 for the DAEC and of the associated general license for the DAEC ISFSI to NEDA. NEDA also requested, pursuant to 10 CFR 50.90, ''Application for amendment of license, construction permit, or early site permit,'' that the NRC approve an administrative amendment to Renewed Facility License No. DPR–49 to reflect the transfer, to be issued and made effective at the time the transfer occurs.

On January 29, 2026, the NRC published a notice of consideration of approval of the license transfer application in the **Federal Register** (91 FR 3930). This notice provided an opportunity to comment, request a hearing, and petition for leave to intervene on the license transfer application. The NRC did not receive any hearing requests in response to the notice. The NRC did receive comments in response to the notice, which the NRC staff considered and addressed in the safety evaluation supporting this transfer order.

Pursuant to 10 CFR 50.80, no license for a utilization facility, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the NRC gives its consent in writing. Upon review of the information in the license transfer application and other information before the Commission, and relying upon the representations contained in the application, the NRC staff has determined that NEDA is qualified to be the holder of the licenses to the extent proposed and that the transfer of the licenses, as described in the application, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Upon review of the request in the license transfer application for approval of a conforming administrative amendment to reflect the transfer, the NRC staff has determined that the application for amendment complies with the standards and requirements of the AEA and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the AEA, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the amendment is in accordance with 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC staff safety evaluation dated the same date as this order, which is available at ADAMS Accession No. ML26068A226.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the AEA, Title 42 of the *United States Code* Sections 2201(b), 2201(i), and 2234, and 10 CFR 50.80 and 10 CFR 50.90, *it is hereby ordered* that the license transfer application, as described herein, is approved.

It is further ordered that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this order, to reflect the subject direct transfer is approved. The amendment shall be issued and made effective at the time the proposed direct transfer action is completed.

It is further ordered that after receipt of all required regulatory approvals of the proposed direct transfer action, NEDA shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt no later than 2 business days prior to the date of the closing of the direct transfer. Should the proposed direct transfer not be completed within 1 year of the date of this order, this order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This order is effective upon issuance.

For further details with respect to this order, see the license transfer application dated November 25, 2025, as supplemented by letter dated February 23, 2026, and the associated NRC staff safety evaluation dated the same date as this order. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by email to *PDR.Resource@nrc.gov.*

Dated: March 30, 2026.

For the Nuclear Regulatory Commission.

Jamie Pelton,

Acting Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–06498 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, STN–530, and 72–44; NRC–2026–1618]

El Paso Electric Company; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Consideration of Approval of Transfer of Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect 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 El Paso Electric Company (EPE) on January 28, 2026. The application seeks NRC approval of the indirect transfer of control of EPE's interests in Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 for the Palo Verde Nuclear Generating Station (Palo Verde), Units 1, 2, and 3, respectively, as well as the associated general license for the Palo Verde Independent Spent Fuel Storage Installation (ISFSI) (together, the facility).

DATES: Submit comments by May 4, 2026. A request for a hearing or petition for leave to intervene must be filed by April 23, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1618. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. eastern time (ET) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Orders, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3329; email: *William.Orders@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–1618 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–2026–1618.

• *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. ML26029A458.

• *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–2026–1618 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 section 50.80 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the indirect transfer of control of EPE's interests in the licenses for Palo Verde, Units 1, 2, and 3 and the associated general license for the Palo Verde ISFSI. Currently, EPE owns a 15.8-percent tenant-in-common interest in and holds possession-only rights in the facility. The indirect transfer of control resulted from the acquisition of an approximately 33.3-percent membership interest in IIF US Holding 2 GP, LLC (IIF US 2 GP), the general partner of IIF US Holding 2 LP, by a private individual, a U.S. citizen, subsequent to the retirement and relinquishment of an approximately 33.3-percent IIF US 2 GP membership interest held by a different private individual. Arizona Public Service Company holds both operating and possession rights in the facility and operates the facility; the proposed transfer implicates only an indirect upstream change in control over EPE's possession-only rights in the facility and does not involve or implicate any change in EPE's rights and obligations or any other co-owners' rights and obligations.

No physical changes or operational changes to the facility were proposed in the license transfer application.

The NRC's regulations at 10 CFR 50.80 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 indirect transfer of control of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

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 their 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 their 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://adams.nrc.gov/ehd*), 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 January 28, 2026 (ADAMS Accession No. ML26029A458).

Dated: April 1, 2026.

For the Nuclear Regulatory Commission.

William Orders,

Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–06544 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0045]

Information Collection: NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Forms 541 and 541A, ''Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page.''

DATES: Submit comments by May 4, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0045 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–2025–0045.

• *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.* A copy of the NRC Forms 541 and 541A and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML25164A040, and ML25164A041, respectively and ML20178A433 (NUREG–BR–0204, ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest''). The supporting statement is available in ADAMS under Accession No. ML26048A098.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Forms 541 and 541A, ''Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** (FR) notice with a 60-day comment period on this information collection on December 10, 2025, 90 FR 57218.

1. *The title of the information collection:* NRC Forms 541 and 541A, Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page.

2. *OMB approval number:* 3150–0166.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Forms 541 and 541A.

5. *How often the collection is required or requested:* NRC Form 541 and 541A, or the Agreement State equivalent forms, are required when low-level radioactive waste (LLRW) is transferred by any waste generator, waste collector, or waste processor licensee, who ships LLRW either directly, or indirectly through a waste collector or waste processor, for ultimate disposal at a licensed LLRW disposal facility.

6. *Who will be required or asked to respond:* NRC Form 541 and continuation Form 541A are completed by waste generators, waste collectors, and waste processors who ship LLRW intended for ultimate disposal at a licensed LLRW land disposal facility.

7. *The estimated number of annual responses:* 4,616.

8. *The estimated number of annual respondents:* 712.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 15,233.

10. *Abstract:* The NRC regulations in section 20.2006 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Transfer for Disposal and Manifest'' and 10 CFR part 20, appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' established requirements for a nationwide system to ensure the safe and efficient transportation and disposal of LLRW. The Uniform LLRW Manifest system is implemented by utilization of specific NRC Forms to document the information required by 10 CFR 20.2006 and 10 CFR part 20, appendix G. The NRC Forms 541/541A, ''Uniform LLRW Manifest Container and Waste Description and Continuation Page,'' combined with NRC Forms 540/540A, ''Uniform LLRW Manifest (Shipping Paper) and Continuation Page'' and, if necessary, NRC Forms 542/542A, ''Uniform LLRW Manifest Index and Regional Compact Tabulation,'' are collectively referred to as the Uniform LLRW Manifest Forms. The forms were originally developed by the NRC at the request of LLRW industry groups, and Federal and State agencies. These forms assist in providing a standardized nationwide framework for collecting and transmitting LLRW related information from generation to disposal. The NRC Forms 541 and 541A or Agreement State equivalent forms are used on a nationwide basis to reflect the minimum safety-related information for an LLRW shipment as required by Federal and State reporting requirements for the safe transportation and disposal of LLRW. The Uniform LLRW Manifest Form 541/541A is completed by shippers of LLRW intended for disposal at a licensed LLRW land disposal facility. These NRC Forms include information regarding the disposal container description, waste description for each waste type in the container (physical and chemical description of the waste, and the radiological description (radionuclides and activity)) and the classification of the waste in accordance with 10 CFR part 61.55 ''Waste Classification.'' The Uniform LLRW Manifest Forms 541/541A are not required to physically accompany the shipment. Upon agreement between the shipper and consignee, NRC Form 541/541A are (1) mailed or electronically transferred to the intended consignee prior to the

shipment arriving at the consignee; or (2) delivered with the waste to the consignee. The NUREG/BR–0204, Revision 3, contains instructions for completing NRC Uniform LLRW Manifest Forms. As stated in 10 CFR part 20, appendix G, ''Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information . . .'' The NRC previously noticed the availability of revisions to the Uniform LLRW Manifest Forms in *the* **Federal Register** on November 23, 2022, 87 FR 71694. The information collection contained in the current extension request does not include any changes to the forms.

Dated: March 31, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06495 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of April 6, 13, 20, 27, and May 4, 11, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please contact the Reasonable Accommodations Resource by email at *Reasonable_Accommodations.Resource@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of April 6, 2026

There are no meetings scheduled for the week of April 6, 2026.

Week of April 13, 2026—Tentative

There are no meetings scheduled for the week of April 13, 2026.

Week of April 20, 2026—Tentative

Tuesday, April 21, 2026

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting) (Contact: Ally Mara: 301–415–2509)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of April 27, 2026—Tentative

There are no meetings scheduled for the week of April 27, 2026.

Week of May 4, 2026—Tentative

Tuesday, May 5, 2026

10:00 a.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Erin Deeds: 301–415–2887)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, May 7, 2026

9:00 a.m. Strategic Programmatic Overview of the Fuel Facilities and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Annie Ramirez: 301–415–6780)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of May 11, 2026—Tentative

There are no meetings scheduled for the week of May 11, 2026.

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: April 1, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2026–06565 Filed 4–1–26; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0043]

Information Collection: NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Forms 540 and 540A, ''Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page.''

DATES: Submit comments by May 4, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0043 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–2025–0043.
- *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.* A copy of the NRC Forms 540 and 540A and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML25163A284, and ML25163A285, respectively and ML20178A433 (NUREG–BR–0204, ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest''). The supporting statement is available in ADAMS under Accession No. ML26043A014.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Forms 540 and 540A, ''Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** (FR) notice with a 60-day comment period on this information collection on December 10, 2025, 90 FR 57220.

1. *The title of the information collection:* NRC Forms 540 and 540A, Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page.
2. *OMB approval number:* 3150–0164.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Forms 540 and 540A.
5. *How often the collection is required or requested:* NRC Form 540 and 540A, or the Agreement State equivalent forms, are required when low-level radioactive waste (LLRW) is transferred by any waste generator, waste collector, or waste processor licensee, who ships LLRW either directly, or indirectly through a waste collector or waste processor, for ultimate disposal at a licensed LLRW disposal facility.
6. *Who will be required or asked to respond:* NRC Form 540 and continuation Form 540A are completed by waste generators, waste collectors, and waste processors who ship LLRW intended for ultimate disposal at a licensed LLRW land disposal facility.
7. *The estimated number of annual responses:* 4,616.
8. *The estimated number of annual respondents:* 712.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 3,462 (3,116 reporting and 346 recordkeeping).
10. *Abstract:* The NRC regulations in section 20.2006 of title 10 in the *Code of Federal Regulations* (10 CFR), ''Transfer for Disposal and Manifest'' and 10 CFR part 20, appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' established requirements for a nationwide system to ensure the safe and efficient transportation and disposal of LLRW. The Uniform LLRW Manifest system utilizes specific NRC Forms to document the information required by 10 CFR 20.2006 and 10 CFR part 20, appendix G. The NRC Forms 540/540A, ''Uniform Low-Level Radioactive Waste Manifest (Shipping Paper) and Continuation Page,'' combined with NRC Forms 541/541A, ''Uniform Low-Level Radioactive Waste Manifest Container and Waste Description and Continuation Page,'' and, if necessary, NRC Forms 542/542A, ''Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation,'' are collectively referred to as the Uniform LLRW Manifest Forms. The forms were originally developed by the NRC at the request of low-level waste industry groups, and Federal and State agencies. These forms assist in providing a standardized nationwide framework for collecting and transmitting LLRW related information from generation to disposal. The NRC Forms 540 and 540A or Agreement State equivalent forms are used on a nationwide basis to reflect the minimum safety-related information for an LLRW shipment as required by Federal and State reporting requirements for the safe transportation and disposal of LLRW. The Uniform LLRW Manifest Form 540/540A is completed by shippers of LLRW intended for disposal at a licensed LLRW land disposal facility. These NRC Forms include information about the shipper, carrier and designated disposal facility, and specific information about the contents of the shipment, *e.g.,* radionuclides, physical and chemical form and total weight or volume. The completed NRC Manifest Form 540 also contains information necessary to satisfy the Department of Transportation

regulations in 49 CFR part 172, ''Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans.'' These forms must physically accompany the LLRW shipment. The NUREG/BR–0204, Revision 3, contains instructions for completing NRC Uniform LLRW Manifest Forms. As stated in 10 CFR part 20, appendix G, ''Licensees need not use originals of these NRC Forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information . . .'' The NRC previously noticed the availability of revisions to the Uniform LLRW Manifest Forms in the **Federal Register** on November 23, 2022, 87 FR 71692. The information collection contained in the current extension request does not include any changes to the forms.

Dated: March 31, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06493 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0049]

Information Collection: NRC Form 327, Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 327, ''Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory.''

DATES: Submit comments by May 4, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0049 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–2025–0049.
- *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.* A copy of NRC Form 327 and related instructions may be obtained without charge by accessing ADAMS Accession No. ML25197A788. The supporting statement is available in ADAMS under Accession No. ML26050A510.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 327, ''Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report, and NUREG/BR–0096, Instructions and Guidance for Completing Physical Inventory.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 11, 2025, 90 FR 57489.

1. *The title of the information collection:* NRC Form 327, Special Nuclear Material (SNM) and Source Material (SM) Physical Inventory Summary Report, and NUREG/BR–0096,

Instructions and Guidance for Completing Physical Inventory.

2. *OMB approval number:* 3150–0139.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 327.

5. *How often the collection is required or requested:* Certain licensees possessing strategic SNM are required to report inventories on NRC Form 327 every 6 months. Licensees possessing SNM of moderate strategic significance must report every 9 months, except one licensee (enrichment facility) reports its dynamic inventories every 3 months and its static inventory every 9 months. Licensees possessing SNM of low strategic significance must report annually, except one licensee (enrichment facility) that must report its dynamic inventories every 2 months and its static inventory annually.

6. *Who will be required or asked to respond:* Fuel facility licensees possessing SNM, *i.e.,* enriched uranium, plutonium, or U–233.

7. *The estimated number of annual responses:* 77.

8. *The estimated number of annual respondents:* 7.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 308.

10. *Abstract:* NRC Form 327 is submitted by certain fuel cycle facility licensees to account for SNM. The data is used by the NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) SNM theft or diversion. NUREG/BR–0096 provides guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

Dated: March 31, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06497 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0047]

Information Collection: NRC Form 237, Request for Access Authorization

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 237, ''Request for Access Authorization.''

DATES: Submit comments by May 4, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0047 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–2025–0047.
- *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 supporting statement and NRC Form 237 are available in ADAMS under Accession Nos. ML26064A104 and ML26064A103.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 237, ''Request for Access Authorization.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 11, 2025, 90 FR 57493.

1. *The title of the information collection:* NRC Form 237, Request for Access Authorization.

2. *OMB approval number:* 3150–0050.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 237.

5. *How often the collection is required or requested:* Required with every submission for access authorization, access to special nuclear material, or access to classified information.

6. *Who will be required or asked to respond:* NRC contractors, subcontractors, licensee employees, employees of other government agencies, and other individuals who are not NRC employees who require NRC access authorization.

7. *The estimated number of annual responses:* 922.

8. *The estimated number of annual respondents:* 77.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 184.

10. *Abstract:* A completed NRC Form 237 is required to obtain or renew access to special nuclear material (title 10 of the *Code of Federal Regulations* (10 CFR), paragraphs 11.15(a)(2) and (c)(1)) for classified information; (10 CFR 25.17(c) and 25.21(c)(1) and (2) for licensee personnel.) It is also used to request NRC access authorizations for personnel of NRC contractors, subcontractors, or other individuals who are not applicants for employment with NRC.

Dated: March 31, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06496 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2025–0044]

Information Collection: NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation and Continuation Page

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Forms 542 and 542A, ''Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation and Continuation Page.''

DATES: Submit comments by May 4, 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: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently Under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2025–0044 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–2025–0044.
- *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.* A copy of the NRC Forms 542 and 542A and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML25167A156, and ML25167A157 respectively and ML20178A433 (NUREG–BR–0204, ''Instructions for Completing NRC's Uniform Low-Level Radioactive Waste Manifest''). The supporting statement is available in ADAMS under Accession No. ML26043A008.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0856; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently Under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, 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 comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Forms 542 and 542A, ''Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation and Continuation Page.'' The NRC hereby

informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on December 10, 2025, 90 FR 57223.

1. *The title of the information collection:* NRC Forms 542 and 542A, Uniform Low-Level Radioactive Waste Manifest Index and Regional Compact Tabulation and Continuation Page.

2. *OMB approval number:* 3150–0165.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Forms 542 and 542A.

5. *How often the collection is required or requested:* NRC Form 542 and 542A, or the Agreement State equivalent forms, are required when low-level radioactive waste (LLRW) is shipped by waste collectors and waste processors, for ultimate disposal at a licensed LLRW disposal facility.

6. *Who will be required or asked to respond:* NRC Form 542 and continuation Form 542A are completed by waste collectors and waste processors who ship LLRW for ultimate disposal at a licensed LLRW disposal facility.

7. *The estimated number of annual responses:* 623.

8. *The estimated number of annual respondents:* 71.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 467.

10. *Abstract:* The NRC regulations in section 20.2006 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Transfer for Disposal and Manifest'' and 10 CFR part 20, appendix G, ''Requirements for Transfers of Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests,'' established requirements for a nationwide system to ensure the safe and efficient transportation and disposal of LLRW. The Uniform LLRW Manifest system is implemented by the utilization of specific NRC forms to document the information required by 10 CFR 20.2006 and 10 CFR part 20, appendix G. The NRC Forms 542/542A, ''Uniform LLRW Manifest Index and Regional Compact Tabulation and Continuation Page,'' combined with NRC Forms 540/540A, ''Uniform LLRW Manifest (Shipping Paper) and Continuation Page'' and NRC Forms 541/541A, ''Uniform LLRW Manifest Container and Waste Description and Continuation Page,'' are collectively referred to as the Uniform LLRW Manifest Forms. The forms were originally developed by the NRC at the request of LLRW industry groups, and Federal and State agencies. These forms assist in providing a standardized nationwide framework for collecting and transmitting LLRW related information from generation to disposal. The NRC Forms 542 and 542A or Agreement State equivalent forms are used on a nationwide basis to reflect the minimum safety related information for an LLRW shipment as required by Federal and State reporting requirements for the safe transportation and disposal of LLRW. The forms are completed by waste processors and waste collectors of LLRW that are shipping LLRW received from various waste generators to a licensed LLRW facility for disposal. The NRC Forms 542 and 542A are used to attribute LLRW to the original waste generator for regional waste compact tabulation in accordance with the LLRW Policy Amendments Act of 1985. This information includes generator identification number, generator's name, phone number, address, manifest number, and description of the waste. The Uniform LLRW Manifest Forms 542/542A are not required to physically accompany the shipment. Upon agreement between the shipper and consignee, NRC Form 542/542A are (1) mailed or electronically transferred to the intended consignee prior to the shipment arriving at the consignee; or (2) delivered with the waste to the consignee. The NUREG/BR–0204, Revision 3, contains instructions for completing NRC Uniform LLRW Manifest Forms. As stated in 10 CFR part 20, appendix G, ''Licensees need not use originals of these NRC forms as long as any substitute forms are equivalent to the original documentation in respect to content, clarity, size, and location of information . . .'' The NRC previously noticed the availability of revisions to the Uniform LLRW Manifest Forms in the **Federal Register** on November 23, 2022 (87 FR 71699). The information collection contained in the current extension request does not include any changes to the forms.

Dated: March 31, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–06494 Filed 4–2–26; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–181 and K2026–181; MC2026–182 and K2026–182; MC2026–183 and K2026–183; MC2026–184 and K2026–184]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 8, 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

[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).

of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests. The comment due date discussed below does not apply to Section III proceedings (Docket Nos. MC2026–181 and K2026–181; MC2026–182 and K2026–182; MC2026–183 and K2026–183).

II. Public Proceeding(s)

1. *Docket No(s).:* MC2026–184 and K2026–184; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 1495 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 31, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; Public Representative: Kenneth Moeller; *Comments Due:* April 8, 2026.

III. Summary Proceeding(s)

1. *Docket No(s).:* MC2026–181 and K2026–181; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 945, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 31, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

2. *Docket No(s).:* MC2026–182 and K2026–182; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 946, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 31, 2026; *Filing Authority:* 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

3. *Docket No(s).:* MC2026–183 and K2026–183; *Filing Title:* USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 947, and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 31, 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. 2026–06528 Filed 4–2–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105126; No. SR–24X–2026–09]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Monthly Enterprise Fee for Its Depth of Book Proprietary Market Data Feed

March 31, 2026.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 18, 2026, 24X National Exchange LLC (''24X'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a monthly Enterprise fee for its depth of book [4] proprietary market data feed (''24X Depth Feed''). The proposed rule change is available on the Exchange's website at *https://equities.24exchange.com/regulation* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The 24X Depth Feed is a 24X-only market data feed that contains all displayed orders for securities trading on the Exchange (*i.e.,* top and depth-of-book order data), order executions (*i.e.,* last sale data), order cancellations, order modifications, order identification numbers, and administrative messages.[5] With respect to the 24X Depth Feed, the Exchange currently charges a fee of $1,500 per month to Internal Distributors, a fee of $2,500 per month to External Distributors, a fee of $2,500 per month for Non-Display Usage, a Professional User fee of $30 per month, a Non-Professional User fee of $3 per month, and a Digital Media Enterprise license fee of $5,000 per month.[6] The aforementioned fees have been in effect without change since October 14, 2025.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* 24X Rule 13.8(a).

[5] *Id.*

[6] *See* 24X National Exchange Market Data Fees and Market Data Definitions, available at *https://equities.24exchange.com/api/media/file/24X%20Market%20Data%20Fees-2.pdf.*

[7] *See* Securities and Exchange Commission Release No. 34–104082 (Sept. 26, 2025), 90 FR 47063 (Sept. 30, 2025) (SR–24X–2025–09); ''Launch Date for First Stage of 24X National Exchange Moved to October 14, 2025.'' *Prnewswire.com,*

The Exchange is proposing to adopt an additional monthly Enterprise license that Members [8] and non-Members (each a ''Recipient Firm'') may purchase as an alternative to User [9] fees to receive access to the 24X Depth Feed for distribution to an unlimited number of Professional [10] and Non-Professional Users.[11] The Exchange proposes to establish a fee of $15,000 per month per Recipient Firm for the Enterprise license to receive the 24X Depth Feed. As discussed below, the proposed fee is lower than fees charged by other equities exchanges for Enterprise licenses for proprietary depth of book feeds.

The proposed Enterprise license is already available for the Exchange's other two data feeds, 24X Top [12] and 24X Last Sale.[13] The Exchange does not currently offer an Enterprise license for the 24X Depth feed because there was no demand for it among market participants when the Exchange adopted its initial market data fee schedule upon commencement of operations as a national securities exchange.[14] The Exchange is proposing to adopt the proposed Enterprise license after receiving additional feedback from market participants that a significant demand now exists, and notes that several other exchanges offer a substantially identical license for their proprietary depth of book feeds as well as their other market data feeds.[15]

The Exchange notes that there is no requirement that any market participant purchase the proposed Enterprise license for the 24X Depth Feed or any of the Exchange's other proprietary data feeds, but instead, a market participant may choose to maintain subscriptions to those products it deems appropriate based on its business model. Given that the Exchange still offers per-user fees for distribution of the 24X Depth Feed to Professional and Non-Professional Users, a market participant that deems it unnecessary or too costly to purchase the Enterprise license for unlimited distribution may still access the 24X Depth Feed on a scale that is proportionate to its number of users. The Exchange also notes that it is appropriate for the proposed Enterprise fee to be higher for the 24X Depth feed than it is for the 24X Top or 24X Last Sale feeds given that the 24X Depth feed provides more information than the other two feeds.[16]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [17] of the Act in general, and furthers the objectives of Section 6(b)(4) [18] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. The Exchange believes the proposed fee is reasonable, equitably allocated, and not unreasonably discriminatory because it is consistent with the fees it charges for the same market data product on its other feeds, and consistent with the fee structure and fees charged by other exchanges with comparable market data products. As such, the Exchange believes it is adopting a model that is easily understood by Members and non-Members, most of which also subscribe to the same market data product for the Exchange's other data feeds and similar products from other exchanges. As summarized in the table below, the proposed monthly fee is lower than the monthly fee charged by other exchanges with similar market share as the Exchange [19]—MIAX Pearl, Cboe BYX, and Cboe EDGA—for a substantially identical product.[20]

Delivery	Exchange	Depth of book feed
Enterprise Fee	24X	$15,000
	MIAX Pearl	25,000
	Cboe BYX	25,000
	Cboe EDGA	25,000

The Exchange believes that the proposed fee for the 24X Depth Feed Enterprise license is reasonable when compared to fees for comparable products at MIAX Pearl, Cboe BYX, and Cboe EDGA, as illustrated in the table above, given that in all cases, the Exchange's proposed fee is lower than the fees charged by those other exchanges.

The Exchange also believes that it is reasonable for the proposed Enterprise fee to be higher for the 24X Depth Feed than it is for the 24X Top Feed and 24X Last Sale Feed [21] because the 24X Depth Feed provides more information to subscribers than do the other two feeds.[22]

The Exchange also believes that its proposed Enterprise fee is reasonable, fair, and equitable, and not unfairly discriminatory because it will apply uniformly to all Recipient Firms that choose to purchase the 24X Depth Feed Enterprise license. Any Recipient Firm that chooses to purchase the 24X Depth Feed Enterprise license is subject to the same fee regardless of what type of business it operates, and the decision to purchase the 24X Depth Feed Enterprise license is based on data usage practices which are in the control of each particular Recipient Firm.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[23] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed fee for the 24X Depth Feed Enterprise license places certain market participants at a relative disadvantage compared to other market participants because, as noted above, the decision to purchase the 24X Depth Feed Enterprise license is optional and based on data usage practices which are in the control of each particular Recipient Firm, and such fee does not impose a barrier to entry to smaller participants. As noted above, given that the Exchange still offers per-user fees for distribution of the 24X Depth Feed to Professional and Non-Professional Users, a market participant that deems it unnecessary or too costly to purchase the Enterprise license for unlimited distribution may still access the 24X Depth Feed on a scale that is proportionate to its number of users. Accordingly, the proposed fee for the 24X Depth Feed Enterprise license does not favor certain categories of market participants in a manner that would impose a burden on competition.

The Exchange also does not believe the proposed fee places an undue

Cision PR Newswire (Sept. 26, 2025), available at: *www.prnewswire.com/news-releases/launch-date-for-first-stage-of-24x-national-exchange-moved-to-october-14–2025–302568512.html.*

[8] *See* 24X Rule 1.5(u).

[9] *See supra* note 6.

[10] *Id.*

[11] *Id.*

[12] *See* Securities and Exchange Commission Release No. 34–104082 (Sept. 26, 2025), 90 FR 47063 (Sept. 30, 2025) (SR–24X–2025–09).

[13] *Id.*

[14] *Id.*

[15] *See, e.g.,* MIAX PEARL, LLC (''MIAX Pearl'') market data fee schedule, available at: *https://www.miaxglobal.com/markets/us-equities/pearl-equities/fees;* Cboe BYX Exchange, Inc. (''Cboe BYX'') market data fee schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/byx/;* Cboe EDGA Exchange, Inc. (''Cboe EDGA'') market data fee schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/edga/.*

[16] *See* 24X Rule 13.8.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] *See* Cboe Exchange, Inc. U.S. Equities Market Volume Summary, available at: *https://www.cboe.com/us/equities/market_share/.*

[20] *See supra* note 15.

[21] *See supra* note 6.

[22] *See* 24X Rule 13.8.

[23] 15 U.S.C. 78f(b)(8).

burden on competition on other self-regulatory organizations that is not necessary or appropriate. In particular, market participants are not forced to purchase the 24X Depth Feed Enterprise license, as described above. Additionally, other exchanges have higher market data fees in place for similar products.[24] Competing equities exchanges are free to adopt comparable fee structures subject to the SEC rule filing process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[25] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder,[26] because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[27] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–24X–2026–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–24X–2026–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–24X–2026–09 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Sherry R. Haywood,

Assistant Secretary.

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[24] *See supra* note 15.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(2).

[27] 15 U.S.C. 78s(b)(2)(B).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105123; File No. SR–BOX–2026–06]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Amend BOX Rules 5055 (FLEX Equity Options) and 3120 (Position Limits)

March 31, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 27, 2026, BOX Exchange LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend BOX Rules 5055 (FLEX Equity Options) and 3120 (Position Limits) in connection with options overlying the following Exchange-Traded Fund Shares, as applicable: iShares Bitcoin Trust ETF (''IBIT''), the Grayscale Bitcoin Trust (''GBTC''), the Grayscale Bitcoin Mini Trust (''BTC''), the Bitwise Bitcoin ETF (''BITB''), Fidelity Wise Origin Bitcoin Fund (''FBTC''), the ARK21Shares Bitcoin ETF (''ARKB''), the iShares Ethereum Trust ETF (''ETHA''), the Fidelity Ethereum Fund (''FETH''), the Bitwise Ethereum ETF (''ETHW''), the Grayscale Ethereum Trust (''ETHE''), and the Grayscale Ethereum Mini Trust (''ETH''). The text of the proposed rule change is available from the principal office of the Exchange and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend BOX Rules 5055 (FLEX Equity Options) and 3120 (Position Limits) in connection with options overlying the following Exchange-Traded Fund Shares, as applicable: iShares Bitcoin Trust ETF, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, the Bitwise Bitcoin ETF, Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the iShares Ethereum Trust ETF, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust (collectively ''the Crypto Assets''). Each change will be described below. This is a competitive filing that is based on a proposal

recently submitted by Nasdaq ISE, LLC (''ISE'').[3]

Background

On November 21, 2024, BOX filed to list options on the iShares Bitcoin Trust ETF, Grayscale Bitcoin Trust, Grayscale Bitcoin Mini Trust, and Bitwise Bitcoin ETF.[4] On November 25, BOX filed to allow the Exchange to list and trade options on the Fidelity Wise Origin Bitcoin Fund, and ARK21Shares Bitcoin ETF.[5] On April 10, 2025, BOX filed to list options on the iShares Ethereum Trust ETF, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust.[6]

These aforementioned rule changes permitted BOX to trade the Crypto Assets subject to a 25,000 contract position and exercise limit and a restriction on the trading of FLEX Equity Options. On August 15, 2025, BOX filed to amend the position and exercise limits for options on the iShares Bitcoin Trust ETF to eliminate the 25,000 contract position and exercise limits and apply the position and exercise limits in BOX Rules 3120 and 3140 to IBIT options.[7] On August 15, 2025, BOX filed to eliminate the 25,000 contract position and exercise limit for options on the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF.[8]

Thereafter, on November 17, 2025, BOX filed to permit the trading of FLEX Equity Options on shares of the iShares Bitcoin Trust ETF subject to the position and exercise limits set forth in Rule 5055(i), and those position limits are to be aggregated with positions on the same non-FLEX underlying ETF for the purpose of calculating the position and exercise limits set forth in Rule 5055(i).[9] On November 17, 2025, BOX filed to permit the trading of FLEX Equity Options on shares of the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF subject to the position and exercise limits set forth in Rule 5055(i), aggregating those limits with the non-FLEX underlying ETF limits.[10]

On November 19, 2025, BOX's proposal to permit certain options on Exchange-Traded Fund Shares that meet certain generic requirements to be listed as a Commodity-Based Trust was noticed for immediate effectiveness.[11] As amended, Rule 5020(h) specifies that BOX may list and trade interests in a Commodity-Based Trust that meets the generic criteria of the U.S. securities exchange that is the primary equities listing market for the Commodity-Based Trust provided the trust holds a single crypto asset.[12] Further, a Commodity-Based Trust that meets the requirements of Rule 5020(h) must also satisfy the following requirements: (A) the total global supply of the underlying crypto asset held by the Commodity-Based Trust has an average daily market value of at least $700 million over the last 12 months; and (B) the crypto asset held by the Commodity-Based Trust underlies a derivatives contract that trades on a market with which the Exchange has a comprehensive surveillance sharing agreement, whether directly or through common membership in the Intermarket Surveillance Group.

Any option approved pursuant to Rule 5020(h) is subject to the position limits set forth in Rule 3120, and subject to the exercise limits set forth in Rule 3140. Further any option approved pursuant to Rule 5020(h) is not restricted from trading as FLEX Equity Options.

Proposal

The Crypto Assets all qualify for listing pursuant to Rule 5020(h). As such, similar to other options listed pursuant to Rule 5020(h), the Crypto Assets should be subject to the position limits set forth in Rule 3120, and subject to the exercise limits set forth in Rule 3140. Also, the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the iShares Ethereum Trust, the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, the Bitwise Ethereum ETF, or the Fidelity Ethereum Fund should not be restricted from trading as FLEX Equity Options.

Position Limits

To that end, the Exchange proposes to remove the 25,000 position and exercise limit restrictions for Fidelity Wise Origin Bitcoin Fund, the ARK21Shares

[3] *See* Securities Exchange Act Release No. 104648 (January 21, 2026) 91 FR 3282 (January 26, 2026) (SR–ISE–2026–01) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Restrictions on Certain Crypto Assets).

[4] *See* Securities Exchange Act Release No. 101735 (November 25, 2024), 89 FR 95264 (December 2, 2024) (SR–BOX–2024–27) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to Permit Trading of iShares Bitcoin ETF Options); and 101739 (November 25, 2024), 89 FR 95339 (December 2, 2024) (SR–BOX–2024–28) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to Permit Options Trading on Bitcoin Funds).

[5] *See* Securities Exchange Act Release No. 101773 (November 27, 2024), 89 FR 95834 (December 3, 2024) (SR–BOX–2024–29) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to Permit Options Trading on Bitcoin Funds).

[6] *See* Securities Exchange Act Release Nos. 102828 (April 11, 2025), 90 FR 16298 (April 17, 2025) (SR–BOX–2025–08) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) to List and Trade Options on the iShares Ethereum Trust); 102837 (April 11, 2025), 90 FR 16229 (April 17, 2025) (SR–BOX–2025–10) (Notice of Filing of Proposed Rule Change to Amend BOX Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) to Permit the Listing and Trading of Options on the Fidelity Ethereum Fund); and 102840 (April 11, 2025), 90 FR 16316 (April 17, 2025) (SR–BOX–2025–09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) to Permit the Listing and Trading of Options on the Grayscale Ethereum Trust).

[7] *See* Securities Exchange Act Release No. 103747 (August 20, 2025), 90 FR 41442 (August 25, 2025) (SR–BOX–2025–22) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend BOX Rule 3120 to Increase the Position and Exercise Limits for the iShares Bitcoin Trust ETF).

[8] *See* Securities Exchange Act Release No. 103748 (August 20, 2025), 90 FR 41420 (August 25, 2025) (SR–BOX–2025–23) (Notice of Filing and Immediate Effectiveness of Proposed Change to Amend BOX Rule 3120 to Increase the Position and Exercise Limits for the Grayscale Bitcoin Mini Trust ETF, the Bitwise Bitcoin ETF, and the Grayscale Bitcoin Trust ETF).

[9] *See* Securities Exchange Act Release No. 104284 (December 2, 2025), 90 FR 56231 (December 5, 2025) (SR–BOX–2025–29) (Notice of Filing of Proposed Rule Change to amend BOX Rule 5055 (FLEX Equity Options) to permit FLEX Equity Options on the iShares Bitcoin Trust ETF).

[10] *See* Securities Exchange Act Release No. 104283 (December 2, 2025), 90 FR 56241 (December 5, 2025) (SR–BOX–2025–30) (Notice of Filing of Proposed Rule Change to amend BOX Rule 5055 (FLEX Equity Options) to permit FLEX Equity Options on the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF).

[11] *See* Securities Exchange Act Release No. 104225 (November 19, 2025), 90 FR 53029 (November 24, 2025) (SR–BOX–2025–28) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rule 5020 (Criteria for Underlying Securities) to Adopt Listing Criteria for Options on Commodity-Based Trust Shares). The Exchange initially filed SR–BOX–2025–12, a proposed rule change to amend its listing rules at Rule 5020 (Criteria for Underlying Securities) to allow the listing and trading of options on interests in a Commodity-Based Trust on April 25, 2025. On May 7, 2025, the Exchange filed Amendment No. 1 to the proposed rule change and SR–BOX–2025–12 was published in the **Federal Register** on May 15, 2025. On June 17, 2025, the Securities and Exchange Commission (the ''Commission'') issued an order instituting proceedings and designated November 11, 2025, as the date by which to issue an order approving or disapproving SR–BOX–2025–12. The Commission did not act to either approve or disapprove SR–BOX–2025–12 on or before November 11, 2025, therefore the proposal, as published in the **Federal Register** on May 15, 2025, was deemed approved as of November 12, 2025. On November 5, 2025, during the government shutdown, the Exchange submitted SR–BOX–2025–12, Amendment 2. The Exchange then proposed SR–BOX–2025–28 to reiterate the changes proposed in SR–BOX–2025–12, Amendment 2 to codify the proposed rule text in the Exchange's Rulebook.

[12] *See* BOX Rule 5020(h).

Bitcoin ETF, the iShares Ethereum Trust ETF, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust from IM–3120–2.

Additionally, the Exchange proposes to remove the rule text in Rule 5055(i)(4) which states, position limits for FLEX Equity Options on the iShares Bitcoin Trust, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, or the Bitwise Bitcoin ETF shall be subject to the position limits set forth in Rule 3120, and subject to the exercise limits set forth in Rule 3140 and shall be aggregated with positions in Non-FLEX Equity Options on the same underlying ETF for the purpose of calculating the position limits set forth in Rule 3120, and the exercise limits set forth in Rule 3140.

Similar to all other options, FLEX Equity Options on the iShares Bitcoin Trust ETF, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF would no longer be aggregated with positions on the same non-FLEX underlying ETF for the purpose of calculating the position limits set forth in Rule 3120, and the exercise limits set forth in Rule 3140. The Exchange notes that similar to all other options, the iShares Bitcoin Trust ETF, the Grayscale Bitcoin Trust, the Grayscale Bitcoin Mini Trust, and the Bitwise Bitcoin ETF would not be subject to position limits for FLEX Equity Options that are physically settled. The Exchange would also remove references to Rule 5055(i)(4) at Rules 5055(i)(1) and (j).

FLEX Equity Options

Similar to all other options, the Exchange would permit the Fidelity Wise Origin Bitcoin Fund, the ARK21Shares Bitcoin ETF, the iShares Ethereum Trust ETF, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust to trade as FLEX Equity Options. The Exchange proposes to remove the following text from Rule 5055(e)(2)(i), ''The Exchange will not authorize for trading a FLEX Equity Option class on the Fidelity Wise Origin Bitcoin Fund, the ARK 21Shares Bitcoin ETF, the iShares Ethereum Trust, the Grayscale Ethereum Trust ETF, the Grayscale Ethereum Mini Trust ETF, the Bitwise Ethereum ETF, or the Fidelity Ethereum Fund.''

With this proposal, Crypto Assets that qualify to be listed pursuant to Rule 5020(h) would be treated similar to all other options for purposes of position and exercise limits and FLEX Equity Option trading.

Lastly, the Exchange also proposes to make non-substantive numbering changes within Rule 5055 to conform with the changes proposed herein.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange's proposal to permit the Crypto Assets, which qualify for listing pursuant to Rule 5020(h), to be subject to the position limits set forth in Rule 3120, and subject to the exercise limits set forth in Rule 3140 similar to all other options is consistent with the Act as this treatment promotes just and equitable principles of trade. Further, the Exchange's proposal to permit the Crypto Assets, which qualify for listing pursuant to Rule 5020(h), to trade as FLEX Equity Options, similar to all other options is consistent with the Act as this treatment promotes just and equitable principles of trade.

Lastly, the Exchange believes the proposed non-substantive numbering changes within Rule 5055 are reasonable, equitable, and not unfairly discriminatory, as these non-substantive technical amendments will bring greater clarity to the Rule.

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. In this regard and as indicated above, the Exchange notes that the rule change being proposed is very similar in nature to a filing submitted by ISE.[15]

The Exchange does not believe that the proposed rule change will impose any burden on intra-market competition because the Crypto Assets that qualify to be listed pursuant to Rule 5020(h) would be treated similar to all other options for purposes of position and exercise limits and FLEX Equity Option trading. The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature. The Exchange expects that all option exchanges will adopt substantively similar proposals, such that the Exchange's proposal would benefit competition. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Lastly, the Exchange believes the proposed non-substantive numbering changes in Rule 5055 do not impose an undue burden on competition, as these non-substantive amendments will bring greater clarity to the Rule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b–4(f)(6)(iii)[19] thereunder.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra,* note 3.

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(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 business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6) [20] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[21] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately list and trade the Crypto Assets in the same manner as other options that qualify for listing pursuant to Exchange Rule 6020(h) and does not introduce any novel regulatory issues. Accordingly, the Commission designates the proposed rule change to be operative upon filing.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–BOX–2026–06 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–BOX–2026–06. 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 submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. 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–BOX–2026–06 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Sherry R. Haywood,

Assistant Secretary.

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[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] 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).

[23] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105131; File No. SR–Cboe–2025–075]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Cboe Rule 5.4

March 31, 2026.

I. Introduction

On September 30, 2025, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the minimum increment for options on the Cboe Mini Bitcoin ETF Index (''MBTX''). The proposed rule change was published for comment in the **Federal Register** on October 3, 2025.[3] On November 3, 2025, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 23, 2025, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposal.[7] The Commission received no comments regarding the proposal. On March 11, 2026, the Exchange filed Amendment No. 1 to the proposal, which supersedes and replaces the original proposal in its entirety.[8] The Commission is publishing this notice and order to solicit comment on Amendment No. 1 in Sections II and III below, which sections are being published verbatim as filed by the Exchange, and to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend Rule 5.4. The Exchange initially submitted this rule filing SR–CBOE–2025–075 to the Securities and Exchange Commission (the ''Commission'') on September 30, 2025 (the ''Initial Rule Filing''). This Amendment No. 1 supersedes the Initial

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104157 (Sept. 30, 2025), 90 FR 48071.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104173, 90 FR 51424 (Nov. 17, 2025). The Commission designated January 1, 2026, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] 15 U.S.C. 78s(b)(2).

[7] *See* Securities Exchange Act Release No. 104508, 90 FR 61490 (Dec. 31, 2025).

[8] Amendment No. 1 revises the proposal to provide additional discussion and analysis supporting the proposed minimum increment and to state in proposed Exchange Rule 5.4(a) that the proposed minimum increments for MBTX options will apply as long as options on the iShares Bitcoin Trust ETF (''IBIT'') participate in the Penny Interval Program.

Rule Filing and replaces it in its entirety. This Amendment No. 1 provides additional support for the proposed rule change, as well as adds a condition for Cboe Mini Bitcoin U.S. ETF Index (''MBTX options'') to qualify for the proposed minimum trading increments and makes other minor changes to the rule filing. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item 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 5.4(a) to change the minimum increment for all series of MBTX options to $0.01 for series trading lower than $3.00 and $0.05 for series trading at $3.00 or higher (as long as iShares Bitcoin Trust ETF options (''IBIT options'') participate in the Penny Interval Program). The Exchange believes market demand (including by retail investors, who generally prefer lower trading increments) supports a lower trading increment for MBTX options. Options overlying the components of the Cboe Mini Bitcoin U.S. ETF Index (and the underlying exchange-traded funds (''ETFs'') [9]) are actively traded (as are the underlying ETFs), and IBIT options in particular.[10] IBIT options are eligible for a lower trading increment, supporting the view that there will be market demand for the proposed trading increments for MBTX options.[11] The Exchange offers MBTX options to provide investors with opportunity to gain exposure to the price movements and directional views of Bitcoin with the benefits associated with index options, including cash-settlement, without the risks associated with holding Bitcoin or with physical settlement.[12] The proposed increments will allow MBTX options to more effectively compete with IBIT options, which is by far the most actively traded constituent of the Cboe Mini Bitcoin U.S. ETF Index.[13] The Exchange also expects this more granular pricing to lead to narrowing of the bid-ask spread for these options and increase the possible number of price points available to investors for these series. The Exchange believes tighter spreads will increase order flow in MBTX options, which additional liquidity ultimately benefits all investors. Finer increments also permit more precise pricing in line with the theoretical value of these options and thus more efficient hedging opportunities, particularly with respect to IBIT options and related products that may already trade in finer increments.

The Exchange has analyzed its capacity and represents that it believes that the Exchange has the necessary systems capacity to handle any potential additional message traffic associated with the proposed rule change. The Options Price Reporting Authority (''OPRA'') also informed the Exchange it believes it has the necessary systems capacity to handle any additional traffic that may result from this proposed rule change. The Exchange does not believe any potential increased traffic will become unmanageable since this proposed rule change with respect to minimum trading increments is limited to a single class of options.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will protect investors and the public interest. As discussed above, the Exchange believes market demand (including by retail investors, who generally prefer lower trading increments) supports a lower trading increment for MBTX options. As noted above, options overlying many of the components of the Cboe Mini Bitcoin U.S. ETF Index are among the most actively traded options (as are the underlying stocks). Options on four of the ten components are among the top 10% of the most actively traded options (and options on seven components are among the top 38% of the most actively traded options). IBIT, BITO, and FBTC options are eligible for a lower trading increment. As discussed below, MBTX options were designed to compete with options on the constituents, and IBIT options, in particular, given their significant volume, and to create exposure to Bitcoin, which may trade in penny increments. The Exchange believes this supports the view that there will be market demand for the proposed trading increments for MBTX options and that the proposed rule change will promote competition among options [and other products] providing exposure to Bitcoin, which competition ultimately benefits investors. The

[9] *See https://cdn.cboe.com/api/global/us_indices/governance/Cboe_Bitcoin_US_ETF_Index_Methodology.pdf* (which requires each constituent to have monthly consolidated trading volume of at least 500,000 shares for each month within the immediately preceding six-month period, an average consolidated trading volume of at least 1,000,000 shares over the immediately preceding six months, and a market capitalization of at least $75 million).

[10] Based on the six-month volume from August 1, 2025 through January 31, 2026, options on four of the components were among the top 10% of the most actively traded options, and seven of the components were among the top 38% of the most actively traded options.

[11] Options overlying ProShares Bitcoin ETF (''BITO options'') and Fidelity Bitcoin Fund (''FBTC options'') are also eligible for the Penny Interval Program.

[12] *See https://cdn.cboe.com/resources/membership/Cboe_Bitcoin_US_ETF_Options_Comparative_Overview.pdf*

[13] From August 1, 2025 through January 31, 2026, IBIT option volume was nearly 25 times more than the volume of the next most actively traded constituent, demonstrating that IBIT options are the product with which MGTX [sic] options are primarily competing.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

Exchange believes the proposed rule change will also benefit investors because it will permit more granular pricing in MBTX options, which may lead to narrower bid-ask spreads for these options and increase the possible number of price points (thus increasing execution opportunities) available to investors for these series, which ultimately increases liquidity to the benefit of all investors. The Exchange believes tighter spreads will also increase order flow in MBTX options, which additional liquidity ultimately benefits all investors. The Exchange believes tighter spreads will also increase order flow in MBTX options, which additional liquidity ultimately benefits all investors. [sic]

As noted above, the Exchange believes the proposed rule change will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system because it will permit MBTX options to trade at the same level of granularity as permitted for IBIT options, which is the product with which MBTX options are primarily trying to compete.[17] The Cboe Mini Bitcoin U.S. ETF Index is comprised of spot Bitcoin ETFs listed on U.S. exchanges and is designed to reflect the price return performance of these ETFs. MBTX options are designed to offer more targeted exposure to the performance of these ETFs compared to options on the full-size index. As noted above, the Exchange offers MBTX options to provide investors with an alternative product to gain exposure to the performance of Bitcoin. MBTX options were designed to compete with options on the components of the Cboe Mini Bitcoin U.S. ETF Index. MBTX options provide investors with opportunity to gain exposure to these popular products with the benefits of index options (including European-style, cash settlement) and without risks associated with trading in Bitcoin and options on the ETF (including concentration risk and American-style, physical settlement). Options on three components of the Cboe Mini Bitcoin U.S. ETF Index are eligible for the Penny Interval Program, which is unsurprising given these constituents are actively traded in the market. MBTX options provide investors with a cash-settled, European-settled [sic] option way to gain exposure to the performance of these ETFs,[18] and thus the performance of Bitcoin, as opposed to an option that is physically settled or subject to the risk of holding Bitcoin. As a result, the Exchange believes MBTX options should be eligible for the same pricing increments for competitive reasons to allow the Exchange to price these options at the same level of granularity as permitted for the largest of its competitor products [19] to promote competition and help level the competitive playing field among options that provide exposure to some of the most dominant stocks in the industry.[20] Permitting MBTX options to trade in the same increments as IBIT options (as well as BITO and FBTC options) will promote competition and help level the competitive playing field, thus promoting just and equitable principles of trade and removing impediments to and perfecting the mechanism of a free and open market and a national market system.

MBTX options are also intended to compete with Bitcoin futures products. For example, the Chicago Mercantile Exchange (''CME''), offers a Micro Bitcoin futures as a smaller-sized option to Bitcoin futures that offers investors a way to ''fine-tune bitcoin exposure and enhance . . . trading strategies.'' [21] As noted above, this is similar to the Exchange's purpose of offering options on the Cboe Mini Bitcoin U.S. ETF Index.[22] The minimum tick size for Micro Bitcoin Futures is $0.50, and the notional value of that contract is $7,050. If a 100 delta is applied to the futures (which is appropriate given the ratio of the price movements of the future to the price movements of Bitcoin is one-to-one), the ratio of the minimum interval to the notional value of one contract is approximately 0.0071%. Using a 50 delta for the option (which is the approximate delta for an at-the-money option) and given the notional value of an MBTX option contract of $16,610, that ratio is 0.0120%. Therefore, the proposed minimum tick size for MBTX options is still larger than the minimum tick size for the Micro Bitcoin Futures when compared to the contract notional value. However, given this percentage is 0.06% with the current minimum increment of $0.05 for MBTX options, the proposed rule change would permit MBTX options to trade in a relative increment much more equivalent to that of Micro Bitcoin Futures.[23] MBTX options also provide investors with an alternative method to gain exposure to the performance of Bitcoin, which is eligible to trade in penny increments on various platforms, such as Coinbase. This is evidenced by the approximately 0.999 correlation between the Cboe Mini Bitcoin U.S. ETF Index and the S&P Spot Bitcoin Index since MBTX options began trading in December 2024. Therefore, the Exchange believes the proposed rule change will promote competition and help level the competitive playing field, thus promoting just and equitable principles of trade and removing impediments to and perfecting the mechanism of a free and open market and a national market system, as it will permit MBTX options to trade in increments that are the same as or similar to other competitive products.

The Exchange also believes consistency in pricing across related products may better facilitate cross-product trading strategies. For example, market participants may use options overlying components of the Cboe Mini Bitcoin U.S. ETF Index, including IBIT options, to hedge MBTX options or as part of other investment strategies involving MBTX options. The same is true with respect to Bitcoin itself as well

[17] As [sic] noted above, IBIT, BITO, and FBTC options qualify for the Penny Interval Program under Rule 5.4(a). However, the volume of IBIT options for the six-month period ending January 31, 2026 is nearly 25 times the volume of the next most actively traded constituent option and is the 11th most actively traded equity option based on volumes during that timeframe.

[18] Since MBTX options began trading in December 2024, the correlation of the Cboe Mini Bitcoin U.S. ETF Index and the index constituents ranged between approximately 96% and 100%. The correlation between the index and iShares Bitcoin Trust ETF was approximately 0.9999. Similarly, the correlation between the index and ProShares Bitcoin ETF and Fidelity Bitcoin Fund (on which options on those ETFs are also eligible for the Penny Interval Program) was approximately 0.9562 and 0.9999, respectively.

[19] As noted above, IBIT options were the 11th most actively traded equity options for the six-month period ending January 31, 2026, and its volume was nearly 25 times higher than then [sic] next-most actively traded index constituent option. It is for this reason the proposed rule change ties penny and nickel increments for MBTX options to IBIT options being eligible for the Penny Interval Program.

[20] The Exchange notes that other index options that trade on the Exchange are currently permitted to trade in smaller increments because competitive products can trade in those smaller increments. *See* Rule 5.4 (the minimum for XSP options is $0.01 because that is the minimum increment for SPY options, and the minimum increment for DJX options is $0.01 for series below $3 and $0.05 for series $3 and above because that is the minimum increment for DIA options).

[21] *See Micro Bitcoin Futures and Options, available at https://www.cmegroup.com/markets/cryptocurrencies/bitcoin/micro-bitcoin.html.*

[22] *See Cboe Bitcoin U.S. ETF Index Options, available at https://www.cboe.com/tradable-products/cryptocurrency/bitcoin-etf-index-options/.*

[23] The current disparity in the tick size compared to the notional value of the Micro Bitcoin futures and MBTX options is larger if calculated without a delta adjustment (the ratio of minimum increment compared to notional value without a delta adjustment for MBTX options is 0.03% considering $0.05 minimum increment compared to the ratio for Micro Bitcoin futures of 0.0071%). The non-delta-adjusted ratio of a penny increment compared to notional value for MBTX options would be 0.006%, which is nearly the same as the Micro Bitcoin futures ratio.

as Bitcoin futures. Therefore, having the pricing increments for MBTX options aligned with these related products will permit investors to trade related products at more granular prices that may be more aligned with their investment objectives.

Further, finer increments also permit more precise pricing in line with the theoretical value of these options, particularly short-dated options. The Exchange may list MBTX options with nonstandard expirations,[24] and the Exchange has observed significant trading in MBTX options with these nonstandard expirations near their expiration dates. Nearly half of MBTX options traded in from August 1, 2025 through January 31, 2026 were traded with one week or less to expiration. Theoretical values of options change in response to changes in the underlying more rapidly closer to their expiration. Therefore, finer pricing permits investors to price these options to more accurately reflect then-current market conditions. A larger increment may create an artificially widespread [sic] compared to the option's actual value, which may impact execution quality. Similarly, premiums of shorter-dated options are often lower than premiums of longer-dated options given the reduced time value that exists in options closer to their expiration, so a lower trading increment is more proportional to the value of these options and further promotes tighter spreads. The value of the premium may fluctuate more given the proximity to expiration, and the Exchange believes providing investors with the ability to quote options nearing expiration in a finer increment will result in more efficient and accurate pricing for investors.

The same reasons supporting why finer trading increments are appropriate for shorter-dated options provided the same support for why more granular strikes are permitted for shorter-dated options. Specifically, in prior rule filings, the Exchange explained that smaller strike intervals for weekly expirations permit strikes on a more refined scale that, at times, will more closely reflect values in the underlying index and allow market participants to roll open positions from a lower strike to a higher strike in conjunction with the price movement of the underlying.[25] The Exchange believes this provides market participants with efficient hedging and trading opportunities. The Exchange believes this same principle applies to trading increments for MBTX options, for which (as noted above) nearly a majority of trading is in shorter-dated options. Shorter-dated options experience more rapid time decay than longer-dated options because, as options approach their expiration dates, even relatively small movements in the underlying index can result in meaningful changes to option values. Finer trading increments of $0.01 and $0.05 allow market participants to price MBTX options with greater precision that more accurately reflects the theoretical value of these options as they approach expiration. This precision is particularly important for retail investors and market makers who need to adjust positions frequently in response to rapid changes in option values.

Additionally, market participants trading shorter-dated options typically roll or adjust their positions more frequently than those trading longer-dated options. With weekly and nonstandard expirations, investors may be rolling positions multiple times per month. Finer trading increments facilitate these frequent adjustments by providing more price points at which market participants can efficiently enter and exit positions. This is analogous to the Exchange's justification for smaller strike intervals.[26]

Further, just as the Exchange has determined that smaller strike price intervals are appropriate for shorter-dated options to provide more efficient hedging and trading opportunities,[27] the Exchange believes that finer trading increments serve the same purpose. As noted above, the Cboe Mini Bitcoin U.S. ETF Index comprises many highly liquid, actively traded stocks that experience continuous price discovery throughout the trading day. Shorter-dated MBTX options are more sensitive to these underlying movements due to their higher gamma (rate of change in delta). The proposed rule change to permit finer trading increments would allow MBTX option prices to track these underlying movements more closely, which the Exchange believes would provide market participants with pricing that more closely reflects the value of the underlying index. As a result, market participants would be able to execute their hedging and investment strategies with greater precision. While strike intervals determine the available price points for different option contracts, trading increments determine the precision with which those contracts can be priced. For shorter-dated MBTX options, both forms of granularity would provide market participants with the tools they need to manage their positions more efficiently in a rapidly changing market environment.

The Exchange notes that MBTX options are eligible for complex order trading, which permits the legs to execute in penny increments, and the automated improvement mechanism (''AIM'') auction for simple orders, which also permits penny executions.[28] Therefore, current rules already allow MBTX options to trade in penny increments in certain situations. From August 1, 2025 through January 31, 2026, nearly 70% of MBTX options volume executed in penny increments.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate, because all Trading Permit Holders will be able to trade MBTX options in the proposed minimum trading increments. The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate, because it will permit MBTX options to have pricing consistent with the pricing of its largest competitor product (IBIT options), as well as two other competitor products (BITO and FBTC options), which are part of the Penny Interval Program and may currently trade in increments of $0.01 or $0.05. Additionally, the proposed rule change to permit MBTX options to be listed in penny and nickel increments may relieve any burden on, or otherwise promote, competition, as it will allow market participants to trade these options at the same level of granularity as permitted for competitor products and related products, as discussed above. The Exchange also expects the more granular pricing to lead to narrowing of the bid-ask spread for these options, which the Exchange believes will increase order flow and price competition in MBTX options.

[24] *See* Rule 4.13(e) (permitting the Exchange to list MBTX options with expirations on Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays).

[25] *See, e.g.,* Securities Exchange Act Release Nos. 90748 (December 21, 2020), 85 FR 85759, 85762 (December 29, 2020) (SR–CBOE–2020–118); and 104390 (December 15, 2025), 90 FR 59234, 59235 (December 18, 2025) (SR–CBOE–025–087).

[26] *Id.*

[27] *Id.*

[28] *See* Rule 5.37(a)(4).

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.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[29] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[30] which requires, among other things, that the rules of a national securities exchange be designed to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest. The proposal will permit minimum increments of $0.01 for series of MBTX options priced lower than $3.00 and $0.05 for series of MBTX options priced above $3.00, as long as IBIT options participate in the Penny Interval Program.[31] The Exchange states that the proposal will promote competition and level the competitive playing field by allowing MBTX options to trade at the same level of granularity as IBIT options, the product with which MBTX options primarily seek to compete.[32] The Exchange states that since MBTX options began trading in December 2024, the correlation between MBTX and IBIT was approximately 0.9999.[33] In addition, the Exchange states that the correlation of the MBTX and the MBTX's component securities has ranged between approximately 96% and 100%.[34]

The Commission believes that the proposal will protect investors and the public interest and remove impediments to and perfect the mechanism of a free and open market by allowing MBTX options to trade in the same minimum increments as IBIT options, a competing options product on an underlying ETP that is highly correlated with MBTX.[35] Permitting MBTX options to trade in the same minimum increments as IBIT options could promote competition and provide investors with an additional means to carry out their hedging and investment strategies. In addition, consistent with the protection of investors and the public interest, the Exchange represents that it believes that it has the necessary systems capacity to handle any potential additional message traffic associated with the proposal, and that OPRA has informed the Exchange that it believes it has the necessary systems capacity to handle any additional traffic that may result from this proposed rule change.[36]

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–Cboe–2025–075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–Cboe–2025–075. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to file number SR–Cboe–2025–075 and should be submitted on or before April 24, 2026.

VI. Accelerated Approval of the Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 revises the proposal to provide additional discussion and analysis supporting the proposed minimum increments and to state in Exchange Rule 5.4(a) that the proposed minimum increments for MBTX options will apply as long as options on IBIT participate in the Penny Interval Program. The additional discussion and analysis supporting the proposed minimum increments assists the Commission in evaluating the proposal and determining that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. The proposed change to Exchange Rule 5.4(a) makes clear that the proposed minimum increments for MBTX options are conditioned on IBIT options' continued participation in the Penny Interval Program. Amendment No. 1 does not raise new or novel regulatory issues. For these reasons, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[37] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule change (SR–Cboe–2025–075), as modified by Amendment No. 1,

[29] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78f(b)(5).

[31] *See* proposed Cboe Rule 5.4(a).

[32] *See* Amendment No. 1 at 7 and 8. As discussed above, options on two other components of the MBTX, BITO and FBTC, also are eligible for the Penny Interval Program. The Exchange states that from August 1, 2025, to January 31, 2026, the volume of IBIT options was nearly 25 times the volume of the next most actively traded constituent option of the MBTX, demonstrating that IBIT options are the product with which MBTX options are primarily competing. *See* Amendment No. 1 at footnote 5.

[33] *See* Amendment No. 1 at 8, footnote 10.

[34] *See id.*

[35] The Commission previously approved proposals allowing options to trade in the same minimum increments as competing products that participated in the Penny Pilot Program. *See, e.g.,* Securities Exchange Act Release No. 70087 (July 31, 2013), 78 FR 47809 (Aug. 7, 2013) (order approving File No. SR–Cboe–2013–055) (permitting p.m.-settled options on the Mini SPX Index (''XSP'') to trade in the same increments as SPDR S&P 500 Trust ETF (''SPY'') options as long as SPY options participate in the Penny Pilot Program); and 56565 (Sept. 27, 2007), 72 FR 56403 (Oct. 3, 2007) (order approving File No. SR–Cboe–2007–98) (permitting a.m.-settled XSP options and Dow Jones Industrial Index options to trade in the same increments as SPY options and SPDR Dow Jones Industrial Average ETF Trust (''DIA'') options for as long as SPY options and DIA options participate in the Penny Pilot Program).

[36] *See* Amendment No. 1 at 5.

[37] 15 U.S.C. 78s(b)(2).

[38] *Id.*

be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06475 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105129; File No. SR–NASDAQ–2026–023]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Exchange's Anti-Internalization Functionality in Equity 4, Rule 4757, and To Extend the Implementation Date of the CORE FIX Order Entry Protocol

March 31, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' 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 anti-internalization functionality in Equity 4, Rule 4757, and to extend the implementation date of the CORE FIX order entry protocol.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of 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 Exchange's anti-internalization functionality in Equity 4, Rule 4757. This functionality assists participants in reducing trading costs from unwanted executions that could result from the interaction of executable buy and sell trading interest from the same firm. Currently, Rule 4757(a)(4) provides that market participants using the CORE FIX[3] or OUCH[4] order entry protocols may assign to orders entered through a specific order entry port a unique group identification modifier that will prevent quotes/orders with such modifier from executing against each other (''Port-Level Anti-Internalization Functionality''). The Exchange now proposes to amend Rule 4757(a)(4) to also make the Port-Level Anti-Internalization Functionality available to market participants using the FIX[5] and FLITE[6] order entry protocols.

The Exchange notes that the Port-Level Anti-Internalization Functionality is already currently available to market participants using the FLITE order entry protocol. Therefore, the Exchange is proposing to amend Rule 4757(a)(4), in part, to bring its rulebook in line with its current practice in this regard. Because the Exchange is already offering this functionality to market participants using the FLITE order entry protocol, the proposed rule change with regard to these market participants will become operative 30 days after this proposed rule change is filed. Meanwhile, the Exchange intends to begin offering the Port-Level Anti-Internalization Functionality to market participants using the FIX order entry protocol before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of this functionality for market participants using the FIX order entry protocol.

Finally, in 2025 the Exchange announced its intention to implement CORE FIX, a new order entry protocol, by the third quarter of 2025.[7] Due to re-prioritization of the Exchange's product pipeline, the Exchange now proposes to implement CORE FIX before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of CORE FIX on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

As a preliminary matter, the Exchange notes that the Port-Level Anti-Internalization Functionality is not novel. Rule 4757(a)(4) already makes this functionality available to market participants who use the OUCH order entry protocol. The rule also provides that this functionality will be available to market participants who use the CORE FIX order entry protocol, when that protocol is implemented on the Exchange. What the Exchange is now proposing is to also make this specific functionality available to market participants who use the FIX order entry protocol, and to have the rule reflect the reality that this functionality is currently available to market participants who use the FLITE order entry protocol.

The proposal is consistent with the Act and is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is extending the existing Port-Level Anti-Internalization Functionality to market participants who use the FIX order entry protocol. This proposal is also consistent with the Act and is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it ensures that the Exchange's rulebook accurately reflects that market participants who use the FLITE order entry protocol are already able to use the Port-Level Anti-Internalization Functionality. Extending this anti-

[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CORE FIX is a proprietary order entry protocol. *See* Nasdaq Equity 4, Rule 4702(a).

[4] OUCH is a proprietary order entry protocol. *See id.*

[5] FIX is a non-proprietary order entry protocol. *See id.*

[6] FLITE is a proprietary order entry protocol. *See id.*

[7] *See* Securities Exchange Act Release No. 102661 (Mar. 13, 2025), 90 FR 12858 (Mar. 19, 2025) (File No. SR–NASDAQ–2025–027).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

internalization functionality to market participants who use the FIX order entry protocol, and clarifying that this functionality is already available to market participants who use the FLITE order entry protocol, will help market participants choose the most appropriate order entry protocol to achieve their trading objectives.

Finally, extending the implementation date of the CORE FIX order entry protocol is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it gives notice to market participants that this protocol is not yet available, but that the Exchange remains committed to implementing this protocol before the end of 2026.

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. As a general principle, the proposed changes are reflective of the significant competition among exchanges and non-exchange venues for order flow. In this regard, a proposed change that expands and clarifies the availability of the Exchange's Port-Level Anti-Internalization Functionality is pro-competitive because it bolsters the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Moreover, the proposed changes will not unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from this proposal, as the Port-Level Anti-Internalization Functionality remains completely optional, and market participants are free to use any of several order entry protocols if they wish to avail themselves of this functionality. Finally, the Exchange does not believe that the extension of time to implement the CORE FIX order entry protocol will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because market participants remain free to use any of the other order entry protocols that the Exchange offers.

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 Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

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–NASDAQ–2026–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–023 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06466 Filed 4–2–26; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 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.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105124; File No. SR–CboeBZX–2025–149]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Definition of ''Indicative Price'' Under Exchange Rule 11.23(a)(10) and Amend Exchange Rule 11.23(d)(2)(B) (Extending the Quote-Only Period for Initial Public Offering (''IPO'') Auctions)

March 31, 2026.

I. Introduction

On December 17, 2025, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.23(d)(2)(B) (Extending the Quote-Only Period for Initial Public Offering (''IPO'') Auctions), to (1) delineate between BZX-listed corporate securities and exchange-traded product (''ETP'') IPO Securities; and (2) expand the circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions in an ETP IPO Security. The proposed rule change was published for comment in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Register on December 31, 2025.[3] On January 29, 2026, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 30, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change as originally filed and superseded such filing in its entirety.[6] The Commission has received no comment letters on the proposed rule change. The Commission is publishing this Notice and Order to solicit comment on Amendment No. 1 in Sections II and III below, which sections are being published substantively the same as filed by the Exchange, and to approve the proposed rule change, as modified and superseded by Amendment No. 1, on an accelerated basis.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to amend the definition of Indicative Price under Exchange Rule 11.23(a)(10) and to amend Exchange Rule 11.23(d)(2)(B) (Extending the Quote-Only Period for Initial Public Offering (''IPO'') Auctions) to: (1) delineate between BZX-listed corporate securities and exchange-traded product (''ETP'') IPO Securities; and (2) expand the circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions in an ETP IPO Security. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*https://www.cboe.com/us/equities/regulation/rule_filings/bzx/*) and at the principal office of the Exchange.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This Amendment No. 1 to SR–CboeBZX–2025–149 amends and replaces in its entirety the proposal as originally submitted on December 17, 2025. The Exchange submits this Amendment No. 1 in order to clarify certain points and add additional details to the proposal.

The Exchange proposes to amend the definition of the term Indicative Price[7] under Rule 11.23(a)(10) and to amend Rule 11.23(d)(2)(B) (Extending the Quote-Only Period[8] for IPO Auctions[9]) to: (1) delineate between BZX-listed corporate securities and ETP IPO Securities[10] in proposed Rules 11.23(d)(2)(B) and (C), respectively; and (2) expand the circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions in ETP IPO Securities. The Exchange also proposes to update rule numbering and lettering to accommodate these changes, and to update cross-references throughout Rule 11.23 as necessary.

Background

Exchange Rule 11.23(d) governs IPO and halt auctions on the Exchange. Under Rule 11.23(d)(1)(A), the Quote-Only Period for IPO Auctions commences at 8:00 a.m. ET[11] and terminates at the conclusion of the IPO Auction, which generally occurs shortly after 9:30 a.m. ET[12] There are no IPO Auction-specific order types. All Eligible Auction Orders associated with an IPO Auction are queued until the end of the Quote-Only Period, at which time they become eligible for execution in the IPO Auction. Orders must be received prior to the end of the Quote-Only Period to participate in the IPO Auction.

Exchange Rule 11.23(d)(2)(B) currently provides five circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions. These circumstances apply to both BZX-listed corporate securities and ETP IPO Securities:

(i) there are unmatched market orders on the Auction Book[13] associated with the auction;

(ii) the underwriter requests an extension;

(iii) the Indicative Price[14] moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the auction;

(iv) in the event of a technical or systems issue at the Exchange that may impair the ability of Users to participate in the IPO Auction or of the Exchange to complete the IPO Auction;

(v) a Derivative Security fails to meet the Exchange's listing qualification requirements as set forth in Rule 14.11; or

(vi) there is a security that is the subject of an initial pricing on the Exchange of a security that has not been listed on a national securities exchange immediately prior to the initial pricing.

The duration of each Quote-Only Period extension depends on the triggering circumstance. Provisions (ii), (iv), (v), and (vi) are manual extensions without fixed durations. Provisions (i) and (iii) are automatic extensions: provision (i) extends the Quote-Only

[3] *See* Securities and Exchange Act Release No. 104501 (Dec. 23, 2025), 90 FR 61492.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104737, 91 FR 4980 (Feb. 3, 2026). The Commission designated March 31, 2026, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 1, the Exchange added clarifying or corrective changes that, among other things: (1) provided a definition the term ''Indicative Price'' in the context an IPO Auction, (2) removed the optionality for an issuer to opt in/out of the price validation test and instead requires application of the price validation test and (3) clarified the certain aspects of the original proposal. Amendment No. 1 to the proposed rule change is *available* on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2025-149/srcboebzx2025149-736847-2291835.pdf.*

[7] The term ''Indicative Price'' means the price at which the most shares from the Auction Book and the Continuous Book would match. In the event of a volume based tie at multiple price levels, the Indicative Price will be the price which results in the minimum total imbalance. In the event of a volume based tie and a tie in minimum total imbalance at multiple price levels, the Indicative Price will be the price closest to the Volume Based Tie Breaker.

[8] The term ''Quote-Only Period'' shall mean a designated period of time prior to a Halt Auction, a Volatility Closing Auction, or an IPO Auction during which Users may submit orders to the Exchange for participation in the auction. *See* Exchange Rule 11.23(a)(17).

[9] *See* Exchange Rule 11.22(l)(2)(B).

[10] The term ''ETP IPO Security'' means a Derivative Security that is eligible to participate in an IPO Auction pursuant to Rule 11.23(d). *See* Exchange Rule 11.23(a)(24). *See also* Exchange Rule 1.5(dd) defining ''Derivative Security''.

[11] All times referenced herein are Eastern Time.

[12] *See* Exchange Rule 11.23(b)(1)(A).

[13] *See* Exchange Rule 11.23(a)(1).

[14] As discussed further below, the Exchange proposes to amend the definition of Indicative Price. As proposed, the term ''Indicative Price'' shall mean the price at which the most shares from the Auction Book and the Continuous Book would match; provided, however, that for an IPO Auction, the Indicative Price shall mean the price at which the most shares from the Auction Book only would match, as no Continuous Book exists prior to commencement of trading in an IPO Security.

Period for as long as unmatched market orders remain on the Auction Book, while provision (iii) extends the Quote-Only Period for five minutes.

Proposal

First, the Exchange proposes to modify the definition of ''Indicative Price'' under Rule 11.23(a)(10) to provide that for an IPO Auction (whether for an ETP IPO Security or a BZX-listed corporate security), the Indicative Price shall mean the price at which the most shares from the Auction Book only would match. Currently, the definition provides generally that the Indicative Price means the price at which the most shares from the Auction Book and the Continuous Book [15] would match, with no carve-out for IPO Auctions. Because no Continuous Book exists prior to the commencement of trading in an IPO Security, the proposed amendment adds an IPO-specific carve-out to reflect this reality. The Exchange believes this change adds clarity and precision to the rulebook by ensuring the definition accurately reflects how the Indicative Price is determined in the context of an IPO Auction.

The Exchange also proposes to separately delineate the circumstances under which it may extend the Quote-Only Period for IPO Auctions applicable to BZX-listed corporate securities and ETP IPO Securities under proposed Rules 11.23(d)(2)(B) and (C), respectively. The Exchange also proposes to adopt an additional extension provision applicable to ETP IPO Securities.

The Exchange proposes to modify the circumstances under which the Exchange may extend the Quote-Only Period applicable to BZX-listed corporate securities by eliminating existing Rule 11.23(d)(2)(B)(v) as the provision is not applicable to BZX-listed corporate securities. The Exchange also proposes to make a ministerial change to Rule 11.23(d)(2)(B)(iii) to remove the extraneous word ''where''.

The Exchange proposes to adopt Rule 11.23(d)(2)(C), which would govern extensions of the Quote-Only Period for IPO Auctions in ETP IPO Securities. The Exchange also proposes to use the term ''ETP IPO Security'' throughout proposed Rule 11.23(d)(2)(C) rather than ''Derivative Security.'' [16] Because an ETP IPO Security is a subset of Derivative Securities that are eligible to participate in the IPO Auction, this change is ministerial but adds precision and clarity to the Exchange's rulebook.

Proposed Rule 11.23(d)(2)(C)(i) is identical to existing Rule 11.23(d)(2)(B)(i). The Exchange does not propose to include existing Rule 11.23(d)(2)(B)(ii) that allows the Quote-Only Period to be extended upon underwriter request in proposed Rule 11.23(d)(2)(C). ETP IPO Securities do not have underwriters, making this provision inapplicable.

Proposed Rules 11.23(d)(2)(C)(ii), (iii), (iv), and (v) are substantively identical to Rules 11.23(d)(2)(B)(iii), (iv), (v), and (vi), respectively, except that the proposed rules refer specifically to an ETP IPO Security rather than a Derivative Security.

The Exchange proposes to adopt Rule 11.23(d)(2)(C)(vi), which would establish a new circumstance under which the Exchange may extend the Quote-Only Period for IPO Auctions in ETP IPO Securities.[17] Specifically, the proposed rule would permit the Exchange to extend the Quote-Only Period if the ETP IPO Security does not pass the below described ''price validation test.''

Indicative Price and Expected Price Mechanism

Starting at 8:00 a.m. with the commencement of the Quote-Only Period, the System will determine and display the live Indicative Price of the ETP IPO Security in the IPO Auction (the ''ETP IPO Auction'') to the lead market maker (''LMM'') [18] through a tool accessible via the Exchange's web portal [19] through which the LMM may approve an Indicative Price, or update a prior approval, as often as necessary prior to 9:45 a.m. ET. The most recently approved Indicative Price at the time of each application of the price validation test shall be the ''Expected Price.'' The distinction between these terms is important: the Indicative Price is a live price that changes continuously during the Quote-Only Period as market participants enter and cancel orders, while the Expected Price is an Indicative Price that the LMM has locked in (*i.e.,* approved) at a specific point in time prior to 9:45 a.m. ET.

If there is no LMM or the LMM does not provide an Expected Price, the ETP IPO Security shall be deemed to have failed the price validation test and the Quote-Only Period will extend as provided below.

Price Band Selection

At any time prior to 9:45 a.m. ET, the LMM for the ETP IPO Security may select price bands for the purpose of applying the price validation test to the ETP IPO Security.[20] The LMM may also update its price band selection at any time prior to 9:45 a.m. ET, including between iterations of the price validation test. The price bands are determined based on the Expected Price and are designed to limit how far an Indicative Price can move to pass the price validation test. The LMM may select an upper price band (*i.e.,* the maximum amount above the Expected Price by which the live Indicative Price may move) and a lower price band (*i.e.,* the maximum amount below the Expected Price by which the live Indicative Price may move).[21] If the LMM does not select price bands, the Exchange will automatically apply default upper and lower price bands of $0.10 each.[22]

The price bands available for selection shall be in such increments and at such price points as may be established from time to time by the Exchange. The available price bands shall include $0, which would require the Indicative Price to equal the Expected Price, but shall not exceed $0.50. The Exchange reserves the right to establish larger increment steps (such as $0.05) or to make available price bands at certain price points but not others (for example, increment steps of $0.01 up to $0.10 and increment steps of $0.05 thereafter). However, the Exchange will not (in the absence of the submission of a proposed rule change) allow price bands wider than $0.50. The Exchange will notify Members and the public of changes in available price bands or increments through a notice that is widely disseminated at least one

[15] *See* Exchange Rule 11.23(a)(7).

[16] The term ''Derivative Security'' means a security that meets the definition of ''new derivative securities product'' in Rule 19b–4(e) under the Exchange Act. *See* Exchange Rule 1.5(dd).

[17] The Exchange is not proposing to apply this additional extension provision to BZX-listed corporate securities because underwriters are involved in corporate IPOs and may request that the Exchange extend the Quote-Only Period under existing Rule 11.23(d)(2)(B)(ii). ETP IPO Securities, by contrast, do not have an underwriter. The proposed provision is designed to provide a protection analogous to that offered by an underwriter in a corporate security IPO; namely, ensuring that the ETP IPO Auction occurs at a price in line with the issuer's expectations.

[18] Exchange Rules do not require an LMM in an ETP IPO Security.

[19] The Indicative Price is made available to the LMM pursuant to proposed Rule 11.23(d)(2)(C)(vi). The Exchange notes that the Indicative Price is available to subscribers of certain BZX data feeds as provided in Rule 11.22.

[20] As discussed above, the LMM may approve new Indicative Prices (*i.e.,* provide a new Expected Price) as often as necessary prior to 9:45 a.m.

[21] The upper price band and lower price band may be set at different distances from the Expected Price.

[22] The Exchange will automatically apply the upper and lower price bands of $0.10 if the LMM has not selected price bands by 9:30 a.m. However, the LMM can select or change the price bands at any time prior to 9:45 a.m.

week in advance of the change. In selecting available price bands and increments, the Exchange will consider input from LMMs and other market participants and the results of past usage of price bands to adopt price bands and increments that promote efficiency in the initiation of trading and protect investors and the public interest.

Initially, available price bands will range from $0 to $0.50 in increments of $0.01. Thus, the LMM may select price bands of $0 (*i.e.,* no deviation from the Expected Price would be permitted), $0.01, $0.02, or any other $0.01 increment up to $0.50. The LMM may select different price bands above and below the Expected Price.

Price Validation Test Criteria

Beginning at 9:30 a.m. ET, if an Expected Price has been provided by the LMM, the ETP IPO Security will automatically be subjected to the price validation test, which will be reapplied automatically in five-second increments following each failure. An ETP IPO Security does not pass the price validation test if the Indicative Price differs from the Expected Price by an amount in excess of the price bands. For example, assume that an Indicative Price for the ETP IPO Auction is $32.00 per share, and the LMM approves that Indicative Price, thereby establishing an Expected Price of $32.00 per share. If the LMM selects an upper price band of $0.10 and a lower price band of $0.05, the Indicative Price calculated by the System for the ETP IPO Auction could not be higher than $32.10 nor lower than $31.95. If the LMM does not select price bands, the Exchange will apply the default price bands of $0.10 for each band as described above, and the Indicative Price could not be higher than $32.10 nor lower than $31.90. An ETP IPO Security passes the price validation test if the Indicative Price is within the price bands established using the Expected Price.

If an ETP IPO Security does not pass the price validation test, the Quote-Only Period will be automatically extended by the system in five-second increments, but in no circumstance will the Quote-Only Period be extended past 9:45 a.m. ET under proposed Rule 11.23(d)(2)(C)(vi). The LMM may select different price bands or approve a new Indicative Price, after which the price validation test will be reapplied pursuant to proposed Rule 11.23(d)(2)(C)(vi). For example, an LMM might initially select upper and lower bands of $0, such that the ETP IPO Auction would not occur unless the Indicative Price exactly equaled the Expected Price. If the ETP IPO Security has not passed the price validation test by 9:45 a.m. ET, the price validation test will no longer apply and the Quote-Only Period will terminate, provided that no other conditions under Rule 11.23(d)(2)(C) are present.[23]

The Exchange recognizes that granting the LMM authority to set price bands could be viewed as conferring a potential advantage on the LMM. The Exchange believes, however, that this advantage is not unfair. The price validation test is designed primarily to benefit the contra-side (*i.e.,* the end client whose order will be executed at the auction price). By setting price bands, the LMM is effectively ensuring that the auction occurs at a price consistent with prevailing market conditions, which benefits all market participants. Furthermore, if the LMM sets narrow bands and no other market participant can match them, the LMM would be the one to fill any resulting order, but this outcome reflects the LMM's commitment to providing liquidity, not an artificial informational edge. Any market maker may respond to unmatched orders, and the LMM's authority to set price bands does not preclude other market makers from participating. The distinction between the LMM and other market makers in this context is one of commercial responsibility: while the LMM has a commercial obligation to respond to unmatched orders, it does not bear a regulatory obligation to do so. The Exchange therefore believes the LMM's role in the price validation process is appropriately calibrated to promote a fair and orderly auction without conferring an undue advantage.

The Exchange also believes that ending the price validation test at 9:45 a.m. ET with no exceptions is appropriate. Before 9:45 a.m. ET, the LMM would be expected to step in and respond to any unmatched orders in the ETP IPO Auction, and any residual volatility in the ETP IPO Security would have been mitigated through the proposed validation checks conducted during the Quote-Only Period. Accordingly, the continued application of the price validation test beyond 9:45 a.m. ET is unnecessary to achieve the investor protection goals underlying the test.[24]

In addition, the LMM may step in and begin providing markets in an ETP IPO Security on its first day of trading after the Quote-Only Period has concluded, which could further promote price stability. The Exchange may also determine at any point during the Quote-Only Period to postpone and reschedule the ETP IPO Auction.[25]

The Exchange notes that the LMM's involvement in timing the commencement of trading in an IPO Auction for an ETP IPO Security is consistent with an underwriter's involvement in the existing IPO Auction process for BZX-listed corporate securities. Similar to an underwriter in a corporate IPO, the LMM, with market knowledge of the order book and an understanding of the security, is well positioned to provide an Expected Price and applicable price bands that facilitate the price validation check.

Accordingly, the Exchange believes it is in the best interest of the market to give LMMs input into the timing of the ETP IPO Auction to help facilitate the fair and orderly launch of trading in an ETP IPO Security. The Exchange believes that additional time for price formation in the ETP IPO Auction will benefit investors by increasing the likelihood that the ETP IPO Auction occurs at a price that generally aligns with the LMM's and ETP issuer's expectations. Furthermore, delaying an ETP IPO Auction is not unprecedented, as Nasdaq currently begins its ETP IPO auction process at 9:40 a.m. ET.[26]

Finally, to accommodate the addition of new Rule 11.23(d)(2)(C), the Exchange proposes to re-letter existing Rules 11.23(d)(2)(C) through (F) as (D) through (G), respectively, and to update all cross-references to Rule 11.23 throughout the rulebook accordingly. In connection with this re-lettering, the Exchange also proposes to amend Rule 11.23(e)(2)(B) to correct a cross-reference from existing Rule

[23] The Quote-Only Period may extend past 9:45 a.m. ET if there are unmatched market orders on the Auction Book associated with the auction, the Indicative Price moves the greater of 10% or fifty (50) cents in the fifteen (15) seconds prior to the auction, in the event of a technical or systems issue at the Exchange that may impair the ability of Users to participate in the ETP IPO Auction or of the Exchange to complete the ETP IPO Auction, the ETP IPO Security fails to meet the Exchange's listing qualification requirements as set forth in Rule 14.11, or there is an ETP IPO Security that is the subject of an initial pricing on the Exchange that has not been listed on a national securities exchange immediately prior to the initial pricing.

[24] The Exchange notes that, under both existing Rule 11.23(d)(2)(B)(vi) and proposed Rule 11.23(d)(2)(C)(v), the Exchange retains authority to extend the Quote-Only Period beyond 9:45 a.m. ET in the event of an unforeseen circumstance requiring the IPO to be rescheduled.

[25] The Exchange's authority to postpone and reschedule the IPO Auction is set forth in existing Rule 11.23(d)(1)(B)(vi).

[26] *See* Securities Exchange Act No. 103085 (May 20, 2025) 90 FR 22424 (May 27, 2025) (SR–Nasdaq–2025–011) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Functionality To Initiate a Trading Halt for Exchange-Traded Products on Launch Day).

11.23(d)(1)(C) to re-lettered Rule 11.23(d)(2)(D).[27]

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.[28] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[29] 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)[30] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that its proposal to require a price validation test for all ETPs utilizing the ETP IPO Auction process would promote more efficient price discovery and remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because the ETP IPO Auction price would be based on market interest and the matching of buy and sell orders in an auction that would be open to all market participants. Today, an ETP IPO Security opens for trading during the ETP IPO Auction at an initial price that is based on market interest at that time. The proposed price validation test enhances this process by providing additional safeguards for the opening price of the ETP based on additional market information, thereby strengthening investor protection and promoting the public interest. By applying this requirement uniformly to all ETP IPO Auctions, the Exchange seeks to provide consistent price integrity protections across all ETP IPO Auctions conducted through this mechanism.[31]

The Exchange believes that the proposed price validation test will benefit investors by providing additional time for price formation in the ETP IPO Auction for ETP IPO Securities and by increasing the likelihood that the ETP IPO Auction occurs at a price that generally aligns with the LMM's and ETP issuer's expectations. In particular, the Exchange believes that the change will facilitate the commencement of orderly trading in ETPs on their first day of trading by providing the LMM with flexibility throughout the initial launch process to allow the development of price stability prior to opening. The Exchange believes that the LMM's involvement in timing the commencement of trading in the ETP is consistent with the Act as this will promote the fair and orderly launch of trading in the ETP. The Exchange believes that the LMM, with its market knowledge of the book and an understanding of the ETP IPO Security, would be well positioned to provide an Expected Price and price bands. However, if the LMM does not provide price bands, the Exchange will apply default price bands. Accordingly, the Exchange believes it is in the best interest of the market to give LMMs the opportunity to provide input into the price validation test to help facilitate the fair and orderly launch of trading in the ETP.

The proposed language allowing the LMM to select price bands and approve the Expected Price is designed to allow flexibility to promote efficient price discovery while protecting against unexpected volatility. The Exchange believes that limiting price bands to a maximum of $0.50 is reasonable and appropriate to balance the need for price stability with the need to allow the market to discover the appropriate opening price. The Exchange will notify Members and the public of any changes to available price bands or increments at least one week in advance of the change, ensuring transparency and allowing market participants to adjust their strategies accordingly.

Furthermore, the Exchange believes that requiring the ETP IPO Auction to occur by 9:45 a.m. ET at the latest, under proposed Rule 11.23(d)(2)(C)(vi), is reasonable and appropriate because by that time, the LMM would be expected to step in and respond to any unmatched orders, and any excess volatility in the ETP would be mitigated through the proposed validation checks. As described above, the ETP IPO Auction may be delayed past 9:45 a.m. ET if the criteria in proposed Rules 11.23(d)(2)(C)(i) through (v) are met. This timing is also consistent with market practice, as Nasdaq currently begins its ETP IPO auction process at 9:40 a.m. ET for ETPs.

The Exchange believes that requiring this functionality for all ETPs participating in the ETP IPO Auction process promotes just and equitable principles of trade and does not unfairly discriminate between issuers. The price validation test is designed to enhance the integrity of the price discovery process by increasing the likelihood that the ETP IPO Auction occurs at a price that generally aligns with the LMM's expectations. This requirement applies uniformly to all ETP issuers utilizing the ETP IPO Auction, thereby promoting consistency and investor protection across all ETP IPO Auctions conducted through this mechanism.

Finally, the Exchange believes that the proposed amendments to delineate between BZX-listed corporate securities and ETP IPO Securities promote clarity and transparency in the Exchange's rules. The proposed changes recognize the unique characteristics of ETPs, including the absence of an underwriter, and tailor the Quote-Only Period extension provisions accordingly. This promotes just and equitable principles of trade by ensuring that the rules applicable to each security type are appropriate for that security's characteristics. Additionally, the proposed re-lettering of existing Rule 11.23(d)(2)(C) through (F) to (D) through (G), the corresponding updates to cross-references throughout Rule 11.23, and the correction of a cross-reference error in Rule 11.23(e)(2)(B) enhance the organizational structure and usability of the rulebook, further promoting clarity and reducing the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed

[27] There is currently no Rule 11.23(d)(1)(C), and the existing Rule should have referenced existing Rule 11.23(d)(2)(C).

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] *Id.*

[31] The Exchange is not proposing to apply this additional extension provision to BZX-listed corporate securities because underwriters are involved in corporate IPOs and may request that the Exchange extend the Quote-Only Period under existing Rule 11.23(d)(2)(B)(ii). ETP IPO Securities, by contrast, do not have an underwriter. The proposed provision is designed to provide a protection analogous to that offered by an underwriter in a corporate security IPO; namely, ensuring that the ETP IPO Auction occurs at a price in line with the issuer's expectations.

rule change will impose any burden on intramarket competition. The price validation test applies uniformly to all ETP issuers and their LMMs utilizing the ETP IPO Auction process, providing consistent treatment and eliminating any potential competitive advantage or disadvantage based on the price discovery mechanism used. The price validation test is designed to enhance the integrity of the ETP IPO Auction process by increasing the likelihood that the auction occurs at a price that generally aligns with the LMM's and ETP issuer's expectations, thereby benefiting all market participants equally. The proposed rule change does not advantage or disadvantage any particular category of market participant. All market participants may participate in the ETP IPO Auction on equal terms, with the same price validation protections applied consistently across all ETP IPO Auctions, and will continue to have the ability to enter orders during the Quote-Only Period with the added benefit of enhanced price integrity protections.

The Exchange further believes that the proposed price validation test appropriately leverages the LMM's market knowledge and role in the opening process. The LMM's involvement in selecting price bands and approving the Indicative Price (*i.e.,* providing the Expected Price) is designed to promote fair and orderly trading in the ETP IPO Security on its first day of trading, which benefits all market participants by reducing unexpected volatility and enhancing price discovery.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition. The proposed rule change is designed to enhance the competitiveness of the Exchange's ETP listing and trading services by providing a price discovery tool on launch day. This functionality is similar to processes offered by another exchange and is designed to attract ETP listings to the Exchange by offering issuers enhanced safeguards during the critical first moments of trading. To the extent the proposed functionality makes the Exchange a more attractive venue for ETP listings or trading, this reflects legitimate competition among exchanges to offer superior services and functionality. Market participants on other exchanges are welcome to become Members and trade on BZX if they determine that the proposed rule change has made BZX more attractive. Similarly, other exchanges remain free to propose similar or alternative functionality for their own ETP listings.

The Exchange notes that Nasdaq currently offers similar functionality for ETP IPO Auctions, beginning its ETP IPO auction process at 9:40 a.m. ET. The Exchange's proposal and Nasdaq's functionality are generally similar in that both allow the LMM (on BZX) or Designated Liquidity Provider (''DLP'' on Nasdaq) to set price bands around the opening auction price, and both allow for extension of the Quote-Only Period prior to an ETP IPO Auction to permit additional price formation. Further, both functionalities provide that the LMM or DLP, as applicable, may select upper and lower price bands for purposes of the price validation test, with a maximum price band of $0.50. Further, the LMM or DLP must approve an Indicative Price before the validation test is applied, and if the security does not pass the price validation test, the LMM or DLP may—but is not required to—select different price bands before the process recommences. Both exchanges will notify members and the public of any changes to available price bands or increments at least one week in advance. Both functionalities also require that the ETP IPO Auction occur by 9:45 a.m. ET at the latest under the price validation test. Finally, both functionalities delineate between corporate IPO securities and ETP IPO Securities, recognizing the unique characteristics of ETPs, including the absence of an underwriter.

The Exchange's proposal differs from the Nasdaq functionality in several additional respects. For example, the Exchange specifies default price bands of $0.10 if the LMM does not select price bands, whereas Nasdaq's functionality does not specify default bands and leaves the matter to DLP discretion. The Exchange also integrates the ETP IPO Auction provisions into its existing Rule 11.23 governing auctions, using its existing Quote-Only Period terminology and structure, whereas Nasdaq created a new halt category under Rule 4120(a)(15) and introduced new terminology including a ''Display Only Period'' followed by a ''Pre-Launch Period.'' The Exchange believes these differences reflect variations in existing rule structures, terminology, and organizational approaches between the exchanges.

Accordingly, the Exchange believes the proposed rule change will promote competition among exchanges while protecting investors through enhanced price discovery mechanisms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified and superseded by Amendment No. 1 (''Amended Proposal''), is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[32] In particular, the Commission finds that the Amended Proposal is consistent with Section 6(b)(5) of the Act,[33] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange states that its proposal to permit the Quote-Only Period to be extended and to require a price validation test for all ETPs utilizing the ETP IPO Auction process would promote more efficient price discovery and remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because the ETP IPO Auction price for an ETP IPO Security would be based on market interest and the matching of buy and sell orders in an auction that would be open to all market participants.[34] The Exchange further states that application of the proposed price validation test would protect investors and the public interest because it would enhance its current opening process for initiating trading in ETP IPO Securities by providing additional safeguards for the opening price of the ETP based on additional market information.[35] Further, the Exchange states that the proposed price validation test will benefit investors by (1) providing additional time for price formation in

[32] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78f(b)(5).

[34] *See* Amendment No. 1, *supra* note 6 at 35.

[35] *See id.* at 36.

the ETP IPO Auction for ETP IPO Securities and (2) increasing the likelihood that the ETP IPO Auction will occur at a price that generally aligns with the LMM's and ETP issuer's expectations.[36] Specifically, the Exchange states that the proposal will facilitate the commencement of orderly trading in ETPs on their first day of trading by providing the LMM with flexibility throughout the initial launch process to allow the development of price stability prior to opening, which will benefit investors and the public interest.[37] The Exchange believes that the LMM, with its market knowledge of the book and an understanding of the ETP IPO Security, would be well positioned to provide an Expected Price and price bands, which would allow flexibility to promote efficient price discovery while protecting against unexpected volatility.[38] The Exchange further believes it is in the best interest of the market to give LMMs the opportunity to provide input into the price validation test and involvement in timing the commencement of trading in the ETP because it will promote the fair and orderly launch of trading in the ETP and and is therefore consistent with the Act.[39] Further, the Exchange states that the price validation test will be applied uniformly to all ETP issuers utilizing the ETP IPO Auction, which will promote consistency and investor protection across all ETP IPO Auctions conducted through this mechanism.[40] Finally, the Exchange states that its proposal to delineate between BZX-listed corporate securities and ETP IPO Securities will promote clarity and transparency in the Exchange's rules and is designed to recognize the unique characteristics of ETPs, including the absence of an underwriter, and to tailor the Quote-Only Period extension provisions to ensure that the rules applicable to each security type are appropriate for that security's characteristics.[41]

The Exchange's proposal to provide an additional basis to extend the Quote-Only Period and apply a price validation test could benefit investors by enhancing the price discovery process for ETPs on their initial day of trading, and the role of the LMM could provide an additional safeguard against unexpected volatility in the pricing of the ETP. In addition, the Amended Proposal does not raise unique regulatory concerns because the proposed process to allow additional time for price formation, including the use of a price validation test, in an ETP IPO Security is similar to the previously approved functionality utilized for price formation in an ETP IPO Security on another options exchange.[42]

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act[43] and the rules and regulations thereunder applicable to a national securities exchange.

V. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2025–149 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2025–149 on the subject line. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2025–149 on the subject line, and should be submitted on or before April 24, 2026.

VI. Accelerated Approval of Proposed Rule Change, as Modified and Superseded by Amendment No. 1

The Commission finds good cause to approve the Amended Proposal prior to the 30th day after the date of publication of Amendment No. 1 in the **Federal Register**. Amendment No. 1 does not change the original purpose of the proposal, which was, and remains under Amendment No. 1, to permit the Exchange to amend Rule 11.23(d)(2)(B) to differentiate between BZX-listed corporate securities and ETP IPO Securities and to expand the circumstances under which the Exchange may extend the Quote-Only Period for IPO Auctions in an ETP IPO Security. In addition, the original proposal has been subject to public comment and no comments have been received.

Amendment No. 1 sets forth additional support for and detail regarding the original filing, and clarifies certain rule text provisions.[44] Among other things, Amendment No. 1 amended the definition of the term ''Indicative Price'' under Rule 11.23(a)(10) to explain the meaning of the term in the context of an IPO; removed the discretion of an issuer to opt in/out of the application of the price validation test; and generally clarified certain points and added detail to the original proposal. The Commission believes that Amendment No. 1 provides additional clarity and support, as explained above, and does not materially change the Exchange's original proposal. The Commission also believes that Amendment No. 1 raises no novel regulatory issues that have not previously been subject to comment. Accordingly, pursuant to Section 19(b)(2) of the Act,[45] the Commission finds good cause to approve the Amended Proposal on an accelerated basis prior to the 30th day after publication of notice of the filing of Amendment No. 1 in the **Federal Register**.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[46] that the proposed rule change (SR–CboeBZX–2025–149), as modified and superseded by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

[36] *See id.*

[37] *See id.* at 36.

[38] *See id.* at 37.

[39] *See id.* at 36–37.

[40] *See id.* at 37–38.

[41] *See id.* at 38.

[42] *See* Securities and Exchange Act Release No. 103085 (May 20, 2025), 90 FR 22424 (May 27, 2025) (SR–Nasdaq–2025–011) (Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Introduce Functionality to Initiate a Trading Halt for Exchange-Traded Products on Launch Day).

[43] 15 U.S.C. 78f(b)(5).

[44] *See supra* note 6.

[45] 15 U.S.C. 78s(b)(2).

[46] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06474 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36074; File No. 812–15899]

Cypress Creek Private Strategies Master Fund, L.P., et al.

April 1, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Cypress Creek Private Strategies Master Fund, L.P., Endowment Advisers, L.P., d/b/a Cypress Creek Partners, and certain of their affiliated entities as described in Appendix A to the application.

FILING DATES: The application was filed on September 16, 2025 and amended on March 5, 2026.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on April 27, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Cal J. Gilmartin, K&L Gates LLP, *cal.gilmartin@klgates.com,* with a copy to Cypress Creek Private Strategies Master Fund L.P., c/o William P. Prather III, 712 W 34th Street, Suite 201, Austin, TX 78705.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, or Adam Large, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' amended application, filed March 5, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06546 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105127; File No. SR–PHLX–2026–17]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Exchange's Anti-Internalization Functionality in Equity 4, Rule 3307, and To Extend the Implementation Date of the CORE FIX Order Entry Protocol

March 31, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2026, Nasdaq PHLX LLC (''PHLX'' 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 anti-internalization functionality in Equity 4, Rule 3307, and to extend the implementation date of the CORE FIX order entry protocol.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/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 Exchange's anti-internalization functionality in Equity 4, Rule 3307. This functionality assists participants in reducing trading costs from unwanted executions that could result from the interaction of executable buy and sell trading interest from the same firm. Currently, Rule 3307(c) provides that market participants using the CORE FIX [3] or OUCH [4] order entry protocols may assign to orders entered through a specific order entry port a

[47] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] CORE FIX is a proprietary order entry protocol. *See* Nasdaq PHLX 4, Rule 3301A(a).

[4] OUCH is a proprietary order entry protocol. *See id.*

unique group identification modifier that will prevent quotes/orders with such modifier from executing against each other (''Port-Level Anti-Internalization Functionality''). The Exchange now proposes to amend Rule 3307(c) to also make the Port-Level Anti-Internalization Functionality available to market participants using the FIX [5] and FLITE [6] order entry protocols.

The Exchange notes that the Port-Level Anti-Internalization Functionality is already currently available to market participants using the FLITE order entry protocol. Therefore, the Exchange is proposing to amend Rule 3307(c), in part, to bring its rulebook in line with its current practice in this regard. Because the Exchange is already offering this functionality to market participants using the FLITE order entry protocol, the proposed rule change with regard to these market participants will become operative 30 days after this proposed rule change is filed. Meanwhile, the Exchange intends to begin offering the Port-Level Anti-Internalization Functionality to market participants using the FIX order entry protocol before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of this functionality for market participants using the FIX order entry protocol.

Finally, in 2025 the Exchange announced its intention to implement CORE FIX, a new order entry protocol, by the first quarter of 2026.[7] Due to re-prioritization of the Exchange's product pipeline, the Exchange now proposes to implement CORE FIX before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of CORE FIX on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

As a preliminary matter, the Exchange notes that the Port-Level Anti-Internalization Functionality is not novel. Rule 3307(c) already makes this functionality available to market participants who use the OUCH order entry protocol. The rule also provides that this functionality will be available to market participants who use the CORE FIX order entry protocol, when that protocol is implemented on the Exchange. What the Exchange is now proposing is to also make this specific functionality available to market participants who use the FIX order entry protocol, and to have the rule reflect the reality that this functionality is currently available to market participants who use the FLITE order entry protocol.

The proposal is consistent with the Act and is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is extending the existing Port-Level Anti-Internalization Functionality to market participants who use the FIX order entry protocol. This proposal is also consistent with the Act and is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it ensures that the Exchange's rulebook accurately reflects that market participants who use the FLITE order entry protocol are already able to use the Port-Level Anti-Internalization Functionality. Extending this anti-internalization functionality to market participants who use the FIX order entry protocol, and clarifying that this functionality is already available to market participants who use the FLITE order entry protocol, will help market participants choose the most appropriate order entry protocol to achieve their trading objectives.

Finally, extending the implementation date of the CORE FIX order entry protocol is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it gives notice to market participants that this protocol is not yet available, but that the Exchange remains committed to implementing this protocol before the end of 2026.

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. As a general principle, the proposed changes are reflective of the significant competition among exchanges and non-exchange venues for order flow. In this regard, a proposed change that expands and clarifies the availability of the Exchange's Port-Level Anti-Internalization Functionality is pro-competitive because it bolsters the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Moreover, the proposed changes will not unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from this proposal, as the Port-Level Anti-Internalization Functionality remains completely optional, and market participants are free to use any of several order entry protocols if they wish to avail themselves of this functionality. Finally, the Exchange does not believe that the extension of time to implement the CORE FIX order entry protocol will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because market participants remain free to use any of the other order entry protocols that the Exchange offers.

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 Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

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

[5] FIX is a non-proprietary order entry protocol. *See id.*

[6] FLITE is a proprietary order entry protocol. *See id.*

[7] *See* Securities Exchange Act Release No. 104297 (Dec. 3, 2025), 90 FR 56820 (Dec. 8, 2025) (File No. SR–PHLX–2025–63).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 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.

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–PHLX–2026–17 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–PHLX–2026–17. 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–PHLX–2026–17 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06473 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105132; File No. SR–NYSEAMER–2026–25]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the NYSE American Options Fee Schedule To Eliminate Certain Incentive Programs and Increase the Limit on the Maximum Combined Floor Broker Credits Paid on QCC Trades and Rebates Paid Through the Manual Billable Program

March 31, 2026.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 18, 2026, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule (''Fee Schedule'') regarding: (i) the limit on the maximum combined Floor Broker credits paid for QCC trades and rebates paid through the Manual Billable Rebate Program (the ''FB Cap''); (ii) a pricing incentive designed to encourage Floor Broker participation in trading AON Single and AON Complex CUBE Auction options on NYSE American (the ''FB AON CUBE Rebate''); and (iii) an ATP Credit Simple/Complex Customer Electronic rebate (''ATP Electronic Rebate''). The Exchange proposes to implement the fee changes effective March 18, 2026. The proposed rule change is available on the Exchange's website at *www.nyse.com* 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify the Fee Schedule to: (i) increase the FB Cap; (ii) eliminate the FB AON CUBE Rebate; and (iii) eliminate the ATP Electronic Rebate. The Exchange proposes to implement the fee changes effective March 18, 2026.[4]

FB Cap

The FB Cap is a limit on the maximum combined Floor Broker credits paid for QCC trades and rebates paid through the Manual Billable Rebate Program of $4,000,000 per month per Floor Broker firm.[5] In 2025, in response to extreme market volatility and a concomitant surge in open outcry volume that led to Floor Broker firms earning higher than average monthly credits and rebates, the Exchange waived the FB Cap for April 2025 through December 2025 to allow Floor Broker firms to continue to send credit/rebate-generating order flow to the Exchange without concern for reaching the FB Cap.[6] Because open outcry volumes on the Exchange remained elevated, the Exchange extended the waiver to January and February 2026 and raised the FB Cap from $3,000,000 to $4,000,000.[7]

For the same reason, the Exchange now proposes increasing the FB Cap to $5,500,000 per month per Floor Broker

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on February 27, 2026 (SR–NYSEAMER–2026–13). SR–NYSEArca–2026–13 was withdrawn on March 12, 2026, and replaced by this filing.

[5] *See* Fee Schedule, Sections I.F. and III.E.1. (providing, in relevant part, that Floor Broker credits paid for QCC trades and rebates paid through the Manual Billable Rebate Program shall not combine to exceed $4,000,000 per month per Floor Broker firm).

[6] *See* Securities Exchange Act Release Nos. 102890 (April 18, 2025), 90 FR 17273 (April 24, 2025) (SRNYSEAMER–2025–26); 102985 (May 2, 2025), 90 FR 19584 (May 8, 2025) (SR–NYSEAMER–2025–27); 103623 (August 1, 2025), 90 FR 37905 (August 6, 2025) (SR–NYSEAMER–2025–46); 104258 (November 25, 2025), 90 FR 55186 (December 1, 2025) (SR–NYSEAMER–2025–65).

[7] *See* Securities Exchange Act Release No. 104676 (January 23, 2026), 91 FR 3748 (January 28, 2026) (SR–NYSEAMER–2026–03).

firm. The proposed change is intended to incentivize Floor Brokers to continue to direct their order flow to the Exchange, thereby increasing liquidity to the benefit of all market participants, by increasing the monthly cap on combined Floor Broker credits paid for QCC trades and rebates paid through the Manual Billable Rebate Program.[8]

FB AON CUBE Rebate

The Exchange proposes to amend the Fee Schedule to eliminate a pricing incentive designed to encourage Floor Broker participation in trading AON Single and FB AON CUBE Rebate. Currently, the FB AON CUBE Rebate provides for a credit of $0.12 applied to each of the first 5,000 contracts of an AON CUBE order executed in an AON Single-Leg CUBE auction, or the first 1,000 contracts per leg of an AON CUBE order executed in an AON Complex CUBE auction.

Only Floor Brokers that execute a minimum of 2,500 contracts ADV in AON CUBE Orders in either AON Single-Leg or AON Complex CUBE auction are eligible to receive the FB AON CUBE Rebate. AON CUBE Orders executed by a Floor Broker on behalf of an ATP Holder may only be counted towards the Floor Broker's eligibility for the FB AON CUBE Rebate.

The Exchange adopted the FB AON CUBE Rebate in an effort to attract greater liquidity to the Exchange generally and would therefore benefit all market participants (including those that do not participate in auction mechanisms) through increased opportunities to trade at potentially improved prices as well as enhancing price discovery. To the extent that the proposed fees and credits are successful in incentivizing utilization of AON CUBE Auctions, it was hoped that this increased order flow would improve price discovery and make the Exchange a more competitive venue for order execution, which, in turn, would improve market quality for all market participants (including those that do not participate in AON CUBE Auctions). Because the FB AON CUBE Rebate has been underutilized and thus has not achieved its intended effect, the Exchange now proposes to eliminate it from the Fee Schedule.

ATP Electronic Rebate

As set forth in Section I.H. of the Fee Schedule, ATP Holders are currently eligible to receive the Customer Credit of $0.10 per contract on Customer Electronic Simple and Complex executions, excluding CUBE Auctions, QCC Transactions, and volume from orders routed to another exchange, by meeting each of the following monthly qualification levels: (a) 5,000 contracts ADV from Initiating CUBE Orders in Complex CUBE Auctions; (b) Customer Electronic executions of 0.03% of TCADV, excluding CUBE Auctions, QCC Transactions, and volume from orders routed to another exchange; and (c) Professional Electronic executions of 0.02% of TCADV, excluding CUBE Auctions, QCC Transactions, and volume from orders routed to another exchange.[9]

The rebate was designed to incentivize ATP Holders to direct order flow to the Exchange and to encourage ATP Holders to engage in a variety of transactions on the Exchange. It was hoped that the increased liquidity on the Exchange would result in enhanced market quality for all participants. However, similar to the FB AON CUBE Rebate, the ATP Electronic Rebate is not currently actioned by any participants. Because it has been underutilized and thus has not achieved its intended effect, the Exchange now proposes to eliminate it from the Fee Schedule. In doing so, the Exchange notes that potential participants will still be able to achieve Customer Electronic rebates via its American Customer Engagement (ACE) program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act.[11] In particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

FB Cap

The proposed increase to the FB Cap is reasonable, equitable, and not unfairly discriminatory. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options securities transaction services that constrain its pricing determinations in that market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, 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.'' [12]

There are currently 18 registered options exchanges competing for order flow. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply-listed equity and ETF options order flow.[14] In such a low concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. In response to this competitive marketplace, the Exchange has established incentives, such as the FB Cap, to encourage market participants to direct order flow to the Exchange.

The Exchange believes the proposed change to the FB Cap is reasonable because it is designed to encourage the unique function of Floor Brokers in facilitating the execution of open outcry orders, to the benefit of all market

[8] The Exchange also proposes a non-substantive, clean up change to delete language from the Fee Schedule in Sections I.F. and III.E.1 referencing the waiver of the FB Cap for the months of January and February 2026, which will have expired.

[9] *See* Fee Schedule, Section I.H. In calculating an Order Flow Provider's (OFP) Electronic volume, the Exchange will include the activity of either (i) Affiliates of the OFP, such as when an OFP has an Affiliated NYSE American Options Market Making firm, or (ii) an Appointed MM of such OFP.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) & (5).

[12] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[13] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available at: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[14] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of equity-based ETF options, see id., the Exchange's market share in equity-based options increased from 6.09% for the month of November 2024 to 9.03% for the month of January 2026.

participants. To the extent the proposed increase to the amount of the FB Cap encourages Floor Brokers to continue facilitating transactions on the Exchange (instead of on a competing market), all market participants should benefit from increased liquidity, and increased order flow on the Exchange, which would continue to make the Exchange a more competitive venue for order execution, thus supporting market quality for all market participants. Finally, the FB Cap, as proposed, would apply equally to all Floor Brokers that execute manual transactions and/or QCC transactions and that earn rebates and credits applied toward such cap.

FB AON CUBE Rebate and ATP Electronic Rebate

The Exchange also believes that the elimination of the FB AON CUBE Rebate and the ATP Electronic Rebate is reasonable, equitable, and not unfairly discriminatory. Their elimination provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers. In addition, the programs have not encouraged Floor Brokers to increase participation in AON Single and AON Complex CUBE Auction options or incentivize ATP Holders to direct order flow to the Exchange and eliminating underutilized incentive programs would simplify the Fee Schedule.

Finally, the AON CUBE Rebate would be eliminated in its entirety and would no longer be available to any Floor Broker. Similarly, the removal of the ATP Electronic Rebate would apply equally to all potential participants who would still be able to achieve rebates via the Exchange's ACE program.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The proposed change to the FB Cap is designed to continue to attract order flow to the Exchange by offering Floor Brokers competitive rates to continue to direct their order flow to the Exchange, thereby increasing liquidity to the benefit of all market participants. The proposed change to the FB Cap would apply equally to all similarly situated Floor Brokers. To the extent that the increased FB Cap imposes an additional competitive burden on non-Floor Brokers, the Exchange believes that any such burden is outweighed by the fact that Floor Brokers serve an important function in facilitating the execution of orders and price discovery for all market participants.

In addition, the Exchange believes that the proposed elimination of the FB AON CUBE Rebate or the ATP Electronic Rebate would not affect intramarket competition because, as noted above, the programs have not effectively encouraged increased Floor Broker participation, and its elimination would impact all Floor Brokers equally.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the other 17 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply listed equity and ETF options trades. Therefore, currently no exchange possesses significant pricing power in the execution of multiply listed equity and ETF options order flow. More specifically, in January 2026, the Exchange had 9.03% market share of executed volume of multiply listed equity and ETF options order flow.

The proposed change to the FB Cap is designed to continue to incentivize Floor Brokers to direct manual and QCC transactions to the Exchange, to provide liquidity and to attract order flow to the Exchange. To the extent that Floor Brokers are encouraged to utilize the Exchange as a primary trading venue for all transactions, all of the Exchange's market participants should benefit from improved market quality and increased opportunities for price improvement.

Similarly, the Exchange believes that the elimination of the FB AON CUBE Rebate or the ATP Electronic Rebate would not affect intermarket competition. As noted above, the Exchange operates in a highly competitive market in which the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it removes an underutilized program that did not achieve its intended purpose.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2026–25 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–NYSEAMER–2026–25. 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

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

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–NYSEAMER–2026–25 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06464 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105130; File No. SR–NASDAQ–2026–022]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Obsolete Rule Text in Nasdaq Equities 6

March 31, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 27, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' 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 remove obsolete text in Nasdaq Equities 6.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of 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

Pursuant to a 2021 rule filing, the Exchange re-platformed three of its products for trade reporting, surveillance, and risk management: (1) ACT Workstation, (2) Nasdaq InterACT, and (3) Nasdaq Risk Management (''Discontinued Products'').[3] These products were replaced by (1) Nasdaq WorkX, (2) Nasdaq Real-Time Stats, and (3) Nasdaq Post-Trade Risk Management, respectively (''New Products'').[4] As the Exchange explained in its 2021 filing, ''Post-Trade Risk Management . . . will be used by clearing firms in a similar fashion as Risk Management—as an add-on service to WorkX to monitor and control correspondent trading access on the Nasdaq Exchange and the FINRA/Nasdaq TRF. The re-platformed product will not take away from user functionality and will improve the user's experience by allowing the user to create more customizations to manage risk exposure.'' [5]

Subsequently, pursuant to a 2024 rule filing, after all users of the Discontinued Products had migrated to the New Products, the Exchange amended its rulebook to remove obsolete references to the Discontinued Products.[6] However, the Exchange mistakenly did not include in this 2024 filing the description of Nasdaq Risk Management contained in Nasdaq Equity 6, Sections 1 and 2. The Exchange proposes to delete this obsolete rule text in Nasdaq Equity 6, Sections 1 and 2, and instead reserve those sections of its rulebook.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by removing obsolete text from its rulebook.

Removing obsolete rule text helps promote just and equitable principles of trade and removes impediments to—and perfects the mechanism of—a free and open market and a national market system, and helps protect investors and serves the public interest, by avoiding any confusion that could arise from the presence of this obsolete rule text in the Exchange's rulebook. In 2021, the

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91744 (May 3, 2021), 86 FR 24685 (May 7, 2021) (File No. SR–NASDAQ–2021–025) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Connectivity, Surveillance and Risk Management Services and Fees'').

[4] *See id.*

[5] *See id.* at 24687. The transition from Nasdaq Risk Management to Nasdaq Post-Trade Risk Management was originally scheduled to occur no later than the third quarter of 2021. *See id.* However, the Exchange extended this implementation date several times. *See* Securities Exchange Act Release No. 93125 (Sept. 24, 2021), 86 FR 54255 (Sept. 30, 2021) (File No. SR–NASDAQ–2021–073) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date of its Post-Trade Risk Management Tool''); Securities Exchange Act Release No. 94704 (Apr. 12, 2022), 87 FR 22958 (Apr. 18, 2022) (File No. SR–NASDAQ–2022–029) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date of Nasdaq's Post-Trade Risk Management Product to Q2 2022''); Securities Exchange Release No. 95216 (July 7, 2022), 87 FR 41774 (July 13, 2022) (File No. SR–NASDAQ–2022–038) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date of Its Post-Trade Risk Management Product to Q4 2022''); Securities Exchange Act Release No. 96534 (Dec. 19, 2022), 87 FR 79026 (Dec. 23, 2022) (File No. SR–NASDAQ–2022–074) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Implementation Date of Nasdaq's Post-Trade Risk Management Product to Q2 2023''); and Securities Exchange Act Release No. 98582 (Sept. 28, 2023), 88 FR 68760 (Oct. 4, 2023) (File No. SR–NASDAQ–2023–038) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Equity 7, Section 115'').

[6] *See* Securities Exchange Act Release No. 100093 (May 9, 2024), 89 FR 42552 (May 15, 2024) (File No. SR–NASDAQ–2024–018) (''Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Relating to Connectivity, Surveillance and Risk Management Services'').

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

Exchange discontinued its Nasdaq Risk Management product, and replaced it with Nasdaq Post-Trade Risk Management, pursuant to a rule filing with the SEC. Then, in 2024, the Exchange removed obsolete references in its rulebook to the discontinued Nasdaq Risk Management product, pursuant to another rule filing with the SEC. Through the present filing, the Exchange seeks to complete this process, by removing the only remaining obsolete references in its rulebook to the discontinued Nasdaq Risk Management product.

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. Removing obsolete rule text does not impose any burden on competition that is not necessary or appropriate for the purposes of the Act, because the removal of obsolete rule text benefits all market participants equally, by helping all market participants avoid any confusion that could arise from the presence of obsolete rule text in the Exchange's rulebook.

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 Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

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–NASDAQ–2026–022 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–022. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–022 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–06470 Filed 4–2–26; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 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.

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105128; File No. SR–NasdaqTX–2026–012]

Self-Regulatory Organizations; Nasdaq Texas, LLC; Notice of Filing and Immediate Effectiveness of a Proposal To Amend the Exchange's Anti-Internalization Functionality in Equity 4, Rule 4757, and To Extend the Implementation Date of the CORE FIX Order Entry Protocol

March 31, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2026, Nasdaq Texas, LLC (''Nasdaq Texas'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's anti-internalization functionality in Equity 4, Rule 4757, and to extend the implementation date of the CORE FIX order entry protocol.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaqtx/rulefilings,* and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's anti-internalization functionality in Equity 4, Rule 4757. This functionality assists participants in reducing trading costs from unwanted executions that could result from the interaction of executable buy and sell trading interest from the same firm. Currently, Rule 4757(a)(A)(3) provides that market participants using the CORE FIX [3] or OUCH [4] order entry protocols may assign to orders entered through a specific order entry port a unique group identification modifier that will prevent quotes/orders with such modifier from executing against each other (''Port-Level Anti-Internalization Functionality''). The Exchange now proposes to amend Rule 4757(a)(A)(3) to also make the Port-Level Anti-Internalization Functionality available to market participants using the FIX [5] and FLITE [6] order entry protocols.

The Exchange notes that the Port-Level Anti-Internalization Functionality is already currently available to market participants using the FLITE order entry protocol. Therefore, the Exchange is proposing to amend Rule 4757(a)(A)(3), in part, to bring its rulebook in line with its current practice in this regard. Because the Exchange is already offering this functionality to market participants using the FLITE order entry protocol, the proposed rule change with regard to these market participants will become operative 30 days after this proposed rule change is filed. Meanwhile, the Exchange intends to begin offering the Port-Level Anti-Internalization Functionality to market participants using the FIX order entry protocol before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of this functionality for market participants using the FIX order entry protocol.

Finally, in 2025 the Exchange announced its intention to implement CORE FIX, a new order entry protocol, by the first quarter of 2026.[7] Due to re-prioritization of the Exchange's product pipeline, the Exchange now proposes to implement CORE FIX before the end of 2026. The Exchange will issue an Equity Trader Alert ahead of the implementation of CORE FIX on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

As a preliminary matter, the Exchange notes that the Port-Level Anti-Internalization Functionality is not novel. Rule 4757(a)(A)(3) already makes this functionality available to market participants who use the OUCH order entry protocol. The rule also provides that this functionality will be available to market participants who use the CORE FIX order entry protocol, when that protocol is implemented on the Exchange. What the Exchange is now proposing is to also make this specific functionality available to market participants who use the FIX order entry protocol, and to have the rule reflect the reality that this functionality is currently available to market participants who use the FLITE order entry protocol.

The proposal is consistent with the Act and is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, because it is extending the existing Port-Level Anti-Internalization Functionality to market participants who use the FIX order entry protocol. This proposal is also consistent with the Act and is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it ensures that the Exchange's rulebook accurately reflects that market participants who use the FLITE order entry protocol are already able to use the Port-Level Anti-Internalization Functionality. Extending this anti-internalization functionality to market participants who use the FIX order entry protocol, and clarifying that this functionality is already available to market participants who use the FLITE order entry protocol, will help market participants choose the most appropriate order entry protocol to achieve their trading objectives.

Finally, extending the implementation date of the CORE FIX order entry protocol is designed to promote just and equitable principles of trade and to protect investors and the public interest, because it gives notice to market participants that this protocol is not yet available, but that the Exchange remains committed to implementing this protocol before the end of 2026.

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. As a general principle, the proposed changes are reflective of the significant competition among exchanges and non-exchange venues for order flow. In this regard, a proposed change that expands and clarifies the availability of the Exchange's Port-Level Anti-Internalization Functionality is pro-competitive because it bolsters the efficiency, functionality, and overall attractiveness of the Exchange in an absolute sense and relative to its peers. Moreover, the proposed changes will not unduly burden intra-market competition among various Exchange participants. Participants will experience no competitive impact from this proposal, as the Port-Level Anti-Internalization Functionality remains completely optional, and market participants are free to use any of several order entry protocols if they wish to avail themselves of this functionality. Finally, the Exchange does not believe that the extension of time to implement the CORE FIX order entry protocol will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, because market participants remain free to use any of the other order entry protocols that the Exchange offers.

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

[3] CORE FIX is a proprietary order entry protocol. *See* Nasdaq Texas Equity 4, Rule 4702(a).

[4] OUCH is a proprietary order entry protocol. *See id.*

[5] FIX is a non-proprietary order entry protocol. *See id.*

[6] FLITE is a proprietary order entry protocol. *See id.*

[7] *See* Securities Exchange Act Release No. 104291 (Dec. 2, 2025), 90 FR 56218 (Dec. 5, 2025) (File No. SR–BX–2025–029).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

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 Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

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–NasdaqTX–2026–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NasdaqTX–2026–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NasdaqTX–2026–012 and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

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[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 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.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105125; File No. 4–757]

Joint Industry Plan; Notice of Filing of Amendment No. 1, and Order Instituting Proceedings To Determine Whether To Approve or Disapprove an Amendment to the National Market System Plan Regarding Consolidated Equity Market Data, as Modified by Amendment No. 1, To Adopt a Fee Schedule

March 31, 2026.

I. Introduction

On December 11, 2025, the Operating Committee [1] of the Limited Liability Company Agreement of the CT Plan LLC (''CT Plan'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 11A of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 608(a) of Regulation National Market System (''Regulation NMS'') thereunder,[3] a proposal to amend the CT Plan to adopt a fee schedule (''Fee Proposal'').[4] The Fee Proposal was published for comment in the **Federal Register** on December 31, 2025.[5] The Commission received comments on the Fee Proposal, which are discussed below.[6]

On March 30, 2026, the Operating Committee filed an amendment to the Fee Proposal and response to the comments (''Amendment No. 1''),[7] which amended and superseded the Fee Proposal in its entirety, as set forth in Item II.B. The Commission is publishing this notice to solicit comments on the Fee Proposal, as modified by Amendment No. 1, and is instituting proceedings, under Rule 608(b)(2)(i) of Regulation NMS,[8] to determine whether to approve or disapprove the Fee Proposal, as modified by Amendment No. 1, or to approve the Fee Proposal, as modified by Amendment No. 1, with any changes or subject to any conditions the Commission deems necessary or appropriate.

II. Fee Proposal

A. Summary of Notice Published December 31, 2025

The Operating Committee filed the Fee Proposal as required by Article XIV of the CT Plan, which sets out the implementation schedule for the CT Plan and deadlines for significant milestones. Specifically, Section 14.1(c) of the CT Plan provides that no later than 12 months after the Effective Date,[9] the Operating Committee shall file with the Commission the proposed fees charged to Vendors and Subscribers for Transaction Reports and Quotation Information in Eligible Securities.[10]

The Fee Proposal seeks to establish the fees to be assessed across a variety of data products and the definitions to be used for purposes of distinguishing such products. The Fee Proposal would be used to assess fees for Transaction Reports and Quotation Information in Eligible Securities that is collected, consolidated and disseminated pursuant to the CT Plan once the CT Plan is fully

[1] *See* Article IV, Sec. 4.1 and Article XIV, Sec. 14.1(c) of the CT Plan.

[2] 15 U.S.C. 78k–1(a)(3).

[3] 17 CFR 242.608(a).

[4] The Members are: 24X National Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., MEMX LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq ISE, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Texas, Inc.

[5] *See* Joint Industry Plan; Notice of Filing of the Second Amendment to the Limited Liability Company Agreement of CT Plan LLC to Adopt a Fee Schedule, Securities Exchange Act Release No. 104512 (Dec. 23, 2025), 90 FR 61463 (Dec. 31, 2025) (''Notice'').

[6] Comments received in response to the Notice can be found on the Commission's website at: *https://www.sec.gov/comments/4-757/4-757.htm.*

[7] *See* Letter from Jeff Kimsey, Operating Committee Chair, CT Plan LLC, dated March 30, 2026 to Vanessa Countryman, Secretary, Commission.

[8] 17 CFR 242.608(b)(2)(i).

[9] Capitalized terms that are not defined herein are defined in the CT Plan. The Effective Date is defined in (b) of the recitals of the CT Plan as the date when the CT Plan is approved by the Commission pursuant to Rule 608 of Regulation NMS. Accordingly, the Effective Date is November 20, 2024. *See* Joint Industry Plan; Order Approving, as Modified, a National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 101672 (Nov. 20, 2024), 89 FR 94924 at 94925, 94962 (Nov. 29, 2024) (File No. 4–757) (''CT Plan Approval Order'').

[10] Art. XIV, Sec. 14.1(c) of the CT Plan.

implemented.[11] The Fee Proposal contains, among other things, proposed definitions and fees for Professional and Non-Professional Use, proposed Enterprise Caps, proposed Redistributor Fees, proposed fees for Non-Display Use, proposed fees for Derived Data, and proposed definitions of Direct and Indirect Access.

B. Notice and Description of Amendment No. 1

Set forth in this Section II.B. is the description of the proposed Amendment No. 1, along with information required by Rules 601(a) and 608(a) under the Exchange Act,[12] as prepared and submitted by the Operating Committee to the Commission.[13] Set forth in Exhibit A is the text of the Amendment No. 1 marked to show the proposed changes, prepared and submitted by the Operating Committee as Addendum 1.

(a) Rule 608(a)

1. Purpose of the Amendments

Pursuant to Section 14.1(c) of the CT Plan, the Operating Committee was required to file with the Commission proposed fees charged to vendors and subscribers for Transaction Reports and Quotation Information in Eligible Securities.[14] On December 11, 2025, the Operating Committee filed a proposal to amend the CT Plan to adopt a fee schedule for the CT Plan (the ''Original Amendment'') to comply with the requirements of Section 14.1(c).[15] The Original Amendment contained a proposed fee schedule (the ''Proposed Fee Schedule'').

In response to that filing, the Securities and Exchange Commission (''SEC'' or the ''Commission'') received comment letters from three firms. Amendment No. 1 to the Original Amendment largely retains the Proposed Fee Schedule and instead focuses on adding explanation, rationale, and clarifying guidance in response to comments received by the Commission. In particular, Amendment No. 1 expands the narrative discussion of the process used to develop the Proposed Fee Schedule, and it adds substantially more detail supporting the contention that consolidated data fees are constrained by competitive alternatives (including expanded ''synthetic SIP'' benchmarking and related discussion of why a strict cost-of-service approach is not the appropriate framework for evaluating these fees). It also adds clarifying discussion around how key classifications are intended to operate in practice, most notably, additional explanation of the ''good faith'' reliance safe harbor for Professional versus Non-Professional Use representations, clarification of how Direct vs. Indirect Access applies to extranet connections using a location/latency-based standard, and a more detailed explanation of the Derived Data approach (including why the prior single-security construct created line-drawing disputes and how treating derived-data creation as Non-Display Use is intended to reduce administrative burden and audit risk).

Amendment No. 1 also supplements and refines the rationale for specific fee components without materially changing the overall structure of the Proposed Fee Schedule as filed. For example, it adds additional explanation regarding the operation and policy objectives of the Non-Professional tiered ''sliding scale'' (including its interaction with the Non-Professional Enterprise Cap), expands the justification for excluding Professionals from the enterprise caps to address competitive neutrality concerns, and provides additional support for the inflation-related adjustments to Non-Display, Access, and Real-Time Redistribution fees (including additional discussion of technology investment and performance improvements and the choice of a data-processing-related inflation metric). Finally, it provides additional explanation for the tape harmonization decisions, both where charges are aligned across tapes (*e.g.,* Multiple Feed Charges and Late/Clearly Erroneous Reporting Charges) and where Tape C-only legacy fees are eliminated (*e.g.,* delayed redistributor, delayed access, and voice response port charges), emphasizing that these changes are intended primarily to improve clarity and administrability and reduce unnecessary tape-by-tape asymmetry.

For ease of readability, the Operating Committee has included a description of the Proposed Fee Schedule included in the Original Amendment, with supplemental information to provide additional support for the proposed fees as well as to respond to comments. This amendment supplants the Original Amendment in its entirety.

Process for Developing Fee Schedule

As detailed in the Original Amendment, beginning in March 2025, the Operating Committee formed the Fees and Policies Subcommittee (the ''Subcommittee'') to discuss and develop a fee schedule for the CT Plan for approval by the full Operating Committee. The Subcommittee consisted of representatives of the Members and the Advisory Committee. The Subcommittee generally met on a bi-weekly basis, and as the filing deadline approached, the Subcommittee began meeting more often, first weekly, then two times per week, and then daily.

As part of the process, the Subcommittee utilized the services of an outside consultant to help develop the Proposed Fee Schedule. In June 2025, the Operating Committee engaged Watchdog Data Services, LLC (the ''Consultant''). The Consultant was originally engaged to aid in the Request for Proposal (''RFP'') process to select an independent Administrator. The Subcommittee determined that the Consultant's expertise in the market data industry would also be helpful in developing and modeling a proposed fee schedule.

As stated in the Governance Order,[16] the Commission directed the Operating Committee to be responsible for assessing the marketplace for equity market data products and ensuring that SIP data offerings are priced in a manner that is fair and reasonable, and designed to ensure the widespread

[11] *See* CT Plan Approval Order, *supra* note 9. The Commission ordered the then-registered self-regulatory organizations (''SROs'') to act jointly in developing and filing with the Commission a proposed new national market system plan to govern the public dissemination of real-time, consolidated equity market data for NMS stocks (''SIP data'') to replace the existing equity data plans. The three NMS Plans that currently govern SIP data are (1) the Consolidated Tape Association Plan (''CTA Plan''), (2) the Consolidated Quotation Plan (''CQ Plan''), and (3) the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information For Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''UTP Plan'') (collectively, the Equity Data Plans''). *See* Order Directing the Exchanges and the Financial Industry Regulatory Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 88827 (May 6, 2020), 85 FR 28702 (May 13, 2020) (File No. 4–757) (''Governance Order''); Amended Order Directing the Exchanges and the Financial Industry Regulatory Authority, Inc., to File a National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 98271 (Sept. 1, 2023), 88 FR 61630, 61631 (Sept. 7, 2023) (File No. 4–757).

[12] *See* 17 CFR 242.601(a); 242.608(a).

[13] *See* Amendment No. 1, *supra* note 7.

[14] All capitalized terms used herein have the same meaning as is given such terms in the CT Plan.

[15] *See* Letter from Jeff Kimsey, Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, dated December 11, 2025.

[16] Order Directing the Exchanges and the Financial Industry Regulatory Authority to Submit a New National Market System Plan Regarding Consolidated Equity Market Data, Securities Exchange Act Release No. 88827 (May 6, 2020), 85 FR 28702 (May 13, 2020) (File No. 4–757) (''Governance Order'').

availability of SIP data to investors and market participants.[17] This requirement was codified in the CT Plan in Article IV, Section 4.1. The driving goal of the Subcommittee and the Consultant was to meet this requirement, by (1) discussing the Proposed Fee Schedule with the Advisory Committee, (2) conducting extensive outreach with market participants to make improvements to the fees for equity data products, and (3) analyzing competing products to develop fees that were fair and reasonable.[18]

While developing the Proposed Fee Schedule, the Subcommittee instructed the Consultant to conduct two surveys of market data subscribers. The first survey asked respondents about their usage of proprietary data feeds as an alternative to the SIP and focused on the administrative burdens currently experienced by consolidated tape subscribers that they believed need to be addressed. The second survey consisted of a deeper dive into the topics discussed in the first survey as well as obtaining feedback on potential pricing options the Subcommittee was considering.

As a result of the surveys, the Subcommittee developed an understanding that many market participants were shifting their data usage away from the SIP to competing proprietary market data products, or using delayed data to avoid real-time market data fees completely. While this movement has occurred with respect to various types of usages, it was most prevalent with respect to displayed usage, *i.e.,* Professional and Non-Professional display usage. Consequently, the Subcommittee developed a Proposed Fee Schedule with the aim of lowering or maintaining the fees for displayed usage in order to prevent further attrition from SIP data to competing proprietary products.

Additionally, the Subcommittee was concerned that audit-related burdens and risk might affect the widespread availability of SIP data where, again, market participants shifted their real-time market data usage to proprietary market data products offering simplified fee schedules that reduced such issues. Nearly all survey respondents stated that the CQ/CTA/UTP Plan fee schedules (the ''Existing Fee Schedules'') imposed on them an excessive administrative burden and, accordingly, requested the Subcommittee focus on:

1. Reducing administrative burden associated with Professional versus Non-Professional definitions;
2. Removing outdated terminology (*e.g.,* unit of count); and
3. Clarifying definitions to reduce audit risk.

As an example, 25 of 27 respondents in the second survey classified their challenges with SIP data primarily as administration-related rather than fee-related. Concerns regarding audits were the most reported issue. The second survey also showed that market data subscribers have replaced or are considering replacement of SIP usage with proprietary feeds that offer enterprise licenses, particularly because the enterprise license results in virtually no audit risk. As a result of the survey and Advisory Committee feedback, the Operating Committee focused on revisions that (1) add clarity to the application of the fee schedule, and (2) address those issues that the Operating Committee believes create the most audit risk.

Following extensive discussions, the Subcommittee developed the Proposed Fee Schedule and referred it to the Operating Committee for approval. The Proposed Fee Schedule was approved by a supermajority of the Members.

Proposed Fee Schedule

Based on the Consultant's surveys, the Operating Committee understands that market usage of the consolidated data feed has decreased in favor of top-of-book proprietary data feeds and/or delayed data. The Operating Committee developed the Proposed Fee Schedule with the aim of recapturing this market and addressing the concerns of those market data subscribers who have shifted their usage away from the consolidated data feed. As one consideration in developing a proposed fee schedule, the Subcommittee analyzed the Existing Fee Schedules under the CQ/CTA Plans and the UTP Plan. The various components of the Existing Fee Schedules were discussed, with the Subcommittee determining which components to carry over into the Proposed Fee Schedule, as well as developing improvements to reduce administrative burden.

Generally, the Proposed Fee Schedule modifies the Existing Fee Schedules in two ways: (1) modifications to reduce administrative burden; and (2) modifications to the actual fees charged. These changes are described below.

Changes To Reduce Administrative Burden

As part of the Subcommittee's work, the Operating Committee developed solutions to issues identified in the surveys and issues that, based on prior experience, have led to audit-related risks among market data subscribers. Members of the Advisory Committee, in particular, provided invaluable suggestions in this regard. These solutions are incorporated into the Proposed Fee Schedule and summarized below.

Professional Versus Non-Professional Usage

The Operating Committee proposes to modify the approach to labeling users as Professional or Non-Professional, focusing on the usage of the data, rather than the status of the individual. Currently, a Non-Professional is defined as a natural person who is neither:

(1) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association or any commodities or futures contract market or association;

(2) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); nor

(3) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

If a person is not a Non-Professional, then that person is considered a Professional.

As part of the Consultant's first survey, almost all respondents stated that the Professional versus Non-Professional definition creates significant administrative burdens that are time-consuming and expose market data subscribers to substantial audit risk, particularly for individuals

[17] *See id.* at 28730.

[18] The Operating Committee does not believe that a cost-based ratemaking is an appropriate methodology. An Advisory Committee appointed by the Commission in 2001 to review market data issues concluded that ''the 'public utility' cost-based ratemaking approach is resource-intensive, involves arbitrary judgments on appropriate costs, and creates distortive economic incentives.'' Report of the Advisory Committee on Market Information: A Blueprint for Responsible Change, at § VII.D.3 (SEC Sept. 14, 2001); *see also* Stephen G. Breyer, Analyzing Regulatory Failure: Mismatches, Less Restrictive Alternatives, and Reforms, 92 Harv. L. Rev. 547, 565 (1979) (''[I]nsofar as one advocates price regulation . . . as a 'cure' for market failure, one must believe the market is working very badly before advocating regulation as a cure. Given the inability of regulation to reproduce the competitive market's price signals, only severe market failure would make the regulatory game worth the candle.''). In response, and consistent with the purposes of the Exchange Act, the Commission has increasingly permitted competitive forces to determine the prices of market data fees.

registered with regulators who open personal trading accounts.

As a result, in the Proposed Fee Schedule, the Operating Committee proposes simplified, use-based definitions. Professional use would be defined as:

(i) any use of market data by or on behalf of any entity (for example, a corporation, company, partnership, limited partnership, limited liability company, or association), except trusts not for compensation; or

(ii) use of market data by an individual to provide a service to a third party for compensation.

Usage will be considered Non-Professional if it does not fall within the above categories. The Operating Committee believes these proposed definitions eliminate the burden on data subscribers of determining whether an individual trading for their own account is a Professional due to regulatory registration.

Further, the Operating Committee is including a safe harbor to further reduce administrative burden and audit risk where any real-time redistributor that relies in ''good faith'' on a representation by the user regarding the user's Professional usage versus Non-Professional usage of the data shall be exempt from audit liability based on such representations. Currently, a real-time redistributor could have audit liability where a market data user it distributes to claims they are not a Professional but where publicly-available resources (such as FINRA's BrokerCheck database) demonstrate that the individual is in fact a Professional. Because there is no such publicly-available source that would demonstrate that a user is or is not engaged in Professional use, the Operating Committee believes it is appropriate to offer a safe harbor where the real-time redistributor has obtained the necessary representations from its user base regarding their data usage, or otherwise engaging in misrepresentations or other fraudulent practices. The Operating Committee has included a requirement that the real-time redistributor's reliance be in ''good faith'', in order to disincentivize redistributors from instructing their user base to provide false representations.[19] The Operating Committee believes that the safe harbor will lessen compliance and audit burdens. It will allow real-time redistributors to rely on representations without having to worry about those representations later proving to be untrue; currently, it is possible that during an audit, an individual lists themselves as a Non-Professional but they are found to work in the financial industry. As a result, during audits, the Operating Committee's expectation is that such redistributors will be able to provide their process for obtaining the necessary representation by a user as opposed to having to discuss individual users' Professional/Non-Professional status.

The administrative simplifications reflected in the Proposed Fee Schedule are consistent with the Exchange Act because they are designed to remove impediments to, and perfect the mechanisms of, a national market system by reducing unnecessary compliance and administrative friction that can discourage broad and efficient access to consolidated equity market data. In particular, by moving to use-based Professional/Non-Professional definitions, providing a safe harbor for ''good faith'' reliance on user representations, and otherwise simplifying classifications and reporting/compliance exposure, the proposals discussed above support fair and orderly markets and the protection of investors through wider practical availability of the consolidated tape on terms that are easier to administer and less prone to interpretive disputes.

Direct Versus Indirect Access

The Operating Committee proposes simplifying the definitions of Direct and Indirect Access. Currently, the definitions do not align between the CQ/CTA and UTP Plans. For instance, Direct Access is defined in the CQ/CTA Plans as:

> [A] direct computer-to-computer linkage with the computer facilities that the Participants make available at the site of the CTA/CQ Plans' Processor, Securities Industry Automation Corporation (''SIAC'') in New York City. Access to data feeds through an extranet service subjects the data feed recipient to direct access charges.

On the other hand, Direct Access is defined in the UTP Plan as:

> [A] connection that receives access to any one or more UTP Real-Time Uncontrolled Products by means of a linkage or interface directly with the Plan's Securities Information Processor (SIP) via an extranet or other connection that the SIP has approved. Direct access includes indirect access. Examples: Extranet Connections; Nasdaq Direct (direct circuit connection or point of presence); Nasdaq Co-location that do not further redistribute to downstream connections; and Connections located within any co-location facility.

With respect to Indirect Access, the CQ/CTA Plans define it as:

> [A] computer-to-computer linkage with facilities provided by Vendors, rather than by SIAC. For example, parties that receive market data via a Vendor data feed service, and who gain control over the subsequent use and redistribution of the data, are generally viewed as having indirect access.

Indirect Access is defined in the UTP Plan as:

> Indirect Access means any other connection to a UTP Real-Time Uncontrolled Product, including Vendors with a Nasdaq Co-location connection that further redistribute to downstream connections outside any Nasdaq Colocation facility.

The Operating Committee proposes simplifying the definition of Direct Access by defining it as ''any connection within any data center in which a Processor is located.'' The Indirect Access definition will also be simplified to be ''any connection that is not Direct Access.'' The Operating Committee believes that these proposed definitions simplify the fee schedule by providing clarity as to when access is considered direct, ensures that the higher fees associated with direct access are correlated to reduced latency, and also prevents gaming. The Operating Committee believes that it is appropriate to differentiate between connections within a data center in which a Processor is located versus connections outside of such data centers, as connections outside such data centers most likely have increased latency and therefore should be subject to lower fees.

Further, the Operating Committee believes that the proposed definition helps to prevent gaming as it prevents firms from inserting extranet service providers between the firms and the processors solely to take advantage of the lower indirect access fees while still obtaining the advantage of reduced latency. One commenter raised questions regarding whether extranet connections constitute Indirect Access under the proposed definitions.[20] The application of whether a connection is Direct Access or Indirect Access does not turn on whether it is an extranet connection, but instead turns on where such connection takes place. In alignment with the latency-based rationale, if the connection to an

[19] One commenter raised concerns regarding what is considered ''good faith'' and what such a standard requires operationally. *See* Massive Letter at 8. The Operating Committee does not believe that the ''good faith'' standard requires any specific operational standard. Instead, the ''good faith'' requirement is simply designed to prevent redistributors from notifying their user base to provide representations in a misleading manner. As long as the redistributor obtains the representations in an unbiased manner, the Operating Committee believes that such approach will be in ''good faith''.

[20] *See* Massive Letter at 2.

extranet occurs outside a data center in which a Processor is located, then such connection would have increased latency and should pay the lower fee. If the extranet connection occurs inside a data center in which a Processor is located, then adding in that connection should not allow a firm to avoid paying the Direct Access fee while still maintaining latency benefits from connecting inside the same data center as the Processor.

The Proposed Fee Schedule's latency-based focus in defining Direct versus Indirect Access is consistent with the Exchange Act approval standard because it is designed to promote fair and orderly markets and perfect the mechanisms of a national market system by basing access fees on how the data is used as opposed to technical delivery differences that may not have functional differences. Specifically, by defining ''Direct Access'' as connections within a data center in which a Processor is located (and ''Indirect Access'' as all other connections), the Proposed Fee Schedule draws a clear, administrable line that tracks a key economic attribute, *i.e.,* lower latency, that is particularly valuable for latency-sensitive workflows, while recognizing that connections outside the Processor's data center most likely have increased latency and therefore should be subject to lower fees. This approach supports the public interest and investor protection by facilitating predictable, transparent access terms that reduce disputes and opportunities for ''gaming'' (*e.g.,* inserting intermediaries solely to obtain lower-fee treatment while retaining data center latency advantages), thereby improving the integrity and efficiency of consolidated data access within the national market system.

Derived Data

Under the Existing Fee Schedules, Derived Data is generally not fee-liable, except single-security Derived Data may be fee-liable at the underlying rate for Tape C. Tape A and Tape B do not contain a corresponding single-security Derived Data fee liability. The Existing Fee Schedules also do not currently charge Non-Display Use for the creation of Derived Data.

To replace the current construct, the Operating Committee proposes to include in the definition of Non-Display Use that Non-Display Use will include the creation of Derived Data. As a result, the creation of Derived Data will now be fee liable. Based on a review of other market data providers, the Operating Committee has found that the industry approach is to have a separate Non-Display Use category solely related to the creation of Derived Data. Rather than taking that approach here, the Operating Committee instead proposes to incorporate the creation of Derived Data within existing Non-Display Use categories (internal usage or on behalf of customers). Many firms' overall fee liability would not be affected by specifying that the creation of Derived Data is Non-Display Use, because for the large majority of broker-dealers, vendors, and other market participants that engage in any non-display activity, the Non-Display fee is assessed as a flat, monthly entitlement (*i.e.,* a one-time monthly fee per tape/category as applicable), and those firms already pay Non-Display fees today for other non-display workflows (such as internal analytics, automated processing, routing support, surveillance, risk, and similar machine-processing uses). As a result, clarifying that derived-data creation falls within Non-Display Use generally does not add an incremental charge for firms that are already non-display subscribers; instead, it primarily clarifies treatment and reduces disputes about whether particular processing steps are ''display'' versus ''non-display'' when generating transformed outputs. The principal firms that could experience a changed fee outcome are those that previously were not paying Non-Display fees but nonetheless create derived products from consolidated data, *e.g.,* certain index providers/index creators, analytics publishers, or other firms whose primary activity is producing derived values.

Treating the creation of Derived Data as Non-Display Use is consistent with (and in practical operation closely parallels) other established Non-Display use cases because the relevant fee classification should turn on the act of accessing and processing consolidated data for analytical/functional purposes, not on the specific output from such use. As described in the Proposed Fee Schedule's definition of Non-Display Use, non-display already encompasses ''accessing, processing, or consuming'' data for purposes other than solely facilitating delivery to a display, and the creation of Derived Data fits naturally within that same category: it involves manipulating and transforming the consolidated data, often through aggregation, calculation, normalization, or model inputs, in a manner that is operationally indistinguishable from other non-display workflows (*e.g.,* automated processing, analytics, alerting, routing support, risk calculations).

The Operating Committee believes this approach is fair and reasonable because fee liability should turn on the use made of the CT Plan data, *i.e.,* the act of accessing, processing, or consuming consolidated data, rather than on the form of the downstream output. That use-based approach is consistent with the structure of the Proposed Fee Schedule's Non-Display definition, which already turns on whether a recipient is ''accessing, processing, or consuming'' data for purposes other than merely facilitating delivery for display or redistribution. The creation of Derived Data fits naturally within that framework because it necessarily involves transforming the underlying consolidated data through calculation, aggregation, normalization, weighting, modeling, or similar machine-processing steps. In operational terms, that activity is not meaningfully different from other well-established Non-Display uses, such as analytics, risk processing, alerting, routing support, or surveillance. Classifying Derived Data creation as Non-Display Use therefore treats like processing activity alike, and is a fair and reasonable fee structure.

This approach also avoids the conceptual flaw in the prior derived-data policy that, in effect, made fee liability depend on the nature of the output (*e.g.,* whether derived data was displayed, and how), rather than on the underlying use of the CT Plan data to generate derived information in the first place. Non-Display Use is intended to classify the *use* of market data, accessing and processing it for functional value beyond simply putting the raw feed on a display, and it does not (and should not) change based on whether the downstream product is later visualized, distributed, or embedded in another workflow. By treating derived-data creation as Non-Display, the Proposed Fee Schedule adopts an intuitive, administrable rule: when a recipient uses consolidated data to create a transformed informational product, that activity is properly categorized as Non-Display regardless of the eventual presentation format.

Consequently, the Operating Committee believes that applying Non-Display treatment to derived-data creation is consistent with the Exchange Act because it (i) aligns fee liability with a distinct, value-bearing use of consolidated data (transforming it into a new informational product), (ii) promotes an administrable, predictable framework that reduces line-drawing and compliance disputes, (iii) ensures fair treatment among market data users by aligning fee structures based on use, and thus (iv) is necessary or appropriate in the public interest, for the protection

of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanisms of, a national market system.

Additionally, the proposed approach is intended to reduce administrative burden and improve clarity: it eliminates downstream fee liability tied to the display of solely ''single-security derived data''. Tapes A and B do not currently have a derived data fee, and Tape C has fee liability solely for single-security derived data. This distinction created line-drawing issues that resulted in administrative burden and uncertainty. By eliminating single-security derived data fee liability, the new Administrator and market data users will not be required to determine fee liability based on highly fact-specific and evolving technical implementation choices. For those users that were previously receiving single-security derived data, such users will therefore experience a decrease in their fees since single-security derived data is no longer fee liable.

Therefore, the Operating Committee believes that removing downstream fee liability associated with the display of single-security derived data is consistent with the Exchange Act because it is designed to remove impediments to, and perfect the mechanisms of, a national market system by replacing an administratively difficult line-drawing regime with a clearer, more enforceable framework. Eliminating that category reduces unnecessary administrative friction while improving predictability and compliance, which supports the public interest, investor protection, and fair and orderly markets by facilitating broader, more reliable use and redistribution of consolidated market data on administrable terms.

Simplified Definitions and Non-Billable Services

In reviewing the Existing Fee Schedules and combining the fee schedules into a single fee proposal under the CT Plan, the Operating Committee has adopted definitions and approaches to Non-Billable Services that are substantively similar to the same definitions and non-billable services under the Existing Fee Schedules, with alterations to make them easier to understand and implement. In many instances, this involved choosing a definition or approach that currently exists under the CQ/CTA Plans or UTP Plan, and potentially further refining it or adding clarity to reduce confusion regarding the Proposed Fee Schedule's applicability. In general, in selecting between competing definitions in the Existing Fee Schedules, the Operating Committee selected the definition deemed to offer greater ease of administration. The relevant definitions and selected approach are described below.

Non-Display Use. The Operating Committee proposes to define Non-Display Use as ''accessing, processing or consuming data, whether received via Direct and/or Redistributor Data Feeds, for a purpose other than solely facilitating the delivery of the data to the Data Feed Recipient's display or for the purpose of further internally or externally redistributing the data.'' This definition proposed herein matches the UTP Plan's definition, but with the addition of Derived Data creation as discussed above. While there were no substantive differences between the CQ/CTA Plans' and the UTP Plan's definitions, selecting a single, harmonized set of definitions where the legacy CQ/CTA and UTP Plans previously differed is consistent with the Exchange Act because it directly advances the statutory objective to ''remove impediments to, and perfect the mechanisms of, a national market system'' by reducing avoidable administrative complexity and interpretive risk for subscribers, redistributors, and the Administrator.

Derived Data. The Operating Committee proposes to define Derived Data as ''pricing data or other information that is created in whole or in part from the CT Plan Information'' and ''[t]o be considered Derived Data: (1) the Derived Data cannot be reverse engineered to recreate the Information, and (2) the Derived Data cannot be used to create other data that is recognized to be a reasonable facsimile for the Information.'' This definition matches the UTP Plan's definition. While there were no substantive differences between the CQ/CTA Plans' and the UTP Plan's definitions, selecting a single, harmonized set of definitions where the legacy CQ/CTA and UTP Plans previously differed is consistent with the Exchange Act because it directly advances the statutory objective to ''remove impediments to, and perfect the mechanisms of, a national market system'' by reducing avoidable administrative complexity and interpretive risk for subscribers, redistributors, and the Administrator.

Broadcast/Cable Television. The Operating Committee proposes to revise the Broadcast definition to consist of any broad-based dissemination of information to the general public through cable, satellite, internet, or traditional means, excluding transmission of a data feed or transmission via Application Programming Interface (''API''). The Operating Committee believes this definition accounts for broader methods of distribution, including through ''cable, satellite, internet, or traditional means.'' The Operating Committee believes that this update to the Broadcast definition is necessary given the changes in technology since the current definition in the Existing Fee Schedules was adopted. The updated definition ensures that similar methods of transmission are treated similarly under the Proposed Fee Schedule. In addition to updating the definition, the Operating Committee also proposes to simplify the Proposed Fee Schedule by adopting the same rate schedule across all three Tapes for Broadcast Fees. Currently, each Tape has a different rate for such usage, with the Tape C rate falling between the Tape A and Tape B rates. To simplify the fee schedule and maintain similar usage levels, the Operating Committee proposes to adopt the Tape C rate for Tape A and Tape B as well.

The Proposed Fee Schedule's expansion of the Broadcast/Cable Television category is consistent with the Exchange Act because it updates the fee schedule to reflect changed market realities in how ''broadcast content'' is delivered and consumed, and thereby removes impediments to, and perfects the mechanisms of, a national market system by applying a coherent, technology-neutral treatment to functionally equivalent mass-distribution uses. In particular, ''broadcast'' dissemination of market data is no longer limited to traditional over-the-air television; it now commonly occurs through cable and satellite channels and streaming/internet-based distribution that reaches comparable broad audiences and presents substantially similar compliance and monitoring challenges. Harmonizing treatment across these delivery methods promotes administrability and consistency without turning on legacy transmission technology, supporting the public interest, investor protection, and fair and orderly markets by enabling broad public access to market data through modern distribution channels on clear terms.

Service Facilitator. The Operating Committee proposes to define Service Facilitator as ''a third party to which a user outsources the responsibility for managing some portion of its technical, financial, legal, or operational role in distributing the Information.'' This definition is largely based on the UTP

Plan's definition. The proposed definition, however, contains a reference to the operational/administrative use exemption because the Operating Committee believes that the exception for Service Facilitators should be similar to that exemption. The operational/administrative use exemption should be applicable regardless of whether such use is internal or outsourced to a third party; referencing the exemption in the Service Facilitator definition ensures such an outcome.

The Proposed Fee Schedule's treatment of Service Facilitators, including its express reference to an operational/administrative use exemption, is consistent with the Exchange Act approval standard because it promotes a consistent, technology-neutral application of the fee schedule and thereby helps ''remove impediments to, and perfect the mechanisms of, a national market system.'' Specifically, when consolidated market data is accessed and used solely for operational or administrative purposes (*e.g.,* billing, entitlement management, recordkeeping, internal systems administration), those activities are substantively similar whether performed internally by a subscriber/redistributor or externally by a third-party service provider acting on that firm's behalf. Treating the same operational/administrative function differently depending only on whether it is performed in-house or outsourced would introduce artificial distinctions and compliance friction, potentially discouraging efficient outsourcing and creating inconsistent outcomes for economically equivalent uses. By recognizing the operational/administrative exemption in the Service Facilitator context, the Proposed Fee Schedule treats like activity alike, reduces avoidable administrative complexity, and supports fair and orderly markets through clearer, more administrable rules.

Quote/Query. The Operating Committee proposes to define a ''Quote'' packet as ''any data element or all data elements in respect of a single issue'' and ''[l]ast, open, high, low, volume, net change, bid, offer, size, and best bid and offer with size are examples of data elements.'' This definition matches the definition in the CQ/CTA Plans. The Operating Committee believes that adopting the CTA/CQ Plans' definition of ''Quote'' (*i.e.,* defining the unit as a ''quote packet'' that includes any data element or all data elements in respect of a single issue) is consistent with the Exchange Act because it provides a clear, content-based, technology-neutral billing unit that is easier to administer than the UTP Plan's ''Query'' construct, which contains a definition focused on the act of requesting quotation information as opposed to defining what a ''Quote'' is. Using the CTA/CQ ''Quote'' definition therefore promotes more consistent and non-discriminatory treatment of similarly situated users by tying fee liability to an objective unit of information rather than the mechanics of how a recipient's system happens to retrieve it, and it reduces compliance friction and audit risk in a manner that helps ''remove impediments to, and perfect the mechanisms of, a national market system,'' while supporting a fee framework that is ''fair and reasonable'' and ''not unreasonably discriminatory'' under Section 11A.

The Proposed Fee Schedule also maintains the per-Quote cap as a monthly ceiling on a Data Recipient's aggregate fees attributable to Quote activity for the applicable tape(s): the Data Recipient continues to count and report its quote volume for the month, and fees accrue under the per-quote rate only until total Quote charges reach the applicable cap, after which additional Quote volume in that month is not charged (or is effectively reversed through a credit/true-up mechanism). The Operating Committee believes this cap is consistent with the Exchange Act because it provides an objective, non-discriminatory mechanism that allows market participants to obtain the lowest price available under the Fee Schedule for their particular usage profile, *i.e.,* recipients with lower quote volumes pay under the per-Quote methodology, while recipients whose quote volumes would otherwise produce charges exceeding the cap are not forced to pay more than the effective flat-fee amount reflected in the cap. By limiting fees to a predictable maximum and preventing quote-driven charges from exceeding the cap solely due to volume, the cap promotes the ''widespread availability'' of consolidated data and supports fees that are ''fair and reasonable'' and ''not unreasonably discriminatory'' under Section 11A.

Finally, the per-Quote fee is not changing from the Existing Fee Schedules. The Operating Committee believes that maintaining the per-Quote rate at $0.0075 per Quote is consistent with the Exchange Act because it preserves stable, predictable pricing for a core unit of CT Plan information while the Plan simultaneously modernizes definitions and billing constructs. Keeping the rate unchanged (i) promotes the ''widespread availability'' of consolidated market data by maintaining existing pricing, (ii) supports a fee framework that is ''fair and reasonable'' and ''not unreasonably discriminatory'' by applying a uniform, objective per-Quote rate to all similarly situated recipients, with any differences in total charges driven by measured Quote activity, and (iii) provides continuity with established industry practice.

The relevant non-billable services and selected approach are described below:

Consolidated Volume Only. The Operating Committee proposes a simpler approach to Consolidated Volume Only. Replacing longer definitions in the Existing Fee Schedules, the Proposed Fee Schedule would simply provide that ''real-time trading volume occurring on all Members'' is considered ''Consolidated Volume,'' which may be displayed with no additional fees. The Operating Committee believes that the Proposed Fee Schedule's simplified ''Consolidated Volume Only'' provision is consistent with the Exchange Act because it promotes the widespread availability of consolidated market data by enabling investor-facing platforms to provide an important transparency metric without incremental cost or complex entitlement logic, thereby helping to ''remove impediments to, and perfect the mechanisms of, a national market system.''

Academic Waivers. The Operating Committee proposes to adopt an Academic Waiver policy that largely matches the CQ/CTA Plans' policy, stating that the waiver covers ''[d]ata used for academic research, teaching, or other educational purposes.'' The exemption makes clear that it excludes use of market data for securities trading or for any commercial purpose. The Operating Committee does not believe that the updated exemption would result in a change to its application, but instead would simply make the exemption easier to understand as to the circumstances which Academic Waiver can be utilized. As a result, the Operating Committee believes that the Academic Waiver policy is consistent with the Exchange Act as it promotes predictable, non-discriminatory application, which in turn helps ''remove impediments to, and perfect the mechanisms of, a national market system.''

System Migration. The Operating Committee proposes to adopt a System Migration exemption that largely matches the UTP Plan's exemption, providing that the exemption covers ''[u]sers in the process of migrating from one system to another. The proposed exemption, however, contains a

requirement that the migration must take place over a reasonable period of time. The Operating Committee believes that the addition of this language is necessary to prevent abuse of the System Migration exemption where a firm may utilize two systems simultaneously for extended periods of time, potentially unrelated to a system migration, but claim the System Migration exemption to avoid fee liability.

The Operating Committee believes that adopting a System Migration exemption that largely matches the UTP Plan's approach, with the added requirement that the migration occur over a reasonable period of time, is consistent with the Exchange Act because it accommodates legitimate, time-limited duplicative entitlements needed to execute operational transitions without disruption, while preventing the exemption from being used as an open-ended mechanism to avoid fee liability for ongoing parallel production environments. This ''reasonable period'' limitation promotes an equitable allocation of fees by ensuring similarly situated recipients are treated similarly (*i.e.,* the exemption is available for genuine migrations, not indefinite dual-system usage), and it improves administrability and auditability.

Disaster Recovery. The Disaster Recovery exemption in the Proposed Fee Schedule matches the Existing Fee Schedules, permitting users to ''activate back-up systems, networks, or facilities to be used solely in the event of a primary system outage or natural disaster'' without additional fee liability. The Operating Committee believes that retaining the Disaster Recovery exemption as reflected in the Existing Fee Schedules is consistent with the Exchange Act because it supports market resiliency and continuity, core components of fair and orderly markets, by permitting firms to activate back-up systems during outages or disasters without incurring duplicative fees for the same functional usage.

Administrative/Operational Use. The Operating Committee proposes to adopt an Administrative/Operational Use exemption that largely matches the UTP Plan exemption, covering ''[d]ata usage for operational or administrative functions that support the delivery of market data to users.'' The Operating Committee, however, has adopted revisions to the language as to when the exemption is not applicable, specifically when using real-time market data for securities transactions or to support customers in the trading of securities. The Operating Committee believes that the revisions will make it easier to understand when the Administrative/Operational Use applies. The Operating Committee has removed the Administrative Usage Credit that was in the CTA Plan, which applied a credit of the greater of 10 Display Devices or 5 percent of the total number of professional devices reported on a monthly basis. The Operating Committee proposes that instead of providing a credit, a market data subscriber would simply not be fee liable for its Administrative/Operational Use that is not based on its reported usage.

The Operating Committee believes the revised Administrative/Operational Use exemption is consistent with the Exchange Act because it clarifies that non-trading, back-office, technical, testing, and other operational uses that support delivery of market data to users may be treated as non-fee-liable, while making equally clear that the exemption does not apply where real-time market data is used to execute securities transactions or to support customers' trading. This clarification promotes fair and non-discriminatory application by drawing a practical, use-based line that reduces interpretive disputes and audit risk, and it removes impediments to efficient dissemination by ensuring firms are not charged for incidental operational functions unrelated to trading value. In addition, replacing the CTA Plan's ''Administrative Usage Credit'' with a straightforward non-fee-liable treatment for qualifying administrative/operational use improves administrability and equitable allocation by tying fee liability to actual usage categories rather than a credit construct that can create avoidable complexity.

Finally, selecting a single, harmonized set of definitions where the legacy CQ/CTA and UTP Plans previously differed is consistent with the Exchange Act because it directly advances the statutory objective to ''remove impediments to, and perfect the mechanisms of, a national market system'' by reducing avoidable administrative complexity and interpretive risk for subscribers, redistributors, and the Administrator. A unified CT Plan necessarily benefits from a single baseline taxonomy: where identical economic activity could be treated differently solely due to tape-specific definitional variance, firms historically were required to maintain parallel compliance logic, reporting, and audit support, creating friction that is unrelated to investor protection or market integrity. Harmonization addresses that friction, promotes more consistent application, and supports a more efficient consolidated market data framework.

Setting of Fee Levels

In setting fees for the Proposed Fee Schedule, the Operating Committee focused on two objectives: (1) incentivizing the continued and potentially expanded dissemination of the consolidated feed; and (2) making inflation-related adjustments for certain components of the Existing Fee Schedules that have remained stagnant for ten years or more. These objectives led to a Proposed Fee Schedule that (1) leaves display-related fees largely unchanged or potentially reduced to incentivize display to both Professional and Non-Professional use; and (2) adjusts certain discrete fees for inflation based on a widely-accepted metric.

These changes are discussed below.

Professional Fees

As part of the Proposed Fee Schedule, the Operating Committee proposes a Professional fee for Tape A that collapses the four existing Tape A tiers into a single flat fee, which aligns with the fee structure applied to Tapes B and C. Under the Existing Fee Schedules, Tape A employs tiered per-device pricing ($45 for one to two devices; $27 for three to 999 devices; $23 for 1,000 to 9,999 devices; and $19 for 10,000 or more devices), while Tape B and Tape C each apply a flat per-device rate of $23 and $24, respectively. The proposal simplifies the Tape A fee structure by establishing a flat per-device professional rate of $26 for Tape A, while maintaining the existing $23 rate for Tape B and $24 rate for Tape C. The Operating Committee calculated the $26 per Professional fee for Tape A by reviewing the current distribution of fee tiers across market data subscribers and selecting a fee that resulted in fee neutrality across the entire universe of subscribers. Of the firms currently paying for Tape A, 99.9 percent of firms currently pay either $45 or $27 for their device fee, and therefore, almost all firms will see a decrease in their Tape A Professional fee as a result of this change. While larger users may experience a slight increase in their fees, the Operating Committee believes that the new fee is reasonable as it is in line with the fees charged for Tape B and Tape C. Additionally, the Operating Committee believes that the changes made to reduce administrative burden will help to offset the potential increase in fees that larger users may experience; those larger users will most likely be the biggest beneficiaries of the changes

designed to reduce administrative burden.

Commenters had issue with the Operating Committee's use of top-of-book (''TOB'') proprietary data feeds to assess the reasonableness of the fees in the Proposed Fee Schedule. The Operating Committee agrees that proprietary TOB products and the consolidated feed are not identical in all respects, and the Proposal does not rely on TOB pricing as the *only* support for fee reasonableness. But TOB pricing remains a relevant competitive reference point because it reflects what sophisticated market data consumers actually can pay to assemble a consolidated view from proprietary sources (a ''synthetic SIP''), and, importantly, it highlights that the CT Plan product is priced at or below the economic alternative of a synthetic SIP created from proprietary products.

The largest exchange families offer consolidated TOB products priced at $18.00, $10.00, and $28.50 per Professional user, and other exchanges add per-user and/or per-data-recipient charges (including examples of $2.00 per Professional user, $0.10 per Professional user, $0.01 per Professional user, and $500 per Data Recipient for two exchanges), which together yield a ''synthetic'' TOB input cost of $58.61 per Professional user plus $1,000 per Data Recipient, all before a subscriber incurs the additional costs associated with its integration, normalization, entitlement, monitoring, and operations required to consolidate and maintain a comparable view across disparate proprietary sources.[21] Against that backdrop, the Proposed Fee Schedule's $73 combined Professional fee for Tapes A, B, and C represents a competitively reasonable all-in alternative that also allows subscribers to avoid the cost and operational burden of building and maintaining their own synthetic consolidation product. Looking at just Professional usage, if a Data Recipient has fewer than 70 users, the Proposed Fee Schedule provides a cheaper alternative than the proprietary TOB products being used to create a synthetic SIP. Because Tape A previously tiered charges based on number of devices, the billing distribution for Tape A can be illustrative in determining what percentage of firms would fall within this bucket. Based on an analysis of the prior Tape A professional tier breakdown, 84 percent of firms had only one or two Professional devices reported. Given the fact that an overwhelming majority of market data recipients had fewer than 70 Professional Users, the Operating Committee believes that the Proposed Fee Schedule is fair and reasonable. Therefore, in response to commenters, the Proposed Fee Schedule is not ''anchoring to the upper end'' of TOB pricing, but instead offering a consolidated product that compares favorably to the *aggregate* costs a subscriber would incur to replicate similar functionality through proprietary inputs.

Additionally, the Professional fee structure in the Proposed Fee Schedule is consistent with the Exchange Act because it advances the public interest and investor protection by simplifying administration and reducing compliance friction while maintaining broad access to consolidated data on stable, predictable terms. In particular, by collapsing legacy tape-by-tape tiers into a simpler Professional fee approach, the Proposal reduces the operational burden on market data recipients to track, classify, and report Professional usage under multiple, tape-specific constructs. Reducing these administrative burdens is ''necessary or appropriate'' to ''remove impediments to, and perfect the mechanisms of, a national market system'' because complexity and audit exposure operate as practical barriers to wider distribution and use of consolidated data, particularly in investor-facing contexts.

Moreover, contrary to the suggestion that the Proposal is solely ''repackaging'' fees, for a majority of customers, the applicable Professional fees are either unchanged or reduced, with the principal changes directed at simplification and administrability, rather than increasing Professional charges. This design choice is consistent with the Exchange Act because it supports fair and orderly markets and investor protection by (i) limiting compliance-driven barriers that can impede dissemination of core consolidated information, and (ii) making the consolidated product easier to use and audit on an ongoing basis, without changing fees merely because one legacy structure is replaced with another.

Non-Professional Fees

The Operating Committee is proposing to decrease Non-Professional Fees from the Existing Fee Schedule, proposing to adopt a tiered fee structure that is based on Non-Professional usage.

Under the Current Schedules, Non-Professionals are charged $1 on each of Tapes A, B, and C. The Proposed Fee Schedule introduces the following sliding scale per Tape based on the number of Non-Professionals reported:

Individuals engaged in Non-Professional use		Current Non-Professional fee	Proposed fee per individual engaged in Non-Professional use
1	2,000	$1	$0.90
2,001	50,000	1	0.75
50,001	250,000	1	0.60
250,001	1,000,000	1	0.40
1,000,001+		1	0.25

The sliding scale operates in a manner similar to tax brackets, where a subscriber will pay the per Non-Professional fee for the portion of their Non-Professional customer base falling within each tier before moving to the

[21] The relevant fee schedules for the consolidated TOB products can be found at the following locations: (1) for NYSE Best Quotes and Trades, *https://www.nyse.com/publicdocs/nyse/data/NYSE_Market_Data_Pricing.pdf;* (2) for Nasdaq Basic, *https://data.nasdaq.com/price-list#NasdaqBasic;* (3) for Cboe One Feed, *https://www.cboe.com/market_data_services/us/equities/cboe_one/;* (4) for IEX TOPS Feed, *https://www.iex.io/resources/trading/fee-schedule#market-data-fees;* (5) for MEMX MEMOIR Top and Last Sale Feeds, *https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/;* (6) for LTSE Top of Book Feed, *https://cdn.prod.website-files.com/6462417e8db99f8baa06952c/6927783009a1256edf61c295_LTSE%20Fee%20Schedule_December%201%2C%202025.pdf;* (7) for MIAX Pearl Equities Top of Market Feed, *MIAX_Pearl_Equities_Fee_Schedule_02012026_2.pdf;* and (8) 24X Top Feed, *https://equities.24exchange.com/api/media/file/SR-24X-2025-09-Market-Data-Fees-website.pdf.*

next tier. For example, for the first 2,000 Non-Professionals, a subscriber will be charged $0.90 per Non-Professional. For the next tier (between 2,001 and 50,000 Non-Professionals), a subscriber will be charged $0.75 per Non-Professional. The remaining tiers follow a similar pattern. In establishing these tiers, the Operating Committee reviewed reported Non-Professional user data and, based on current usage levels, structured the tiers both to reflect existing patterns and to incentivize increased Non-Professional use through achievable thresholds.

Before arriving at the sliding scale proposed above, the Operating Committee considered a number of alternative fee structures for Non-Professional Fees, including a flat Non-Professional usage fee and a tiered flat-fee approach where firms would be charged a flat fee based on the number of reported Non-Professionals.

The Operating Committee ultimately decided on proposing the sliding scale described above, which it believes will incentivize firms to increase their dissemination to Non-Professionals and meet the goals of the Governance Order to ensure the widespread availability of consolidated data to investors. Based on the results of the Consultant's second survey, respondents stated that they preferred a Non-Professional model that rewarded scale and promoted fairness. The Operating Committee believes that the proposed sliding scale aligns with the results of the survey because the sliding scale ensures that firms can take advantage of decreased pricing as their usage increases.

It is important to note the interaction between the Non-Professional tiered fee schedule described above and the Enterprise Cap described below. The Operating Committee adopted a tiered Non-Professional pricing structure (rather than relying solely on a single enterprise cap level) because Non-Professional usage among Data Feed Recipients varies dramatically, *i.e.,* a small number of firms sit at the extreme high end of Non-Professional user counts, while most firms are at materially lower levels. In that environment, setting one cap that ''works for everyone'' is inherently difficult: a cap set low enough to benefit firms with modest-to-moderate Non-Professional bases would be reached almost immediately by the highest-volume firms, while a cap set high enough to reflect the high-volume outliers would provide little or no practical benefit to the majority of firms. The Proposed Fee Schedule's sliding-scale tiers are designed to solve for that gap by extending meaningful marginal-cost reductions (and thus more cap-like benefits) to lower and mid-range user levels (where most firms sit) while still providing a rational, scalable schedule for firms with very large Non-Professional populations. This design supports Section 11A objectives by reducing barriers to broad retail distribution of consolidated data without relying on a one-size-fits-all cap threshold.

The Proposed Fee Schedule's Non-Professional pricing is competitively reasonable when evaluated against assembling a consolidated TOB view by purchasing multiple proprietary exchange products and integrating them internally. As detailed above, the largest exchange families offer consolidated TOB products priced at $1.00, $1.00, and $0.25 per Non-Professional user, while other exchanges add charges such as $0.10 per Non-Professional user (for two exchanges), $0.01 per Non-Professional user, and $500 per Data Recipient (for two exchanges). Those inputs imply an estimated monthly proprietary ''bundle'' cost of approximately $2.46 per Non-Professional user plus $1,000 per Data Recipient. By contrast, the CT Plan's combined Non-Professional pricing begins at $2.70 across Tapes A, B, and C, and then declines with scale under the sliding scale (down to $0.75 at the highest tier), while delivering a single consolidated product that avoids the operational and compliance burdens associated with stitching together multiple proprietary products. In that sense, the Non-Professional fees are consistent with the Exchange Act because they reflect a transparent, market-referenced pricing approach that promotes broad retail availability of consolidated data on administrable terms, in furtherance of Section 11A objectives.

Enterprise Cap

Under the Existing Fee Schedules, Tape A, Tape B, and Tape C offer enterprise caps of $686,400, $520,000, and $648,000, respectively. For Tape A and Tape B, the enterprise cap includes both Professional and Non-Professional usage while Tape C includes only Non-Professional usage. The Proposed Fee Schedule maintains a cap, but aligns the Tape A and Tape B caps with the Tape C cap by eliminating Professionals from inclusion in the cap. Because of the removal of Professionals from the cap, the Operating Committee proposes reducing the Tape A cap from $686,400 to $648,000 in order to align with the Tape C cap. Because the Tape C cap already excludes Professionals, the Operating Committee believes the Tape C cap is the appropriate level at which to set the Tape A cap. Additionally, while the Tape B cap was at a lower level in the Existing Fee Schedules than that of Tape A and Tape C, the Operating Committee proposes reducing the Tape B cap by the same percentage that the Tape A cap is reduced, such that the new Tape B cap for Non-Professional usage will be $490,000.[22]

The Operating Committee determined it was appropriate to maintain a cap on Non-Professionals in order to incentivize continued widespread availability of consolidated data to the same number of Non-Professionals. The Operating Committee was concerned that, if a cap was removed, the firms taking advantage of the cap today would decrease their usage to ensure that their overall market data spend remained the same. This would have resulted in decreased availability of the consolidated data to Non-Professionals. This concern was supported by the results of the Consultant's surveys.

The Proposed enterprise caps are consistent with the Exchange Act and are not unreasonably discriminatory because they operate in tandem with the tiered Non-Professional sliding scale to allocate benefits on an objective, volume-based basis across *all* data recipients, rather than conferring an advantage only on the very largest firms. As commenters themselves recognize, Non-Professional usage levels vary widely and only a subset of firms will reach any given cap. The Operating Committee addressed this reality by pairing caps with a declining marginal-rate schedule so that firms at lower- and mid-usage levels (where most firms sit) receive meaningful pricing benefits through lower tier rates, while very large firms receive additional predictability and constraint through the cap once reached. This structure promotes the Exchange Act objectives of broad availability of consolidated data and administrable, equitable pricing because it treats similarly situated recipients similarly (by usage volume), and any differences in outcome flow from measurable differences in scale rather than arbitrary classifications. The Operating Committee believes it is also important to note that even for those firms falling within the smallest usage tier, those firms would still see a decrease in their per Non-Professional fee from $1.00 to $0.90.

[22] Unlike the other fees in the Proposed Fee Schedule, the Operating Committee did not make a comparison between the proposed Enterprise Cap and enterprise licenses offered by exchanges for their proprietary data feeds. Given the differences in what is permitted under the various enterprise licenses, the Operating Committee did not believe that it is a relevant comparison.

The Operating Committee also decided to exclude Professional usage from the enterprise cap because, in practice, including Professionals allowed a subset of the largest firms (those with very large Non-Professional user bases that can reach the cap) to realize an effective reduction (or elimination) of Professional fees that smaller firms could not access, solely by virtue of their retail scale. In the Operating Committee's view, that dynamic can distort competition among broker-dealers and vendors by advantaging firms that happen to have large Non-Professional populations, even where their Professional usage (and corresponding willingness to pay for professional-facing consolidated data) is similar to peers. Separately, the Operating Committee did not observe evidence that including Professionals in a cap meaningfully advances a public-interest objective, *i.e.,* it does not appear to materially increase dissemination to Professionals, based on the Plan's comparison of dissemination patterns where Tape A historically included Professionals in the cap while Tape C did not, yet Professional dissemination among cap-eligible firms was relatively similar across those tapes. Accordingly, the Committee concluded that retaining Professional inclusion in the cap would primarily operate as a windfall for a limited set of large firms without a commensurate benefit to investors or market quality, and that removing Professionals from the cap better aligns the fee design with the Exchange Act approval standard by promoting a more even competitive landscape while preserving the cap's intended role in supporting broad retail availability through Non-Professional pricing.

Further, the Operating Committee believes that reducing the caps for Tape A and Tape B will help to offset increases in fees as a result of removing Professional usage from the cap. In particular, with an approximately $40,000 decrease in the Tape A cap and $30,000 decrease in the Tape B cap, those firms effected by the proposed change would have additional funds available to pay for new Professional usage fees before seeing an increase in their combined Professional and Non-Professional usage fees. Additionally, the Operating Committee believes that the changes made to reduce administrative burden will help to offset the potential increase in fees that these largest firms may experience; these firms will most likely be the biggest beneficiaries of the changes designed to reduce administrative burden.

Inflation-Adjusted Fees

The Operating Committee proposes an inflation-related adjustment to certain of its fees for subscribing to the consolidated feed. The fees include: (1) Non-Display Fees; (2) Access Fees; and (3) Redistribution Fee. Under the Existing Fee Schedules, these fees are as follows:

	Existing fee schedules		
	Tape A	Tape B	Tape C
Non-Display (Electronic Trading System ("ETS"))	Last Sale: $2,000/ETS Bid-Ask: $2,000/ETS	Last Sale: $1,000/ETS Bid-Ask: $1,000/ETS.	$3,500/ETS.
Non-Display (Own Behalf)	Last Sale: $2,000 Bid-Ask: $2,000	Last Sale: $1,000 Bid-Ask: $1,000.	$3,500.
Non-Display (For Customer)	Last Sale: $2,000 Bid-Ask: $2,000	Last Sale: $1,000 Bid-Ask: $1,000.	$3,500.
Direct Access	Last Sale: $1,250 Bid-Ask: $1,750	Last Sale: $750 Bid-Ask: $1,250.	$2,500.
Indirect Access	Last Sale: $750 Bid-Ask: $1,250	Last Sale: $400 Bid-Ask: $600.	$500.
Real-Time Redistributor	$1,000	$1,000	$1,000.

The Operating Committee proposes setting these fees to the following levels: [23]

	Proposed fee schedule		
	Tape A	Tape B	Tape C [24]
Non-Display (ETS) (Per ETS)	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025. Bid-Ask: $2,025.
Non-Display (Own Behalf)	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025. Bid-Ask: $2,025.
Non-Display (For Customer)	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025. Bid-Ask: $2,025.
Direct Access	Last Sale: $1,445 Bid-Ask: $2,025	Last Sale: $865 Bid-Ask: $1,445	Last Sale: $1,155. Bid-Ask: $1,735.
Indirect Access	Last Sale: $865 Bid-Ask: $1,445	Last Sale: $460 Bid-Ask: $695	Last Sale: $230. Bid-Ask: $345.
Real-Time Redistributor	$1,155	$1,155	$1,155.

Of these fees, the latest one to be established/modified is the Non-Display fee in 2014, with an effective date of January 1, 2015.[25] The other fees have been in place even longer without adjustment. Over the past decade, the

[23] The definitions in the Proposed Fee Schedule have remained the same unless noted elsewhere in this filing.

[24] As part of the Proposed Fee Schedule, the Operating Committee decided to offer the same optionality on Tape C that previously existed on Tapes A and B, *i.e.,* the ability to purchase Last Sale or Bid-Ask without purchasing the other.

[25] *See* Securities Exchange Act Release No. 73279 (Oct. 1, 2014), 79 FR 60522, (October 7, 2014).

Members have expended significant resources to improve the operation of the SIPs to meet customer expectations, including continued investment in all aspects of the technology ecosystem (*e.g.,* software, hardware, and network). The Members continue to invest heavily in enhancing the SIP for the benefit of its users, and these investments have increased the performance of the SIPs. Yet the Operating Committee has not adjusted any of the fees discussed in this section since at least 2014. As discussed below, the Operating Committee proposes to adjust these three fees by an industry- and product-specific inflationary measure. It is reasonable and consistent with the Exchange Act for the Members to recoup their investments, at least in part, by adjusting the fees described herein. Continuing to operate at fees frozen at 2014 levels impacts the Operating Committee's ability to enhance the SIP and the interests of market participants and investors.

Since 2015, the Security Information Processors (''SIPs'') have committed significant resources and infrastructure to ensure the ongoing support of the ever-increasing data needs of the Participants and Data Recipients. For example, with respect to SIAC, the Processor has increased system throughput (over 720 percent on CQS and 560 percent on CTS), processing nearly 250 percent more daily messages, while reducing median latency by 95 percent. These statistics for are reflected in the chart below:

	2015	2025
System Capacity—MPMH *	CTS—75K	CTS—425K
	CQS—375k	CQS—2.7M.
Peak Daily Messages	CTS—56M on 8/24/15	CTS—135M on 4/9
	CQS—1.3B on 12/14/15	CQS—3.7B on 4/7.
Median System Latency	CTS—450 microseconds	CTS—18 microseconds
	CQS—350 microseconds	CQS—17 microseconds.

* MPHM = Messages per 100 milliseconds.

Similar improvements have been made with respect to the UTP Processor:

	2016	2025
System Capacity—MPMH	Trades—133K	Trades—4.1M
	Quotes—215K	Quotes—5.4M.
Peak Daily Messages	Trades—21M	Trades—86M
	Quotes—366M	Quotes—1.4B.
Median System Latency	Trades—485 microseconds	Trades—12 microseconds
	Quotes—471 microseconds	Quotes—11 microseconds.

These improvements in the Processors' services have coincided with increased costs during the same time period, due to both investment and inflation.

The fee increases the Operating Committee proposes in this section are based on an industry-specific Producer Price Index (''PPI''), which is a tailored measure of inflation.[26] As a general matter, the PPI is a family of indexes that measures the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller. This contrasts with other metrics, such as the Consumer Price Index (''CPI''), that measures price change from the purchaser's perspective.[27] About 10,000 PPIs for individual products and groups of products are tracked and released each month.[28] PPIs are available for the output of nearly all industries in the goods-producing sectors of the U.S. economy—mining, manufacturing, agriculture, fishing, and forestry—as well as natural gas, electricity, and construction, among others. The PPI program covers approximately 69 percent of the service sector's output, as measured by revenue reported in the 2017 Economic Census.

For purposes of this proposal, the relevant industry-specific PPI is the Data Processing and Related Services PPI (''Data PPI''), which is an industry net-output PPI that measures the average change in selling prices received by companies that provide data processing services. The Data PPI was introduced in January 2002 by the Bureau of Labor Statistics (''BLS'') as part of an ongoing effort to expand Producer Price Index coverage of the services sector of the U.S. economy and is identified as NAICS—518210 in the North American Industry Classification System.[29] According to the BLS ''[t]he primary output of NAICS 518210 is the provision of electronic data processing services. In the broadest sense, computer services companies help their customers efficiently use technology. The processing services market consists of vendors who use their own computer systems—often utilizing proprietary software—to process customers' transactions and data. Companies that offer processing services collect, organize, and store a customer's transactions and other data for record-keeping purposes. Price movements for the NAICS 518210 index are based on changes in the revenue received by companies that provide data processing services. Each month, companies provide net transaction prices for a specified service. The transaction is an actual contract selected by probability, where the price-determining characteristics are held constant while the service is repriced. The prices used in the index calculation are the actual prices billed for the selected service contract.'' [30]

The Operating Committee believes the Data PPI is an appropriate measure to be considered in the context of the proposal to modify the fees described in

[26] *See https://fred.stlouisfed.org/series/PCU51825182#0,* (as viewed on December 7, 2025).

[27] *See https://www.bls.gov/ppi/overview.htm.*

[28] *Id.*

[29] NAICS appears in table 5 of the PPI Detailed Report and is available at *https://data.bls.gov/timeseries/PCU518210518210.*

[30] *See https://www.bls.gov/ppi/factsheets/producer-price-index-for-the-data-processing-and-related-services-industry-naics-518210.htm.*

this section because the Members and the Processors use their ''own computer systems'' and ''proprietary software,'' *i.e.,* their own data center and proprietary matching engine software, respectively, to collect, organize, store and report customers' transactions in U.S. equity securities. The production of consolidated market data depends on intertwined, shared, and continually evolving investments across multiple markets and systems by the Members and the Processors, *e.g.,* market operations, technology, security, resiliency, surveillance/compliance, testing and change management, and governance. In other words, the Members and the Processors are in the business of data processing and related services.

For purposes of the Proposed Fee Schedule, the Operating Committee examined the Data PPI value for the period from January 2015 to May 2025.[31] The Data PPI had a starting value of 101 in January 2015 and an ending value of 124.185 in May 2025, a 15.95 percent increase. This indicates that companies that are also in the data storage and processing business have generally increased prices for a specified service covered under NAICS 518210 by an average of 15.95 percent during this period. Based on that percentage change, the Operating Committee proposes to make a fee increase by up to 15.95 percent for the fees described in this section, which reflects an increase covering the entire period since the last adjustment was made.[32]

The Operating Committee further believes the Data PPI is an appropriate measure for purposes of the proposed rule change on the basis that it is a stable metric with limited volatility, unlike other consumer-side inflation metrics. In fact, the Data PPI has not experienced a greater than 2.16 percent increase for any one calendar year period since Data PPI was introduced into the PPI in January 2002.

The Operating Committee also believes that the proposed fees are reasonable because the Non-Display fees for each Tape are comparable to similar fees offered by the largest exchange families. While the consolidated feeds provide more data than the exchange families' TOB proprietary data feeds, the Operating Committee believes that these products are helpful benchmarks in determining whether the proposed fees are fair and reasonable.

The Proposed Fee Schedule's pricing for Non-Display, Access, and Real-Time Redistribution is competitively reasonable in light of the practical ''synthetic SIP'' alternative: a subscriber that elects not to purchase a consolidated CT Plan product can assemble a consolidated view by purchasing and integrating multiple proprietary exchange TOB products, incurring parallel categories of fees (non-display entitlements, connectivity/access charges, and redistribution rights) across separate sources.

- For Non-Display, the Proposed Fee Schedule's total monthly Non-Display Use fees across all Tapes and both Bid/Ask and Last Sale for each category is $10,990. This amount is below comparable Non-Display Use fees for proprietary TOB products; for instance, NYSE charges a total Non-Display Use fee of $9,500 across its exchanges, MIAX charges $1,000, and IEX and LTSE each charge $500/month per data recipient. The charges from these exchanges alone exceed the Non-Display Use fee in the Proposed Fee Schedule.[33]
- For Access fees, the Proposed Fee Schedule's total monthly Direct Access fees across all Tapes and both Bid/Ask and Last Sale are approximately $8,500, and total Indirect Access fees are approximately $3,953, both below what a subscriber would pay to obtain comparable access rights across proprietary TOB products feeds, where the largest exchange families alone charge $6,250, $1,600, and $1,500 (before accounting for additional venues).
- And for Real-Time Redistribution, the Proposed Fee Schedule's aggregate redistributor fee across all Tapes is approximately $3,400, which is likewise below the comparable proprietary redistributor charges: again, the largest exchange families alone charge $2,500, $2,080, and $5,000.

In this sense, the Proposal's consolidated fees are at or below the cost of assembling and maintaining a comparable multi-source proprietary bundle, while also sparing subscribers the substantial operational and compliance burden of contracting for, integrating, entitling, and administering many separate proprietary products.

SIFMA and Fidelity argue that proprietary TOB products cannot meaningfully constrain consolidated market data pricing because each exchange is the sole source of its own proprietary feed and because proprietary TOB products are ''fragmented'' and ''cater to'' different use cases than SIP data. That critique overstates the degree to which TOB products are economically insulated from competition. While each venue is the exclusive source of its own data, TOB products are designed for basic, indicative usage (best bid/offer and last sale) and are frequently consumed for inexact price discovery and market color rather than for venue-specific microstructure signals. In that common usage, TOB feeds are meaningfully substitutable with each other: a subscriber seeking indicative view of the market can often replace one exchange's TOB feed with another, particularly among the largest exchange families, whose quotes and trades are generally indicative of broader market conditions, and many users evaluate these products as part of a ''bundle'' decision where price and total cost of ownership drive substitution, downgrade, or non-purchase at the margin. In that sense, TOB products compete with each other on price and package economics for baseline market-view functionality, even if they are not perfect substitutes in every use case. The Subcommittee's outreach and survey work supports the Operating Committee's conclusion that TOB products are, in practice, being used as substitutes for (and increasingly in place of) consolidated products, particularly where the consolidated products' licensing terms, administrative obligations, and audit exposure make them comparatively costly to implement and maintain.

For many common ''indicative price'' use cases, *i.e.,* obtaining a contemporaneous best-bid/best-offer and last-sale view for broad market color rather than venue-specific signals, proprietary TOB products are readily fungible with one another because they are designed to convey the same core pricing information and, as a practical matter, their displayed prices closely track across venues. In that environment, a market participant that needs an indicative quote/trade reference can often substitute one exchange family's TOB feed for another (or for a different bundle composition) with little to no meaningful change in the indicative pricing signal, making these TOB products competitive alternatives to each other for baseline

[31] The Operating Committee utilized the data from the last month that was not designated as Preliminary and potentially subject to revision.

[32] The Operating Committee rounded some fees downward to the closest multiple of five.

[33] It is important to note that Non-Display Use is not a stand-alone category in each Exchange's fee schedule. As a result, to simplify the comparison, the analysis does not include Exchanges that might charge for Non-Display Use as part of other categories. For instance, some Exchanges may charge access fees in lieu of charging a Non-Display Use fee while other Exchanges may charge both access fees and Non-Display Use fees.

market-view functionality even if they are not perfect substitutes for all latency-sensitive or venue-specific analytics.

Accordingly, where the consolidated product is priced competitively relative to the cost of assembling a ''synthetic SIP'' from proprietary TOB inputs, the Commission may reasonably consider that competitive context as part of the ''fair and reasonable'' analysis, without accepting the premise that only a cost-of-service showing is relevant. Considering this market-based evidence supports a finding that the Proposal is ''necessary or appropriate in the public interest'' and ''to remove impediments to, and perfect the mechanisms of, a national market system,'' because fees that are competitive with realistic alternatives reduce incentives to abandon consolidated products and thereby support broad availability of core consolidated information.

Commenters urge the Commission to apply a ''reasonable relation to costs'' standard and to require the CT Plan to provide public cost breakdowns and revenue data, arguing that, absent such information, the Commission cannot find the Proposal consistent with the Exchange Act.[34] The Operating Committee respectfully disagrees that a public, line-item cost-of-service showing is a *necessary* predicate to approval of an NMS plan fee amendment. Consistent with Commission staff guidance on fee filings, a filing may appropriately evaluate reasonableness through transparent discussion of competitive conditions and alternatives.[35]

The Operating Committee believes that a strict cost-of-service showing is not required for Commission review of the Proposed Fee Schedule, and that the Commission may properly evaluate the fairness and reasonableness of market information fees using a more flexible approach grounded in the Exchange Act's Section 11A objectives and the competitive context in which consolidated data is offered. As the Commission explained in its Market Information Concept Release, ''Congress did not require the Commission to undertake a similar, strictly cost-of-service (or 'ratemaking') approach to its review of market information fees in every case,'' and ''granted the Commission some flexibility in evaluating the fairness and reasonableness of market information fees,'' because Section 11A sets forth general findings and objectives for the national market system and directs the Commission to act accordingly in overseeing its development.[36] The Commission further noted that ''[s]uch an inflexible standard, although unavoidable in some contexts, can entail severe practical difficulties,'' and therefore ''allowed the Commission to adopt a more flexible approach than ratemaking.'' [37] Consistent with that framework, the Operating Committee believes it is appropriate for the Commission to consider evidence regarding market alternatives, competitive constraints, and administrability in assessing whether the Proposed Fee Schedule is fair and reasonable and not unreasonably discriminatory under Section 11A and Regulation NMS.

Further, the kind of ''cost-based'' proof commenters request is not only unnecessary as a categorical matter, but also not a reliable metric for consolidated data in practice. Any ''cost to collect, consolidate, and disseminate'' necessarily implicates far more than the Processor/Administrator's direct operating expenses. The production of consolidated market data depends on intertwined, shared, and continually evolving investments across multiple markets and systems, *e.g.,* market operations, technology, security, resiliency, surveillance/compliance, testing and change management, and governance, costs that are not captured by a narrow ''processor-only'' accounting, and that would be allocated differently depending on each Member's internal cost-accounting conventions and assumptions.[38] A strict cost-of-service exercise therefore risks becoming an arbitrary allocation dispute rather than a meaningful test of fee reasonableness. For that reason, the Operating Committee believes the more appropriate metric is a market- and usage-focused assessment grounded in competitive context (including how subscribers evaluate substitutes and switching).

Aligning and Eliminating Fees

As part of reconciling the fee schedules across Tapes A, B, and C, the Operating Committee identified certain fees that were charged as part of one fee schedule but not the other. With respect to these fees, the Operating Committee reviewed the fees, determined their purpose, and decided whether to align the fee across all three Tapes or to eliminate the fee from the fee schedule.

For instance, Tapes A and B charge a Multiple Feed Charge, while Tape C does not have a corresponding charge. The fee is currently assessed for each data feed that a data recipient receives in excess of the data recipient's receipt of one primary data feed and one backup data feed. Due to the additional administrative burden associated with maintaining additional feeds, the Operating Committee believes it is appropriate to maintain this fee in the combined fee schedule and expand the fee to apply to Tape C.

Additionally, Tapes A and B charge a Late/Clearly Erroneous Reporting Charge, which is assessed for each month in which there is a failure to provide a network's required data-usage report to the administrator. Tape C does not contain a similar charge. The Operating Committee believes that this fee is appropriate to incentivize data recipients to correctly report their usage to the administrator and to offset the additional costs associated with incorrect reporting.

Finally, Tapes A and B charge a Non-Compliance Fee where market data recipients display consolidated volume (not subject to a charge), where such display appears on the same screen as

[34] *See* SIFMA Letter; Fidelity Letter.

[35] *See* SEC Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019). With respect to considering the reasonableness of proposed services and fees offered by exchange, the Commission's market-based test considers ''whether the exchange was subject to significant competitive forces in setting the terms of its proposal . . . , including the level of any fees''—the Operating Committee believes that this rationale appropriately applies to NMS Plan fee filings as well. *See* Securities Exchange Act Release No. 90209 (October 15, 2020), 85 FR 67044, 67049 (October 21, 2020) (Order Granting Accelerated Approval to Establish a Wireless Fee Schedule Setting Forth Available Wireless Bandwidth Connections and Wireless Market Data Connections) (SR–NYSE–2020–05, SR–NYSEAMER–2020–05, SR–NYSEARCA–2020–08, SR–NYSECHX–2020–02, SR–NYSENAT–2020–03, SR–NYSE–2020–11, SR–NYSEAMER–2020–10, SR–NYSEArca–2020–15, SR–NYSECHX–2020–05, SR–NYSENAT–2020–08) (''Wireless Approval Order''), citing Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order''). *See NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010). Since the fees proposed herein are subject to significant competitive forces vis-à-vis TOB products, the Commission should conclude that the Proposed Fee Schedule is consistent with the Exchange Act ''unless 'there is a substantial countervailing basis to find that the terms' of the proposal violate the Act or the rules thereunder.'' *See* Wireless Approval Order, *supra* note 35, at 67049, citing 2008 ArcaBook Approval Order, *supra* note 35, at 74781. No substantial countervailing basis exists here.

[36] *See* SEC, *Regulation of Market Information Fees and Revenues,* Exchange Act Release No. 34–42208 (Dec. 9, 1999) (''Market Information Concept Release'').

[37] *Id.*

[38] *See id.* (''Plan costs do not, however, include any of the costs incurred by the individual SROs in generating market information and providing it to the Plan processors. The Commission is considering an approach that would include many of these SRO costs—specifically, the costs of operating and regulating their markets in accordance with Exchange Act requirements—as part of the cost of providing market information to the public.'').

bid-asked quotes or last-sale prices that are not consolidated quotes or prices under the CTA Plan or CQ Plan, and the market data recipient fails to conspicuously display a clarifying statement (the ''Display Statement'') that reads ''Realtime quote and/or trade prices are not sourced from all markets.'' The Operating Committee believes that the Display Statement ensures that subscribers are not confused when the consolidated volume is from all markets while the real-time quote and/or trade prices are not a consolidated view. The Non-Compliance Fee ensures that market data recipients are incentivized to properly include the Display Statement in order to reduce market confusion.

The proposed harmonizing changes discussed above are consistent with the Commission's approval standard for NMS plan amendments because they are necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and to remove impediments to, and perfect the mechanisms of, a national market system. Each change addresses practical administration and transparency issues that directly affect the integrity and workability of consolidated market data billing, compliance, and investor-facing presentation, as reflected in the Proposed Fee Schedule.

More specifically, expanding the Multiple Feed Charge to Tape C is a reasonable, administrable way to recognize the incremental operational and administrative burden associated with maintaining more than one primary and one backup feed (*e.g.,* additional onboarding, monitoring, entitlements/billing administration, troubleshooting, and support), while still preserving redundancy by permitting a primary and backup feed without penalty. Similarly, a Late/Clearly Erroneous Reporting Charge promotes fair and orderly markets and equitable administration of consolidated data fees by incentivizing accurate and timely usage reporting and by helping offset the additional administrative costs caused by late or incorrect reporting. Finally, the Display Statement/Non-Compliance Fee framework is investor-protective: where a recipient displays consolidated volume alongside non-consolidated quotes/trades, a conspicuous clarifying statement reduces the risk of customer confusion about whether displayed prices reflect ''all markets,'' and the non-compliance charge is designed to create an effective incentive to provide that disclosure consistently. These harmonizing provisions therefore improve administrability and reduce confusion without changing the underlying economics of the data product itself, thereby furthering the purposes of the Exchange Act

Additionally, as part of the reconciliation process, the Operating Committee proposes eliminating certain fees that were previously charged by the CQ/CTA Plans or UTP Plan. For example, Tape C has a Delayed Redistributor fee of $250, while Tape A and Tape B do not have a similar charge. The Operating Committee proposes removing this fee for Tape C. Additionally, Tape C charges a Delayed Data [39] Access Fee of $250 per year, while Tape A and Tape B do not have a similar charge. The Operating Committee proposes removing this fee for Tape C. Finally, Tape C has a Per Voice Response Port fee of $21.25 per port, while Tape A and Tape B do not have a similar charge. The Operating Committee proposes removing this fee for Tape C.

The Operating Committee believes eliminating these fees is consistent with the Exchange Act because these changes promote a more uniform, transparent, and administrable consolidated market data fee framework that helps ''remove impediments to, and perfect the mechanisms of, a national market system.'' In particular, these Tape C-only charges are not imposed for comparable delayed redistribution, delayed access, or voice-response functionality on Tape A or Tape B, and their continued existence would perpetuate avoidable tape-by-tape fee asymmetries that increase compliance friction, entitlement complexity, and audit risk for similarly situated recipients. By eliminating these fees, the Proposed Fee Schedule treats comparable delayed uses and legacy delivery channels consistently across all three Tapes, reduces unnecessary administrative burden associated with maintaining tape-specific legacy charges, and thereby supports the statutory objectives of promoting the widespread availability of consolidated market data and maintaining fair and orderly markets through clear, non-discriminatory fee terms.

2. Governing or Constituent Documents

Not applicable.

3. Implementation of Amendments

The amendments proposed herein would be implemented following Commission approval and to coincide with the transition from the CQ/CTA/UTP Plans to the CT Plan.

4. Development and Implementation Phases

Not applicable.

5. Analysis of Impact on Competition

The Operating Committee believes that the proposed fee schedule is fair and reasonable.

First, in the two surveys conducted by the Consultant, market participants repeatedly stated that they were looking for the Operating Committee to reduce their administrative burdens and lessen their audit risk. From the surveys, the top three suggestions from market participants were to (1) address the professional versus non-professional definitions, (2) remove references to outdated terminology, and (3) add clarity to definitions to reduce potential audit risk. The Operating Committee believes that the Proposed Fee Schedule addresses each of these concerns. In particular, as described above, the Operating Committee made the following changes to reduce administrative burdens:

1. Modifying the Professional and Non-Professional definitions and adding a safe harbor to reduce audit risk;

2. Modifying the Direct and Indirect Access definitions;

3. Eliminating fee liability for Single Security Derived Data and incorporating the creation of Derived Data into Non-Display Use; and

4. Aligning definitions and non-billable services between Tapes A, B, and C.

The Operating Committee believes that these changes will reduce unnecessary burdens on competition and simplify the fee schedule, thereby reducing potential audit risk of market data recipients.

With respect to the level of fees proposed herein, the Operating Committee believes that the Proposed Fee Schedule is fair and reasonable based on three reasons: (1) the current fees do not properly reflect the quality of the services and products, as fees for the services and products in question have been static in nominal terms, and therefore falling in real terms due to inflation; (2) the Operating Committee believes that investments made in enhancing the capacity and speed of the SIP systems increase the performance of the services and products; and (3) the fees are comparable to alternative proprietary data products that compete with the consolidated feeds.

Commenters urge the Commission to apply a ''reasonable relation to costs'' standard and to require the CT Plan to

[39] The delay period for converting real-time information into Delayed Data is 15 minutes after the information is first made available.

provide public cost breakdowns and revenue data, arguing that, absent such information, the Commission cannot find the Proposal consistent with the Exchange Act.[40] The Operating Committee respectfully disagrees that a public, line-item cost-of-service showing is a necessary predicate to approval of an NMS plan fee amendment. Consistent with Commission staff guidance on fee filings, a filing may appropriately evaluate reasonableness through transparent discussion of competitive conditions and alternatives.[41]

Further, the kind of ''cost-based'' proof commenters request is not only unnecessary as a categorical matter, but also not a reliable metric for consolidated data in practice. Any ''cost to collect, consolidate, and disseminate'' necessarily implicates far more than the Processor/Administrator's direct operating expenses. The production of consolidated market data depends on intertwined, shared, and continually evolving investments across multiple markets and systems, *e.g.,* market operations, technology, security, resiliency, surveillance/compliance, testing and change management, and governance, costs that are not captured by a narrow ''processor-only'' accounting, and that would be allocated differently depending on each participant's internal cost-accounting conventions and assumptions. A strict cost-of-service exercise therefore risks becoming an arbitrary allocation dispute rather than a meaningful test of fee reasonableness. For that reason, the Operating Committee believes the more appropriate metric is a market- and usage-focused assessment grounded in competitive context (including how subscribers evaluate substitutes and switching).

The Subcommittee's outreach and survey work support the Operating Committee's conclusion that proprietary exchange data products are, in practice, being used as substitutes for (and increasingly in place of) consolidated products, particularly where the consolidated products' licensing terms, administrative obligations, and audit exposure make them comparatively costly to implement and maintain. As a result of the surveys conducted by the Consultant, the Operating Committee believes that the fees proposed herein are constrained by significant competitive forces. The survey respondents indicated that they were replacing or considering replacement of the SIP as well as utilizing delayed data where possible. Specifically, the survey results indicated that over 70 percent of survey respondents were replacing the SIP with proprietary data products in at least some use cases. Additionally, Fintech survey respondents indicated that they were taking advantage of enterprise licenses offered by proprietary data products as opposed to utilizing the SIP. The Proposed Fee Schedule is designed to address the concerns raised by respondents in explaining their shift from the consolidated feed to proprietary data products, and therefore increase the competitiveness of the consolidated feed vis-à-vis the proprietary TOB data products.

The Operating Committee seeks to lower or hold certain displayed-usage fees and to simplify key terms specifically to ''prevent further attrition from SIP data'' to proprietary feeds, an assessment informed by the Subcommittee's fact-gathering and survey efforts described above.[42] The Subcommittee's outreach and survey work support the Operating Committee's view that competitive alternatives are relevant to the Commission's evaluation of fee reasonableness and to the Proposal's emphasis on reducing administrative friction that can drive switching behavior.

As noted above, the fees being increased in this proposal have not been set or increased since 2014, potentially much earlier. However, in the years following the last change, the Members have made significant investments in upgrades to their own and the SIPs' systems, enhancing the quality of its services. Between 2015 and 2025, the cumulative inflation rate of Data PPI was 15.95 percent. The Operating Committee believes the Data PPI is a reasonable metric to base fee increases on because it is targeted to producer-side increases in the data processing industry, which based on the definition adopted by BLS would include the consolidated data feed. Notwithstanding inflation, as noted above, the market data fees at issue have not increased for over ten years.

Additionally, the Operating Committee believes that the proposed fees are equitably allocated and not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to the consolidated feed. The only exception to this general rule is that the Operating Committee does offer a sliding scale for Non-Professional usage as well as a cap on Non-Professional usage. The Operating Committee believes that the sliding scale is appropriate in order to incentivize the dissemination of the consolidated feed to Non-Professionals, where deeper discounts are provided as dissemination increases. Additionally, the Operating Committee believes that the cap is appropriate in order to prevent decreased dissemination by those firms currently taking advantage of the Enterprise Cap. Based on survey results, the Operating Committee was concerned that the firms taking advantage of the Enterprise Cap would decrease their dissemination of the consolidated feed to Non-Professionals in order to maintain current spending levels. Maintaining a cap potentially prevents that decrease. The Operating Committee proposes to remove Professionals from inclusion in the caps because the Operating Committee believes that such inclusion would be unfairly discriminatory; it was unclear why larger firms should pay decreased or no Professional Usage fees simply because those same firms had a significant Non-Professional customer base.

The Operating Committee believes that the Proposed Fee Schedule's pricing for Non-Display, Access, and Real-Time Redistribution is competitively reasonable in light of the practical ''synthetic SIP'' alternative: a subscriber that elects not to purchase a consolidated CT Plan product can assemble a consolidated view by purchasing and integrating multiple proprietary exchange TOB products, incurring parallel categories of fees (non-display entitlements, connectivity/access charges, and redistribution rights) across separate sources.

- For Non-Display, exchanges commonly charge at least $1,000 per month for non-display use of proprietary products, with some charging $5,000; aggregating those proprietary non-display entitlements across exchanges would exceed the Proposed Fee Schedule's consolidated Non-Display fees for a single CT Plan Tape product.
- For Access fees, the Proposed Fee Schedule's total monthly Direct Access fees across all Tapes and both Bid/Ask and Last Sale are approximately $8,500, and total Indirect Access fees are approximately $3,953, both below what

[40] *See* SIFMA Letter; Fidelity Letter.

[41] *See* SEC Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019).

[42] Commenters' own submissions reinforce that this migration dynamic exists even as they dispute how much weight it should carry: Massive states that the Operating Committee's survey data ''confirms that market participants are migrating toward proprietary alternatives'' given the restrictiveness of existing policies, while SIFMA acknowledges the Proposal's stated objective to avoid attrition to proprietary feeds even as it challenges the appropriateness of proprietary feeds as a benchmark.

a subscriber would pay to obtain comparable access rights across proprietary feeds, where the largest exchange families alone charge $6,250, $1,600, and $1,500 (before accounting for additional venues).

• And for Real-Time Redistribution, the Proposed Fee Schedule's aggregate redistributor fee across all Tapes is approximately $3,400, which is likewise below the comparable proprietary redistributor charges; again, the largest exchange families alone charge $2,500, $2,080, and $5,000.

In this sense, the Proposal's consolidated fees are at or below the cost of assembling and maintaining a comparable multi-source proprietary bundle, while also sparing subscribers the substantial operational and compliance burden of contracting for, integrating, entitling, and administering many separate proprietary products.

SIFMA and Fidelity argue that proprietary TOB products cannot meaningfully constrain consolidated market data pricing because each exchange is the sole source of its own proprietary feed and because proprietary TOB products are ''fragmented'' and ''cater to'' different use cases than SIP data. That critique overstates the degree to which TOB products are economically insulated from competition. While each venue is the exclusive source of its own data, TOB products are designed for basic, indicative usage (best bid/offer and last sale) and are frequently consumed for inexact price discovery and market color rather than for venue-specific microstructure signals. In that common usage, TOB feeds are meaningfully substitutable with each other: a subscriber seeking indicative view of the market can often replace one exchange's TOB feed with another, particularly among the largest exchange families, whose quotes and trades are generally indicative of broader market conditions, and many users evaluate these products as part of a ''bundle'' decision where price and total cost of ownership drive substitution, downgrade, or non-purchase at the margin. In that sense, TOB products compete with each other on price and package economics for baseline market-view functionality, even if they are not perfect substitutes in every use case. The Subcommittee's outreach and survey work supports the Operating Committee's conclusion that TOB products are, in practice, being used as substitutes for (and increasingly in place of) consolidated products, particularly where the consolidated products' licensing terms, administrative obligations, and audit exposure make them comparatively costly to implement and maintain.

For many common ''indicative price'' use cases, *i.e.,* obtaining a contemporaneous best-bid/best-offer and last-sale view for broad market color rather than venue-specific signals, proprietary TOB products are readily fungible with one another because they are designed to convey the same core pricing information and, as a practical matter, their displayed prices closely track across venues. In that environment, a market participant that needs an indicative quote/trade reference can often substitute one exchange family's TOB feed for another (or for a different bundle composition) with little to no meaningful change in the indicative pricing signal, making these TOB products competitive alternatives to each other for baseline market-view functionality even if they are not perfect substitutes for all latency-sensitive or venue-specific analytics.

Accordingly, where the consolidated product is priced competitively relative to the cost of assembling a ''synthetic SIP'' from proprietary TOB inputs, the Commission may reasonably consider that competitive context as part of the ''fair and reasonable'' analysis, without accepting the premise that only a cost-of-service showing is relevant. Considering this market-based evidence supports a finding that the Proposal is ''necessary or appropriate in the public interest'' and ''to remove impediments to, and perfect the mechanisms of, a national market system,'' because fees that are competitive with realistic alternatives reduce incentives to abandon consolidated products and thereby support broad availability of core consolidated information.

Commenters urge the Commission to apply a ''reasonable relation to costs'' standard and to require the CT Plan to provide public cost breakdowns and revenue data, arguing that, absent such information, the Commission cannot find the Proposal consistent with the Exchange Act.[43] The Operating Committee respectfully disagrees that a public, line-item cost-of-service showing is a necessary predicate to approval of an NMS plan fee amendment. Consistent with Commission staff guidance on fee filings, a filing may appropriately evaluate reasonableness through transparent discussion of competitive conditions and alternatives.[44]

The Operating Committee believes that a strict cost-of-service showing is not required for Commission review of the Proposed Fee Schedule, and that the Commission may properly evaluate the fairness and reasonableness of market information fees using a more flexible approach grounded in the Exchange Act's Section 11A objectives and the competitive context in which consolidated data is offered. As the Commission explained in its Market Information Concept Release, ''Congress did not require the Commission to undertake a similar, strictly cost-of-service (or 'ratemaking') approach to its review of market information fees in every case,'' and ''granted the Commission some flexibility in evaluating the fairness and reasonableness of market information fees,'' because Section 11A sets forth general findings and objectives for the national market system and directs the Commission to act accordingly in overseeing its development.[45] The Commission further noted that ''[s]uch an inflexible standard, although unavoidable in some contexts, can entail severe practical difficulties,'' and therefore ''allowed the Commission to adopt a more flexible approach than ratemaking.'' [46] Consistent with that framework, the Operating Committee believes it is appropriate for the Commission to consider evidence regarding market alternatives, competitive constraints, and

[43] *See* SIFMA Letter; Fidelity Letter.

[44] *See* SEC Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019). With respect to considering the reasonableness of proposed services and fees offered by exchange, the Commission's market-based test considers ''whether the exchange was subject to significant competitive forces in setting the terms of its proposal . . . , including the level of any fees''—the Operating Committee believes that this rationale appropriately applies to NMS Plan fee filings as well. *See* Securities Exchange Act Release No. 90209 (October 15, 2020), 85 FR 67044, 67049 (October 21, 2020) (Order Granting Accelerated Approval to Establish a Wireless Fee Schedule Setting Forth Available Wireless Bandwidth Connections and Wireless Market Data Connections) (SR–NYSE–2020–05, SR–NYSEAMER–2020–05, SR–NYSEARCA–2020–08, SR–NYSECHX–2020–02, SR–NYSENAT–2020–03, SR–NYSE–2020–11, SR–NYSEAMER–2020–10, SR–NYSEArca–2020–15, SR–NYSECHX–2020–05, SR–NYSENAT–2020–08) (''Wireless Approval Order''), citing Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74781 (December 9, 2008) (''2008 ArcaBook Approval Order''). *See NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010). Since the fees proposed herein are subject to significant competitive forces vis-à-vis TOB products, the Commission should conclude that the Proposed Fee Schedule is consistent with the Act ''unless 'there is a substantial countervailing basis to find that the terms' of the proposal violate the Act or the rules thereunder.'' *See* Wireless Approval Order, *supra* note 35, at 67049, citing 2008 ArcaBook Approval Order, *supra* note 35, at 74781. No substantial countervailing basis exists here.

[45] *See* SEC, *Regulation of Market Information Fees and Revenues,* Exchange Act Release No. 34–42208 (Dec. 9, 1999) (''Market Information Concept Release'').

[46] *Id.*

administrability in assessing whether the Proposed Fee Schedule is fair and reasonable and not unreasonably discriminatory under Section 11A and Regulation NMS.

Further, the kind of ''cost-based'' proof commenters request is not only unnecessary as a categorical matter, but also not a reliable metric for consolidated data in practice. Any ''cost to collect, consolidate, and disseminate'' necessarily implicates far more than the Processor/Administrator's direct operating expenses. The production of consolidated market data depends on intertwined, shared, and continually evolving investments across multiple markets and systems, *e.g.,* market operations, technology, security, resiliency, surveillance/compliance, testing and change management, and governance, costs that are not captured by a narrow ''processor-only'' accounting, and that would be allocated differently depending on each Member's internal cost-accounting conventions and assumptions.[47] A strict cost-of-service exercise therefore risks becoming an arbitrary allocation dispute rather than a meaningful test of fee reasonableness. For that reason, the Operating Committee believes the more appropriate metric is a market- and usage-focused assessment grounded in competitive context (including how subscribers evaluate substitutes and switching).

With respect to the Enterprise Cap, the Operating Committee believes that it is fair and reasonable to exclude Professional usage from the enterprise cap because, in practice, including Professionals allowed a subset of the largest firms (those with very large Non-Professional user bases that can reach the cap) to realize an effective reduction (or elimination) of Professional fees that smaller firms could not access, solely by virtue of their retail scale. In the Operating Committee's view, that dynamic can distort competition among broker-dealers and vendors by advantaging firms that happen to have large Non-Professional populations, even where their Professional usage (and corresponding willingness to pay for professional-facing consolidated data) is similar to peers. Separately, the Operating Committee did not observe evidence that including Professionals in a cap meaningfully advances a public-interest objective, *i.e.,* it does not appear to materially increase dissemination to Professionals, based on the Plan's comparison of dissemination patterns where Tape A historically included Professionals in the cap while Tape C did not, yet Professional dissemination among cap-eligible firms was relatively similar across those tapes. Accordingly, the Committee concluded that retaining Professional inclusion in the cap would primarily operate as a windfall for a limited set of large firms without a commensurate benefit to investors or market quality, and that removing Professionals from the cap better aligns the fee design with the Exchange Act approval standard by promoting a more even competitive landscape while preserving the cap's intended role in supporting broad retail availability through Non-Professional pricing.

6. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

No change as a result of amendment.

7. Approval by Sponsors in Accordance With Plan

Section 4.3(b) provides that ''[a]ll actions of the Operating Committee will require an affirmative vote of not less than (⅔rd) two-thirds of all votes allocated in the manner described in Section 4.3(a) to Voting Representatives who are eligible to vote on such action.''

The Members have executed this Amendment and represent not less than (⅔rd) two-thirds of all votes allocated in the manner described in Section 4.3(a) of the CT Plan to Voting Representatives who are eligible to vote on such action.

8. Description of Operation of Facility Contemplated by the Proposed Amendment

No change as a result of amendment.

9. Terms and Conditions of Access

No change as a result of amendment.

10. Method of Determination and Imposition, and Amount of, Fees and Charges

Please refer above for a description of the Operating Committee's determination and imposition and amount of fees and charges.

11. Method and Frequency of Processor Evaluation

No change as a result of amendment.

12. Dispute Resolution

No change as a result of amendment.

(b) Rule 601(a)

1. Equity Securities and Nasdaq Securities for Which Transaction Reports Shall Be Required by the Plan

No change as a result of amendment.

2. Reporting Requirements

No change as a result of amendment.

3. Manner of Collecting, Processing, Sequencing, Making Available and Disseminating Last Sale Information

No change as a result of amendment.

4. Manner of Consolidation

No change as a result of amendment.

5. Standards and Methods Ensuring Promptness, Accuracy and Completeness of Transaction Reports

No change as a result of amendment.

6. Rules and Procedures Addressed to Fraudulent or Manipulative Dissemination

No change as a result of amendment.

7. Terms of Access to Transaction Reports

No change as a result of amendment.

8. Identification of Marketplace of Execution

No change as a result of amendment.

III. Summary of Comments

The Commission received comment letters, which expressed concerns with the Fee Proposal[48] and urged careful scrutiny.[49] One commenter stated that the CT Plan has retained the Equity Data Plans' model of charging SIP data fees to retail customers on a per investor basis and to broker-dealers via a myriad of additional fees, such as display fees, non-display fees, access fees, for use of the exact same data and proposed to maintain a complex pricing model.[50] However, commenters also praised the Operating Committee for the effort to develop a unified fee structure[51] and reduce administration burdens.[52]

[47] *See id.* (''Plan costs do not, however, include any of the costs incurred by the individual SROs in generating market information and providing it to the Plan processors. The Commission is considering an approach that would include many of these SRO costs—specifically, the costs of operating and regulating their markets in accordance with Exchange Act requirements—as part of the cost of providing market information to the public.'').

[48] *See* Letters from Roberto Braceras, General Counsel, Fidelity Investments, dated Jan. 21, 2026 (''Fidelity Letter'') at 2; Stan Sater, Senior Legal Counsel, Massive.com, Inc. dated Jan. 21, 2026 (''Massive Letter'') at 2; Katie Kolchin, CFA, Managing Director, Head of Equity and Options Market Structure and Gerald O'Hara, Vice President & Assistant General Counsel, SIFMA, dated Feb. 20, 2026 (''SIFMA Letter II'') at 2.

[49] *See* Letter from Katie Kolchin, CFA, Managing Director, Head of Equity and Options Market Structure and Gerald O'Hara, Vice President & Assistant General Counsel, SIFMA, dated Jan. 21, 2026 at 1.

[50] *See* Fidelity Letter at 4.

[51] *See* Massive Letter at 1; Fidelity Letter at 2.

[52] *See* Fidelity Letter at 2–3 (describing the current definition of Non-Professional Subscriber as

Continued

Specific issues raised by commenters are discussed below. As noted above, the Operating Committee provided its responses to commenters as part of Amendment No. 1.[53]

A. Statutory Basis

Commenters discussed the statutory basis that the Operating Committee used to support the Fee Proposal.[54] Commenters raised concerns as to whether the Fee Proposal is fair, reasonable, and not unreasonably discriminatory.[55] Commenters stated that the Fee Proposal should be assessed against a cost-based standard.[56] One commenter stated that ''[o]n the current record, we believe the Commission cannot find the Proposal consistent with the Exchange Act'' because the Fee Proposal does not contain any data about actual costs.[57] According to another commenter, a ''cost-based standard of review will ensure that SIP data fees are reasonably related to the expenses incurred to collect, consolidate, and disseminate SIP data, while simultaneously allowing SROs to compete through proprietary offerings such as top-of-book feeds'' and advance the goal of ''ensuring fair and reasonable access to SIP data.'' [58] Another commenter stated that ''[u]ntil the Commission approves a new standard, the Commission's 'reasonable relation to costs' standard for determining whether consolidated market data fees are consistent with the Exchange Act remains in place.'' [59]

Commenters stated that comparing the proposed fees for SIP data to those charged for proprietary, top-of-book feeds (''Prop Feeds'') is not appropriate.[60] Commenters stated that Prop Feeds are directly provided by individual exchanges with varying content and therefore inherently fragmented, costly and cater to niche data subscribers rather than the broad market.[61] One commenter further stated that comparisons to delayed data or data from alternative feeds are also not appropriate because such data fail to meet ''the requirements for consolidated equity market data under the SEC's Vendor Display Rule.'' [62] Another commenter stated that the use of Prop Feeds as a baseline for justifying CT Plan fees ''demonstrates the conflict SROs face as operators of the CT Plan'' and that there is no incentive to compete on price or other factors to make SIP data more attractive, or as attractive, as Prop Feeds.[63] This commenter also stated that the proposed fees were compared to the most expensive Prop Feeds and that the pricing choice by the CT Plan demonstrates that the SROs do not want to make SIP data competitive with Prop Feeds.[64]

This commenter further stated that the Fee Proposal ''repackages the fees charged by the existing Equity Data Plans under the banner of the CT Plan to ensure that the SRO Members continue to receive the same level of revenue'' and does not reflect ''cost savings associated with 'reducing the existing redundancies, inefficiencies, and inconsistencies' of having three separate plans.'' [65] The commenter stated that ''[w]ithout cost information, not only are the proposed fee levels unsupported, but it is not evident why there are three separate Professional use fees for each of the individual Tapes.'' [66]

B. Proposed Professional and Non-Professional Use Definitions and Fees

Commenters favored the proposed use-based distinction for Professional and Non-Professional Uses over the current practice of looking to the registered status of the user on a platform such as FINRA's BrokerCheck.[67] One commenter stated that it ''strongly supports the Proposed Fee Schedule's shift from status-based to use-based definitions for distinguishing Professional and Non-Professional subscribers,'' identifying it as an administrative burden that has long plagued market data redistributors.[68] Another commenter stated that ''the SEC should approve the Proposal's approach to classify SIP data subscribers based on how they use SIP data, rather than their employment status.'' [69]

Commenters generally supported the proposed safe harbor.[70] One commenter stated that the ''safe harbor will further the CT Plan's stated goal of reducing subscribers' administrative burdens and audit risks.'' [71] However, another commenter stated that the safe harbor should be more explicit, objective and enforceable, such as specifying that a Real-Time Redistributor will be deemed to have acted in good faith, and therefore, not subject to audit liability based on subscriber misclassification where it has implemented documented onboarding procedures obtaining clear Professional and Non-Professional Use attestations and including commercially reasonable screening designed to detect obvious inconsistencies.[72]

One commenter suggested that the CT Plan should consider a ''platform-based approach'' to Non-Professional and Professional Use designations such that ''if a substantial number of individuals use an application or platform providing SIP data access for personal, non-investment professional use, such as a retail brokerage platform, any individual using the platform would default to Non-Professional subscriber status.'' [73] Another commenter suggested that the Professional Use definition should turn on ''economic substance rather than legal form'' and further, there should be a ''targeted exception for single-member LLCs and other disregarded entities where the beneficial owner is a natural person using CT Plan data solely for personal purposes.'' [74]

One commenter said that it was ''unclear how many customers currently classified as Professional subscribers will shift to Non-Professional subscriber status under the new usage

''convoluted and confusing'' and supporting the proposed classification of subscribers based on how the data is used); Massive Letter at 1, 2 (stating there would be reduced compliance friction as a result of a use-based distinction for professional and non-professional fees and simplified definitions for direct and indirect access).

[53] *See supra* Item II.B.

[54] *See* SIFMA Letter II; Fidelity Letter; Massive Letter.

[55] *See* SIFMA Letter II at 3; Fidelity Letter at 3–4; Massive Letter at 11.

[56] *See* Fidelity Letter at 2 and 4; Massive Letter at 11–12; SIFMA Letter II at 3. One commenter stated that it provides its Non-Professional retail customers widespread access to SIP data at no direct cost to the customer, but at a substantial cost to itself. Further, the commenter stated that ''[g]iven that SIP data is derived from retail and institutional investor transactions, its dissemination should advance the public interest rather than confer economic benefit upon SROs.'' *See* Fidelity Letter at 1.

[57] *See* SIFMA Letter II at 4.

[58] *See* Fidelity Letter at 4.

[59] *See* SIFMA Letter II at 4.

[60] *See* Fidelity Letter at 4; SIFMA Letter II at 6–7.

[61] *See* Fidelity Letter at 4; SIFMA Letter II at 6–7.

[62] *See* Fidelity Letter at 4. *See also* 17 CFR 242.603(c). This commenter urged a standard based on cost rather than comparability to Prop Feeds or delayed data, asking the Commission to require the SROs to make publicly available their costs associated with collecting, consolidating and distributing SIP data. *See* Fidelity Letter at 4; *see also* SIFMA Letter II at 7.

[63] *See* SIFMA Letter II at 7.

[64] *See* SIFMA Letter II at 8.

[65] *See* SIFMA Letter II at 4.

[66] *See* SIFMA Letter II at 4.

[67] *See* Fidelity Letter at 2–3; Massive Letter at 1–2; SIFMA Letter II at 2–3.

[68] *See* Massive Letter at 2.

[69] *See* Fidelity Letter at 3.

[70] *See* Fidelity Letter at 3; Massive Letter at 1–2, 7; SIFMA Letter II at 2–3.

[71] *See* SIFMA Letter II at 3.

[72] *See* Massive Letter at 8. The commenter also recommended that the Operating Committee make explicit that the safe harbor applies equally to all forms of redistribution, including API-based and non-display delivery so long as the redistributor controls the entitlements and can obtain and track necessary subscriber representations. *See* Massive Letter at 8.

[73] *See* Fidelity Letter at 3.

[74] *See* Massive Letter at 7.

definitions.'' [75] According to this commenter, if only a small percentage transition, the commenter's ''real-time quote costs'' will rise given the removal of Professional subscribers from the enterprise cap.[76] This commenter urged the Commission to consider whether the proposed fees and enterprise cap levels can be lowered to a rate that is still profitable to the CT Plan but improves the ability for firms to make SIP data more broadly available.[77]

One commenter expressed support for tangible efficiencies from consolidating the Equity Data Plans' fee schedules into a single CT Plan and cited as an example the reduction in fees for Non-Professional Use (varying from $0.25–0.90) from the current, flat charge of $1.00 per non-professional subscriber.[78] Commenters generally supported the sliding scale as one of several changes reducing compliance friction and promoting broad data availability.[79]

One commenter questioned why there are three separate Professional Use fees for each of the individual tapes.[80]

C. Proposed Enterprise Caps

While commenters appreciated the CT Plan retaining an enterprise cap,[81] they stated that the Commission should assess whether the proposed fee and enterprise cap levels advance the goal of ensuring fair and reasonable access to SIP data.[82] One commenter that supported the retention of an enterprise cap in the proposed fee schedule stated that enterprise caps offer ''predictable costs for consolidated quote and trade data, regardless of usage volume.'' [83]

One commenter stated that the rationale for removing Professional subscribers from the enterprise caps did not withstand scrutiny.[84] This commenter stated that only firms with large numbers of Non-Professional Users would realize any benefit from the enterprise caps.[85] Further, this commenter stated that the CT Plan should consider lowering the enterprise caps so that a broader number of subscribers would be able to provide SIP data to more investors.[86] In addition, the commenter stated that the Operating Committee's assertion that capping Professional Use fees would not incentivize SIP data dissemination demonstrates the ''significant conflicts of interest'' the SROs have with their dual role as the sole source of SIP data and providers of Prop Feeds.[87] This commenter further stated that the Operating Committee should explain why it believes Prop Feeds are not a ''relevant comparison'' with respect to setting enterprise caps but that such comparison is a ''helpful benchmark'' for other proposed fees.[88]

D. Proposed Redistributor Fees

One commenter generally supported not imposing fees for Delayed Redistributor and End-of-Day Redistributor,[89] and further suggested such usage should be excluded from monthly reporting obligations and audit scope.[90] At the same time, the commenter questioned the use of an inflation adjustment for certain Redistributor fees when ''[e]very major technology sector has experienced cost deflation over the past decade.'' [91] This commenter requested actual cost data demonstrating that the proposed fee increases are reasonably related to costs or be disapproved.[92]

E. Proposed Non-Display and Derived Data Usage

One commenter requested clarification regarding the definition of Non-Display Use, stating the definition should ''more clearly distinguish instances where a broker engages in both proprietary trading and facilitation of client orders in an agency capacity.'' [93] Further, the commenter suggested that three separate categories of Non-Display Use are no longer necessary given the fees across three categories are the same.[94]

One commenter questioned applying a 15.95% inflation adjustment to Non-Display Use when ''[e]very major technology sector has experienced cost deflation over the past decade.'' [95] This commenter requested actual cost data demonstrating that the proposed fee increases are reasonably related to costs or be disapproved.[96]

One commenter stated that proposing to charge a Non-Display fee for Derived Data Usage is inconsistent with the current Equity Data Plans which ''recognize that when an end user transforms data for the purpose of displaying it, that use should be treated as display use rather than Non-Display Use.'' [97] This commenter recommended the proposed fee schedule expressly provide that Non-Display fees do not apply where an end user creates Derived Data and uses it solely for display purposes.[98] According to this commenter, customers would be subject to new fees of $10,990 per month.[99] Further, this commenter questioned charging Non-Display fees where the recipient makes use of an API but ultimately displays the data on a screen.[100]

F. Proposed Direct and Indirect Access

Commenters generally supported simplifying the Direct and Indirect Access definitions.[101] However, one commenter asked for ''confirmation that extranet connections will be appropriately reclassified from Direct to Indirect Access under the new framework.'' [102] Another commenter asked for clarification regarding the term ''data center,'' stating it is not clear whether it would include other data centers that may be interconnected or if it would be confined to the single physical structure where the Processer is located.[103]

G. Other Fees

One commenter generally supported the non-fee liable treatment of Delayed Subscriber and End-of-Day Subscriber.[104] However, the commenter suggested that to the extent data is not fee liable, redistributors should not be required to ''navigate the data feed recipient approval process or submit usage reports.'' [105]

[75] *See* Fidelity Letter at 5.

[76] *See* Fidelity Letter at 4.

[77] *See* Fidelity Letter at 5. The commenter also suggested establishing enterprise caps at a level more competitive and in-line with proprietary market data product enterprise cap levels, as well as offering it at no cost when used to meet regulatory requirements. *See* Fidelity Letter at 5.

[78] *See* Massive Letter at 4.

[79] *See* Massive Letter at 2, 4.

[80] *See* SIFMA Letter II at 4.

[81] *See* Fidelity Letter at 4; SIFMA Letter II at 2.

[82] *See* Fidelity Letter at 4; SIFMA Letter II at 2, 9.

[83] *See* Fidelity Letter at 4.

[84] *See* SIFMA Letter II at 9.

[85] *See* SIFMA Letter II at 9.

[86] *See* SIFMA Letter II at 10.

[87] *See* SIFMA Letter II at 10.

[88] *See* SIFMA Letter II at 10.

[89] *See* Massive Letter at 5.

[90] *See* Massive Letter at 5–6.

[91] *See* Massive Letter at 11.

[92] *See* Massive Letter at 12.

[93] *See* SIFMA Letter II at 3.

[94] *See* SIFMA Letter II at 3, n. 4.

[95] *See* Massive Letter at 11.

[96] *See* Massive Letter at 12.

[97] *See* Massive Letter at 9.

[98] *See* Massive Letter at 10. This commenter also stated that a ''vendor paying applicable Non-Display fees for derived data creation should be permitted to redistribute that derived data to customers through any access channel without additional reporting obligations, approval requirements, or customer-level fees.'' *See* Massive Letter at 11.

[99] *See* Massive Letter at 9.

[100] *See* Massive Letter at 6.

[101] *See* Massive Letter at 2; SIFMA Letter II at 3.

[102] *See* Massive Letter at 4.

[103] *See* SIFMA Letter II at 3.

[104] *See* Massive Letter at 2, 5.

[105] *See* Massive Letter at 5.

H. Other Comments

Commenters stated that Market Data Infrastructure (''MDI'') rules [106] should be considered.[107] One commenter stated that without the MDI proposed fees, a competitive environment for SIP data cannot begin.[108] Another commenter stated that the Commission should consider whether the competing consolidator/self-aggregator model would still introduce competition in the market for SIP data.[109] The commenter stated that if the CT Plan attempts to establish fees that maintain current SRO revenues, competing consolidators will be unable to compete in the market.[110] Commenters stated that the Commission should ''either set a date certain by which the Operating Committee must propose a fee amendment for the sale of data to competing consolidators and self-aggregators or chart a different path forward.'' [111] One commenter stated that the Commission should consider rescinding or modifying the Vendor Display Rule to give broker-dealers more flexibility in the market information they display to their customers.[112]

[106] *See* Securities Exchange Act Release No. 90610 (Dec. 9, 2020), 86 FR 18596 (Apr. 9, 2021).

[107] *See* Fidelity Letter at 6; SIFMA Letter II at 11.

[108] *See* Fidelity Letter at 6.

[109] *See* SIFMA Letter II at 11. *See also* Fidelity Letter at 6.

[110] *See* SIFMA Letter II at 11.

[111] *See* SIFMA Letter II at 11. *See also* Fidelity Letter at 6.

[112] *See* SIFMA Letter II at 8, n. 16.

IV. Proceedings To Determine Whether To Approve or Disapprove the Fee Proposal

The Commission is instituting proceedings pursuant to Rule 608(b)(2)(i) of Regulation NMS,[113] and Rules 700 and 701 of the Commission's Rules of Practice,[114] to determine whether to approve or disapprove the Fee Proposal, as modified by Amendment No. 1, or to approve the Fee Proposal, as modified by Amendment No. 1, with any changes or subject to any conditions the Commission deems necessary or appropriate. The Commission is instituting proceedings to have sufficient time to consider the issues raised by the Fee Proposal, as modified by Amendment No. 1, including comments received. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the Fee Proposal, as modified by Amendment No. 1, to inform the Commission's analysis.

Rule 608(b)(2) of Regulation NMS provides that the Commission ''shall approve a national market system plan or proposed amendment to an effective national market system plan, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such plan or amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the [Exchange] Act.'' [115] Rule 608(b)(2) further provides that the Commission shall disapprove a national market system plan or proposed amendment if it does not make such a finding.[116] In the Notice, the Commission sought comment on the Fee Proposal, including whether the Fee Proposal is consistent with the Exchange Act.[117] In this order, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[118] the Commission is providing notice of the grounds for disapproval under consideration:

- Whether, consistent with Rule 608 of Regulation NMS, the Fee Proposal, as modified by Amendment No. 1, is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act; [119]

[113] 17 CFR 242.608(b)(2)(i).

[114] 17 CFR 201.700; 17 CFR 201.701.

[115] 17 CFR 242.608(b)(2).

[116] *Id.*

[117] *See* Notice, *supra* note 5, at 61478.

[118] 17 CFR 242.608(b)(2)(i).

[119] 17 CFR 242.608(b)(2).

• Whether the Fee Proposal, as modified by Amendment No. 1, is consistent with Section 11A(c)(1)(C) of the Exchange Act (as implemented by Rule 603(a)(1) of Regulation NMS), which requires that exclusive processors (which include the exclusive SIPs and SROs when they distribute their own data) [120] must assure that all securities information processors may obtain on fair and reasonable terms information with respect to quotations for and transactions in securities, which includes SIP data; [121]

• Whether the Fee Proposal, as modified by Amendment No. 1, is consistent with Section 11A(c)(1)(D) of the Exchange Act (as implemented by Rule 603(a)(2) of Regulation NMS), which requires that the SROs provide SIP data to broker-dealers and others on terms that are not unreasonably discriminatory; [122]

• Whether modifications to the Fee Proposal, as modified by Amendment No. 1, or conditions to its approval, such as a sunset period, would be necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the Exchange Act.[123]

Under the Commission's Rules of Practice, the ''burden to demonstrate that a NMS plan filing is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the plan participants that filed the NMS plan filing.'' [124] The description of the NMS plan filing, 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.[125] Any failure of the plan participants that filed the NMS plan filing to provide such detail and specificity may result in the Commission not having a sufficient basis to make an affirmative finding that the NMS plan filing is consistent with the Exchange Act and the applicable rules and regulations thereunder.[126]

V. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Fee Proposal, as modified by Amendment No. 1. In particular, the Commission invites the written views of interested persons concerning whether the Fee Proposal, as modified by Amendment No. 1, is consistent with the Exchange Act, the rules and regulations thereunder.[127] The Commission asks that commenters address the sufficiency and merit of the Operating Committee's statements in support of the Fee Proposal, as modified by Amendment No. 1, in addition to any other comments they may wish to submit about the Fee Proposal, as modified by Amendment No. 1.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 608(b)(2)(i) of Regulation NMS,[128] any request for an opportunity to make an oral presentation.[129]

Interested persons are invited to submit written data, views, and arguments regarding whether the Fee Proposal, as modified by Amendment No. 1, should be approved or disapproved by April 24, 2026. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by May 8, 2026. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include file number 4–757 (CT Plan Fee Proposal) on the subject line.

Paper Comments

• Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number 4–757 (CT Plan Fee Proposal). This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the Operating Committee's principal offices. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number 4–757 (CT Plan Fee Proposal) and should be submitted on or before April 24, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[130]

Sherry R. Haywood,

Assistant Secretary.

EXHIBIT A

Cumulative Proposed Revisions to CT Plan

BILLING CODE 8011–01–P

[120] *See* 15 U.S.C. 78c(a)(22) (defining ''securities information processor'' and ''exclusive processor'').

[121] 15 U.S.C. 78k–1(c)(1)(C); 17 CFR 242.603(a)(1).

[122] 15 U.S.C. 78k–1(c)(1)(D); 17 CFR 242.603(a)(2).

[123] 17 CFR 242.608(b)(2); 15 U.S.C. 78k–1(c)(1)(D).

[124] 17 CFR 201.700(b)(3)(ii).

[125] *Id.*

[126] *Id.*

[127] *See* 17 CFR 242.608(b)(2); 15 U.S.C. 78k–1(c)(1)(C)–(D); 17 CFR 242.603(a). *See also* CT Plan Approval Order at 94957 (stating that fees will be assessed against statutory and regulatory standards applicable to fees proposed by national market system plans including Section 11A(c)(1)(D) of the Exchange Act and Rule 603(a) under Regulations NMS).

[128] 17 CFR 242.608(b)(2)(i).

[129] Rule 700(c)(2) of the Commission's Rules of Practice provides that ''[t]he Commission, in its sole discretion, may determine whether any issues relevant to approval or disapproval would be facilitated by the opportunity for an oral presentation of views.'' 17 CFR 201.700(c)(2).

[130] 17 CFR 200.30–3(a)(85).

ADDENDUM 1

To the Second
Amendment to the CT Plan

PROPOSED AMENDMENTS TO THE CT PLAN

MARKED TO SHOW CHANGES FROM THE EXISTING PLAN
(Additions are double-underlined; Deletions are [~~struck through and bracketed~~].)

* * * * *

EXHIBIT E

Monthly Fees

[~~(To be determined by the Operating Committee under this Agreement)~~]

	Tape A	Tape B	Tape C
Real-Time Professional Use[131]	$26	$23	$24
Real-Time Non-Professional Use[132]			
No. of Individuals Engaged in Non-Professional Use	Fee Per Individual Engaged in Non-Professional Use	Fee Per Individual Engaged in Non-Professional Use	Fee Per Individual Engaged in Non-Professional Use
1 – 2,000	$0.90	$0.90	$0.90
2,001 – 50,000	$0.75	$0.75	$0.75
50,001 – 250K	$0.60	$0.60	$0.60
250,001 – 1M	$0.40	$0.40	$0.40
1,000,001+	$0.25	$0.25	$0.25

[131] Professional Use is: (i) any use of market data by or on behalf of any entity (for example, a corporation, company, partnership, limited partnership, limited liability company, or association), except trusts not for compensation; or (ii) use of market data by an individual to provide a service to a third party for compensation. Any Real-Time Redistributor that relies in good faith on representations by a subscriber regarding the subscriber's Professional versus Non-Professional Use of the data shall be exempt from audit liability based on such representations. For counting purposes, this fee applies to each individual engaged in Professional Use.

[132] Non-Professional Use is any usage that is not Professional Use. For counting purposes, this fee applies to each individual engaged in Non-Professional Use. A market data subscriber will pay the per Non-Professional Use fee for the portion of their user base falling within each tier before moving to the next tier. For example, for the first 2,000 individuals engaged in Non-Professional Use, a market data subscriber will be charged $0.90 per individual. For the next tier (between 2,001 and 50,000), a market data subscriber will be charged $0.75 per individual engaged in Non-Professional Use.

Per Quote[133]	$0.0075 per quote	$0.0075 per quote	$0.0075 per quote
Per Quote Cap	$26 for individuals engaged in Professional Use and tiered for individuals engaged in Non-Professional Use	$23 for individuals engaged in Professional Use and tiered for individuals engaged in Non-Professional Use	$24 for individuals engaged in Professional Use and tiered for individuals engaged in Non-Professional Use
Delayed Subscriber	Not fee liable	Not fee liable	Not fee liable
End of Day Subscriber	Not fee liable	Not fee liable	Not fee liable
Non-Professional Enterprise Cap	$648,000	$490,000	$648,000
Real-Time Redistributor	$1,155	$1,155	$1,155
Delayed Redistributor	Not fee liable	Not fee liable	Not fee liable
End-of-Day Redistributor	Not fee liable	Not fee liable	Not fee liable
Non-Display[134] Category 1[135]	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025 Bid-Ask: $2,025
Non-Display Category 2[136]	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025 Bid-Ask: $2,025

[133] A quote packet includes any data element or all data elements in respect of a single issue. Last, open, high, low, volume, net change, bid, offer, size, and best bid and offer with size are examples of data elements.

[134] Non-Display Use refers to accessing, processing or consuming data, whether received via Direct and/or Redistributor Data Feeds, for a purpose other than solely facilitating the delivery of the data to the Data Feed Recipient's display or for the purpose of further internally or externally redistributing the data. The creation of Derived Data is considered Non-Display Use.

[135] Non-Display Category 1 consists of Non-Display Use fee for Electronic Trading Systems and applies when a Data Feed Recipient makes a Non-Display Use of data in an Electronic Trading System, whether the system trades on the Data Feed Recipient's own behalf or on behalf of its customers. This fee includes, but is not limited to, use of data in any trading platform(s), such as exchanges, alternative trading systems ("ATS's"), broker crossing networks, broker crossing systems not filed as ATS's, dark pools, multilateral trading facilities, and systematic internalization systems. An organization that uses data in Electronic Trading Systems must count each platform that uses data on a non-display basis. For example, an organization that uses quotation information for the purposes of operating an ATS and also for operating a broker crossing system not registered as an ATS would be required to pay two Electronic Trading System fees.

[136] Non-Display Category 2 consists of Non-Display Use for Internal Use where a Data Feed Recipient's Non-Display Use is on its own behalf (other than for purposes of an Electronic Trading System).

Non-Display Category 3[137]	Last Sale: $2,315 Bid-Ask: $2,315	Last Sale: $1,155 Bid-Ask: $1,155	Last Sale: $2,025 Bid-Ask: $2,025
Direct Access[138]	Last Sale: $1,445 Bid-Ask: $2,025	Last Sale: $865 Bid-Ask: $1,445	Last Sale: $1,155 Bid-Ask: $1,735
Indirect Access[139]	Last Sale: $865 Bid-Ask: $1,445	Last Sale: $460 Bid-Ask: $695	Last Sale: $230 Bid-Ask: $345
Delayed Data Access Fee	Not fee liable	Not fee liable	Not fee liable
Multiple Feed Charges	Last Sale: $200 Bid-Ask: $200	Last Sale: $200 Bid-Ask: $200	Last Sale: $200 Bid-Ask: $200
Derived Data[140] Usage[141]	Not fee liable	Not fee liable	Not fee liable
Broadcast[142] Fee	1 – 10M households: $2.00/1,000 households 10 – 20M households: $1.00/1,000 households Over 20M households: $0.50/1,000 households	1 – 10M households: $2.00/1,000 households 10 – 20M households: $1.00/1,000 households Over 20M households: $0.50/1,000 households	1 – 10M households: $2.00/1,000 households 10 – 20M households: $1.00/1,000 households Over 20M households: $0.50/1,000 households
Consolidated Volume Only[143]	Not fee liable	Not fee liable	Not fee liable

137 Non-Display Category 3 consists of Non-Display Use for Internal Use where a Data Feed Recipient's Non-Display Use is on behalf of its customers (other than for purposes of an Electronic Trading System).

138 Direct Access is any connection within any data center in which a Processor is located.

139 Indirect Access is any connection that is not Direct Access.

140 Derived Data consists of pricing data or other information that is created in whole or in part from the CT Plan Information. To be considered Derived Data: (1) the Derived Data cannot be reverse engineered to recreate the Information, and (2) the Derived Data cannot be used to create other data that is recognized to be a reasonable facsimile for the Information.

141 The creation of Derived Data is fee liable as Non-Display Use.

142 Broadcast means any broad-based dissemination of information to the general public through cable, satellite, internet, or traditional means, excluding transmission of a data feed or transmission via Application Programming Interface ("API").

143 Data recipients may display real-time trading volume occurring on all Members ("Consolidated Volume") at no charge. However, if any such display appears on the same screen as bid-asked quotes or last-sale prices that are not consolidated quotes or prices under the CT Plan, then the screen must conspicuously display a clarifying statement (the "Display Statement") that reads "Real-time quote and/or trade prices are not sourced from all markets." A redistributor must provide the Administrator with the form of Consolidated Volume screen print that it provides, as well as a copy of each Consolidated Volume screen print that persons included in the redistribution chain that starts with the redistributor (each, a "subscriber") provide.

Display Policy Non-Compliance Fee[144]	$3,000	$3,000	$3,000
Late/Clearly Erroneous Reporting Charges[145]	$2,500	$2,500	$2,500
Per Voice Response Port	Not fee liable	Not fee liable	Not fee liable
Academic Use[146] Exemption	Not fee liable	Not fee liable	Not fee liable
Disaster Recovery[147] Exemption	Not fee liable	Not fee liable	Not fee liable
System Migration[148] Exemption	Not fee liable	Not fee liable	Not fee liable
Administrative/ Operational Use[149] Exemption	Not fee liable	Not fee liable	Not fee liable
Service Facilitator[150] Exemption	Not fee liable	Not fee liable	Not fee liable

144 Charges will be assessed for each month in which a Redistributor or any of its subscribers fails to provide a required Display Statement or fails to provide the Administrator a copy of the relevant screen print in a timely manner.

145 These charges will be assessed for each month in which there is a failure to provide the required data-usage report to the Administrator, commencing with reporting failures lasting more than three months from the date on which the report is first due. A report is not considered to have been provided to the Administrator if the report is clearly incomplete or inaccurate. This would include, but is not limited to, a report that fails to report all data products and a report for which the reporting party did not make a good faith effort to assure the accuracy of data usage and entitlements.

146 Data used for academic research, teaching, or other educational purposes are fee exempt. This exemption excludes any use of market data for securities trading or for any commercial purpose (including use on behalf of a for-profit enterprise or for financial services provided for a fee. Application of this waiver requires pre-approval by the Administrator.

147 Market data recipients may activate back-up systems, networks, or facilities to be used solely in the event of a primary system outage or natural disaster. In the event of a temporary activation of CT Plan data due to disaster recovery, any duplicate usage fees will not be charged. Market data recipients will need to notify the Administrator of such event, and provide details surrounding the activation of any CT Plan data.

148 Market data recipients in the process of migrating from one system to another may be approved for a fee waiver for multiple subscribers during the period. The migration must take place over a reasonable period of time, as determined by the Administrator.

149 Data usage for operational or administrative functions that support the delivery of market data to market data recipients are fee exempt. Exempt functions include operational, technical and testing support activities, or sales of products or services.

The exemption does not cover usage by anyone using real-time market data for securities transactions or to support market data recipients in the trading of securities. Application of this waiver requires pre-approval by the Administrator.

150 A Service Facilitator is a third party to which a market data recipient outsources the responsibility for managing some portion of its technical, financial, legal, or operational role in distributing the Information. A Service Facilitator is an entity providing a service that would ordinarily fall under the operational/administrative use exemption. Service Facilitators require pre-approval by the Administrator and must enter into direct agreements with the CT Plan.

[FR Doc. 2026–06463 Filed 4–2–26; 8:45 am]
BILLING CODE 8011–01–C

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21145]

Thomas L. Hey and James A. Hey—Acquisition of Control—Minnesota Motor Bus, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: In 2010, Thomas L. Hey and James A. Hey (collectively, Applicants), both noncarriers, acquired control of Minnesota Motor Bus, Inc. (Minnesota Motor Bus), an interstate motor carrier of passengers, without Board authority (the Transaction). At the time, Applicants were, and still are, the individual co-owners of Southwest Coaches, Inc. d/b/a Southwest Tour and Travel (Southwest Coaches), another interstate motor carrier of passengers. On March 6, 2026, Applicants filed an application for after-the-fact Board authority for the Transaction, to rectify what they describe as an accidental oversight. The Board is tentatively approving and authorizing the Transaction after the fact, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments may be filed by May 18, 2026. If any comments are filed, Applicants may file a reply by June 2, 2026. If no opposing comments are filed by May 18, 2026, this notice shall be effective on May 19, 2026.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: Edward Fishman, Hogan Lovells US LLP, Columbia Square, 555 Thirteenth Street NW, Washington, DC 20004–1109.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 915–4348. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: According to the application, Thomas L. Hey (Thomas) is an individual resident of Minnesota and U.S. citizen. (Appl. 2.) Thomas owns, and owned at the time of the 2010 Transaction, 50% of Southwest Coaches and serves as its President and Treasurer. (*Id.* at 2, 5.) James A. Hey (James) is an individual resident of Minnesota and U.S. citizen, and the brother of Thomas. (*Id.* at 2.) James owns, and owned at the time of the 2010 Transaction, 50% of Southwest Coaches and serves as its Vice President. (*Id.* at 3, 5.) Thomas and James are not motor carriers and neither hold individual operating authority. (*Id.* at 2–3.) Applicants' principal business address is 1500 Travis Road, Marshall, MN 56258. (*Id.* at 2.)

James Schoener (Seller) is an individual who at the time of the 2010 Transaction was residing at 1550 Falcon Drive, Fairmont, MN 56031. (*Id.* at 3.) Prior to the Transaction, Seller owned 100% of Minnesota Motor Bus. (*Id.*) As a result of the Transaction, Applicants acquired from Seller 100% of the issued and outstanding stock of Minnesota Motor Bus through a stock purchase agreement. (*Id.* at 5.) Applicants each own 50% of Minnesota Motor Bus and jointly control the carrier. (*Id.*) Minnesota Motor Bus has continued to operate under the same name and has provided substantially the same services under the ownership of Applicants as it provided prior to the Transaction. (*Id.*)

Applicants describe Southwest Coaches as a Minnesota corporation incorporated on August 26, 1965, with its principal place of business in Marshall, Minn. (*Id.* at 5–6.) Southwest Coaches has historically operated as an individual-owned or family-owned passenger transportation business and ownership changed hands several times prior to being purchased in 1988 by Marvin Hey and Janet Hey (Applicants' parents). (*Id.*) In February 2000, Thomas and James acquired Southwest Coaches from their parents. (*Id.* at 6.) Southwest Coaches operates as an interstate motor carrier of passengers subject to the jurisdiction of the Federal Motor Carrier Safety Administration (FMCSA) pursuant to authority issued in Docket No. MC–140554; U.S. DOT No. 153686. (Appl. at 6; Exhibit 1.)

The application states that Southwest Coaches provides school transportation services under contract to the Marshall School District, which it has serviced since 1965. (*Id.* at 6.) The Marshall School District consists of 7 public schools along with 3 non-public schools, has approximately 3,000 students, and the service area encompasses ''162.9 miles.'' [1] (*Id.*) The contract service that Southwest Coaches provides for the Marshall public schools involves approximately 25 full-sized school buses that are used for transporting students to and from school and conducting extracurricular trips. (*Id.*) Southwest Coaches also utilizes approximately 6 smaller buses and 7 vans to transport preschool and special-needs students. (*Id.*) Southwest Coaches also served the Jackson County Central School District between 1991 and 2018, but it no longer maintains this contract. (*Id.*)

According to the Applicants, Southwest Coaches also provides charter services for a range of educational institutions, including elementary schools, high schools, and universities. (*Id.*) In addition, Applicants state that Southwest Coaches provides motorcoach services for private events, such as weddings and bachelor/bachelorette parties, and for coach travel tours. Southwest Coaches serves customers primarily in Minnesota, North Dakota, and South Dakota, but from time to time it also operates trips in other states. (*Id.*) In the past 12 months, Southwest Coaches has conducted approximately 250 interstate trips and approximately 40% of its revenue is derived from these interstate trips. (*Id.* at 6–7.) Applicants further state that its customer base is made up of approximately 30% from the Marshall School District service, 30% from universities, 35% from tour companies, and 5% from youth groups. (*Id.* at 7.) Southwest Coaches has a fleet of 8 motorcoaches and 34 school buses. (*Id.*) It operates primarily from its Marshall, Minn., terminal. (*Id.*) The company has approximately 55 employees, including 45 drivers and 10 other employees. (*Id.*)

Applicants describe Minnesota Motor Bus as a Minnesota corporation, headquartered in Minnesota, and a federally registered interstate motor carrier of passengers. (*Id.* at 1.) Minnesota Motor Bus holds interstate carrier operating authority under FMCSA Docket No. MC–764429, USDOT Number 209770). (Appl. at 3–4; Exhibit 1.) Prior to the Transaction, Minnesota Motor Bus was controlled exclusively by Seller, and following the Transaction in 2010, it has been controlled jointly by Applicants as co-owners. (*Id.* at 3.) Minnesota Motor Bus is primarily a school transportation provider, providing general and special education transportation to and from school on regular routes under contract to the Fairmont, Minn., school district. (*Id.*) The Fairmont Area School District consists of 3 public schools along with 4 non-public schools. (*Id.*) The district has approximately 2,100 students and encompasses a service area of ''175.1 miles.'' [2] (*Id.*) The contract service that Minnesota Motor Bus provides for the Fairmont Area Public Schools involves running approximately 17 full sized school buses that are used for

[1] The Applicants use the term ''miles'' throughout the application, which is a measure of length, not area. Likely the Applicants intended to use the term ''square miles.''

[2] *See infra.* note 1.

transporting regular education students to and from school and for extracurricular trips. (*Id.* at 3–4.) Minnesota Motor Bus also utilizes approximately 5 smaller buses and 4 vans that transport preschool and special needs students. (*Id.* at 4.) Minnesota Motor Bus has serviced the Fairmont Area School District continually since 1979. (*Id.*) Minnesota Motor Bus also provides school charter trips for extracurricular activities and other special events within Minnesota. (*Id.*) On limited occasions, these charter services have involved transportation across state lines into neighboring states. (*Id.*) Minnesota Motor Bus also provides charter bus service for university and youth groups, transporting them to sporting events and similar activities within the state of Minnesota and across state lines, primarily into Iowa and South Dakota. (*Id.*) Minnesota Motor Bus does not conduct regularly scheduled motorcoach service in interstate commerce. (*Id.*) Minnesota Motor Bus conducts approximately 40 interstate trips per year, which is minimal in comparison to its overall intrastate school transportation operations. (*Id.*)

According to the application, approximately 10% of Minnesota Motor Bus's revenue is from interstate operations. Minnesota Motor Bus's customer base is comprised of approximately 40% from the Fairmont Area School District service, approximately 40% from providing charter bus service to universities in the Fairmont service area, and approximately 20% from providing charter bus service to youth groups in the Fairmont service area. (*Id.*) Minnesota Motor Bus operates a fleet that includes 2 motorcoaches and 22 school buses. (*Id.*) It operates its fleet primarily from its Fairmont terminal, with additional terminals in Northrup, Minn., and Ceylon, Minn. (*Id.* at 4–5.) Minnesota Motor Bus employs approximately 30 drivers and has approximately 31 total employees. (*Id.* at 5.)

The territories primarily serviced by Minnesota Motor Bus and Southwest Coaches do not overlap, as they are located 120 miles apart. (*Id.* at 7.) Minnesota Motor Bus provides service in the Fairmont area and Southwest Coaches provides service in the Marshall area. (*Id.*) Minnesota Motor Bus's main competitor for charter or tour transportation is Reading Bus Lines, whereas Southwest Coaches' main competitor for charter or tour transportation is Thielen Bus Lines. (*Id.*) There are approximately four other direct competitors in each of the service areas, and the competitive landscape has not materially changed since the Transaction in 2010. (*Id.*) Both Minnesota Motor Bus and Southwest Coaches generally face competition from national, regional and local bus providers operating within their respective service areas or within Minnesota or neighboring states. (*Id.*) In addition, both companies face considerable competition for transportation services from other modes of transportation including airlines, intercity passenger rail or commuter rail services, and private motor vehicles. (*Id.*) Applicants explain that, other than Southwest Coaches and Minnesota Motor Bus, there are no other affiliated carriers with Board-regulated interstate passenger operations within Applicants' control. (*Id.* at 8.) Applicants state that they now understand that a control application should have been filed with the Board prior to their 2010 acquisition of control of Minnesota Motor Bus and thus are seeking after the fact authority for the Transaction, (*id.* at 7–8). *See* 49 U.S.C. 14303(a)(5).

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 10–13.)

Applicants state that the Transaction has not resulted in any significant changes to the nature or scope of the general operations conducted by Minnesota Motor Bus or Southwest Coaches. (*Id.* at 9.) Applicants assert that the Transaction has not produced adverse competitive effects in any relevant geographic market and has not impaired the adequacy of transportation to the public. (*Id.* at 9, 12.) According to the Applicants, the school transportation services that Minnesota Motor Bus and Southwest Coaches each provide are under contract to different school districts in different service areas that are 120 miles apart, and there is no overlap in the school district service areas or routes served by Minnesota Motor Bus and Southwest Coaches. (*Id.* at 9.) In addition, Minnesota Motor Coach and Southwest Coaches provide charter service to other customers in distinct service areas, with Minnesota Motor Bus operating in the Fairmont area and Southwest Coaches operating in the Marshall area. (*Id.*) Applicants also state that Southwest Coaches' service to tour companies is in a market in which Minnesota Motor Bus does not compete. (*Id.* at 9–10.) Furthermore, both carriers face substantial competition for charter and special-trip service from other bus providers, including national, local and regional, and from numerous other modes of transportation. (*Id.* at 10.)

Applicants state that the Transaction did not result in fixed charges that adversely affected the ability of Minnesota Motor Bus or Southwest Coaches to continue to provide safe and quality transportation service, and states that Minnesota Motor Bus was acquired by the Applicants individually, by and through their own personal financing. (*Id.*) Applicants assert that the Transaction has not had any material adverse effect on employee or labor conditions. (*Id.*) Applicants state that they are not aware of any layoffs, adverse changes to wages, benefits, or working conditions as a result of the Transaction, and Applicants note that the Transaction also allowed Applicants to expand and hire additional drivers and employees. (*Id.*)

The Board finds that the Transaction as described in the application is consistent with the public interest and should be tentatively approved and authorized after the fact. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action in this proceeding.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The Transaction is approved and authorized after-the-fact, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective May 19, 2026, unless opposing comments are filed by May 18, 2026. If any comments are filed, Applicants may file a reply by June 2, 2026.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

5. This notice will be published in the **Federal Register**.

Decided: March 28, 2026.

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

Stefan Rice,

Clearance Clerk.

[FR Doc. 2026–06455 Filed 4–2–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub–No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board.

ACTION: Presentation of the Board's calculation for the change in railroad productivity for the 2020–2024 averaging period.

SUMMARY: In a decision served on March 31, 2026, the Board proposed to adopt 1.015 (1.5% per year) as the measure of average (geometric mean) change in railroad productivity for the 2020–2024 (five-year) period. The Board's March 31, 2026 decision stated that comments may be filed addressing any perceived data and computational errors in the Board's calculation. The decision also stated that, unless a further order is issued postponing the effective date, the decision will take effect on April 18, 2026.

DATES: Comments are due by April 15, 2026.

ADDRESSES: Comments may be filed via e-filing on the Board's website at *www.stb.gov.* Comments must be served on all parties appearing on the service list.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. If you require accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available at *www.stb.gov* under Docket No. EP 290 (Sub–No. 4).

Authority: 49 U.S.C. 10708.

Decided: March 31, 2026.

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

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2026–06555 Filed 4–2–26; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[FD 35217 (Sub No. 1)]

Stillwater Central Railroad, L.L.C.—Lease and Operation Exemption—Hollis & Eastern Railroad, L.L.C.

Stillwater Central Railroad, L.L.C. (SLWC), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease and to operate, pursuant to a lease agreement entered into with Hollis & Eastern Railroad, L.L.C. (HE), 14 miles of rail line extending from milepost 0.0 at Duke, Okla., to milepost 14.0 at Altus, Okla. (the Line).

SLWC is the current operator on the Line, having received authority to lease and operate the Line in 2010. *See Stillwater Cent. R.R.—Lease & Operation Exemption—Hollis & E. R.R.,* FD 35217 (STB served Feb. 12, 2010). According to the verified notice, SLWC and HE have recently agreed to updated terms governing SLWC's continued lease from HE, and operation of, the Line. SLWC certifies that its agreement with HE contains no commitments or provisions prohibiting or limiting SLWC from interchanging traffic with a third-party carrier.

SLWC further certifies that its projected annual revenues as a result of the transaction will not exceed the threshold of a Class I or Class II rail carrier. However, its projected annual revenues will exceed $5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before the exemption becomes effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, SLWC has petitioned for waiver of the 60-day advance labor notice requirements. SLWC's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its decision on the waiver request.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 10, 2026.

All pleadings, referring to Docket No. FD 35217 (Sub No. 1), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on SLWC's representative, Stephen J. Foland, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to SLWC, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: March 30, 2026.

By the Board, Scott M. Zimmerman, Acting Chief Counsel, Office of Chief Counsel.

Eden Besera,

Clearance Clerk.

[FR Doc. 2026–06467 Filed 4–2–26; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map for Centennial Airport, Englewood, Colorado

AGENCY: Federal Aviation Administration, DOT.

ACTION: Acceptance of Centennial Airport noise exposure map.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure map (NEM) submitted by the Arapahoe County Public Airport Authority for Centennial Airport is compliant with applicable statutory and regulatory requirements.

DATES: The effective date of the FAA's determination on the NEM is April 1, 2026.

FOR FURTHER INFORMATION CONTACT: John Sweeney, 26805 E 68th Avenue, Denver, CO 80249, (303) 342–1263.

SUPPLEMENTARY INFORMATION: The FAA determined the NEM submitted by the

Arapahoe County Public Airport Authority for Centennial Airport, is in compliance with applicable statutory and regulatory requirements, effective April 1, 2026. Under title 49, United States Code (U.S.C.) section (§) 47503, an airport operator may submit to the FAA NEMs depicting non-compatible uses as of the date such map is submitted, a description of estimated aircraft operations during a forecast period that is at least five years in the future and how those operations will affect the map. A NEM must be prepared in accordance with title 14, Code of Federal Regulations (CFR) part 150, the regulations promulgated pursuant to 49 U.S.C. 47502, and developed in consultation with public agencies and planning authorities in the area surrounding the airport, state and Federal agencies, interested and affected parties in the local community, and aeronautical users of the airport. In addition, an airport operator that submitted a NEM, which the FAA determined is compliant with statutory and regulatory requirements, may submit a noise compatibility program for FAA approval that sets forth measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA completed its review of the NEM and supporting documentation submitted by the Arapahoe County Public Airport Authority and determined the NEM and accompanying documentation are compliant with applicable requirements. The documentation that constitutes the NEM includes: current and forecast NEM graphics (2025 Existing Condition NEM and 2030 Future Condition NEM), plus all other narrative, graphic, or tabular representations of the data required by 14 CFR 150.101 and 49 U.S.C 47503 and 47506. This determination is effective on April 1, 2026. FAA's determination on an airport's NEM is limited to a finding that the NEM was developed in accordance with the 49 U.S.C 47503 and 47506 and procedures contained in 14 CFR part 150, Appendix A. FAA's acceptance of an NEM does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties within noise exposure contours depicted on a NEM, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours or in interpreting the NEMs to resolve questions concerning, for example, which properties should be covered by the provisions of 49 U.S.C. 47506. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under 14 CFR part 150 or through FAA review and acceptance of a NEM. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted a NEM or with those public and planning agencies with which consultation is required under 49 U.S.C 47503. The FAA relied on the certification by the airport operator, under 14 CFR 150.21, that the required consultations and opportunity for public review has been accomplished during the development of the NEMs. Copies of the NEM and supporting documentation and the FAA's evaluation of the NEMs are available for examination at the following locations:

Federal Aviation Administration Denver Airports District Office, 26805 E 68th Ave., Suite 224 Denver, CO 80249

Centennial Airport, 76565 S Peoria St., Englewood, CO 98108

Questions may be directed to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Issued in Des Moines, Washington on April 1, 2026.

Jason Ritchie,

Acting Director, Airports Division, Northwest Mountain Region.

[FR Doc. 2026–06552 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0072]

Agency Information Collection Activities; Notice and Request for Comment; Novel Human-Machine Interface (HMI) Designs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on request for approval of a new information collection.

SUMMARY: NHTSA invites public comments about the agency's intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information request, titled ''Novel Human-Machine Interface (HMI) Designs'', for which NHTSA intends to seek OMB approval to conduct a one-time study.

DATES: Comments must be submitted on or before June 2, 2026.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2024–0072 through any of the following methods:

- *Electronic Submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of the Agency's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Jeff Dressel, Office of Vehicle Safety Research (NSR–310), 202–493–0492, National Highway Traffic Safety Administration, W46–439, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (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) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Novel Human-Machine Interface (HMI) Designs.

OMB Control Number: New.

Form Number(s): NHTSA Forms 1814—Eligibility Questionnaire; 1815—Informed consent; 1816—Vehicle Technology Questionnaire; and 1817—Exit Questionnaire.

Type of Request: Approval of a new information collection request.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information: This information collection request (ICR) is to request approval to conduct seven new voluntary information collections as part of a one-time research study of drivers' interactions with three commercially available vehicles with different human machine interface (HMI) features/designs. The National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation (DOT) is seeking to conduct the research study involving up to 35 licensed drivers between the ages of 18 and 55 from the greater Phoenix, Arizona area. The information collections will include (1) an eligibility questionnaire to be administered to up to 100 potential research respondents; (2) an informed consent form to be administered to up to 35 research participants; (3, 4, 5) study drives with vehicles 1, 2, and 3; (6) a vehicle technology questionnaire to be administered after each study drive; and (7) an exit interview (including the time for a debrief).

Participants' naturalistic driving data will be collected in three study-provided vehicles using GoPro cameras and a device to measure where drivers are looking (eye tracker). Three vehicle makes and models will be used to reflect a range of HMIs, and all participants will drive each vehicle for approximately 20-minutes on a test route through urban surface streets in the Phoenix, Arizona area. Before completing the study drives, research participants will complete a 15-minute introduction and informed consent procedure; and for each vehicle, participants will complete a 15-minute eye tracker setup and calibration, a 15-minute vehicle and task familiarization, and a training briefing. After each 20-minute study drive, participants will answer a 10-minute vehicle technology questionnaire. Finally, participants will complete a 10-minute exit questionnaire and a 10-minute final debriefing.

NHTSA will use the information collected from the research study to produce a technical report that will provide summary figures and tables, as well as the results of statistical analysis of the information. No identifying information or individual responses will be reported. The technical report will be shared across the Department of Transportation, and members of the general public will have access to the aggregated information when the final report is published. The report may also be of interest to vehicle manufacturers and component suppliers (*e.g.,* developers of in-vehicle displays). This collection will be used to assess gaps in the understanding of driver behavior and performance with respect to new HMI features in current production vehicles (*e.g.,* fully digital instrument panel, large display screens, virtual controls, infotainment systems, etc.).

Description of the Need for the Information and Proposed Use of the Information: Vehicles equipped with Advanced Driver Assistance Systems (ADAS) and even higher levels of automation have the potential to greatly decrease crashes and save lives. Technologies such as forward collision warning systems, lane centering/keeping assist, adaptive cruise control, lane departure warning systems, traffic jam assistance systems, etc., are becoming increasingly common on even moderately priced new vehicles. However, despite their overall potential safety benefits, different implementations of these technologies may impact driver performance differently. Therefore, a safety-critical element of these advanced technologies is the human-machine interface or HMI, which refers to vehicular displays that present information to a driver, as well as those controls that facilitate a driver's control over the operation of various vehicle subsystems—including ADAS and driving automation systems.

Safe and efficient operation of any motor vehicle requires that an HMI be designed in a manner that is consistent with driver expectations. However, in-vehicle technology is an evolving and ever-changing domain, and there have been a number of developments in this domain since NHTSA's *Human Factors Design Guidance for Driver-Vehicle Interfaces* [1] were published. These developments include advances and changes in (1) basic technological capabilities (*e.g.,* full manual control→driver assistance→vehicle automation), (2) status indicators and telltales presented to drivers (*e.g.,* head-up displays, augmented reality displays, large displays in the center stack, in-vehicle advertising/e-commerce) and (3) novel input devices (*e.g.,* touch screens, speech input, gesture inputs).

Critically, these topics were either not considered at the time the earlier guidelines were published, or they did not have sufficient research to support the development of robust guidelines. In short, these recently emerging technologies, novel HMI designs, and changes in driver-vehicle interfaces impact driver information needs and control inputs, indicating that there are many gaps between the guidance that is available versus the guidance that may be valuable to NHTSA and needed by industry. This data collection will directly support NHTSA's efforts to

[1] *https://www.nhtsa.gov/sites/nhtsa.gov/files/documents/812360_humanfactorsdesignguidance.pdf.*

identify the implications of current HMIs on driver information needs, behavior, and performance, and characterize gaps in a manner that will aid NHTSA's efforts to support the deployment of safe technologies through ongoing HMI research and development. If the proposed study is not conducted, NHTSA will have unanswered questions regarding driver behavior and performance implications of novel HMIs.

Affected Public: Individuals in the Phoenix, Arizona area between the ages of 18 and 55.

Estimated Number of Respondents: The study anticipates screening 100 potential participants to obtain the target sample of 24 research participants who meet study inclusion criteria and fully participate in the study. While the goal is 24 final participants, the research team will ensure eligibility and interest of 35 participants to account for potential attrition. However, while NHTSA estimates that there will be 100 potential research participants screened and up to 35 participants in the research study, NHTSA's burden estimates are based on the average number of respondents to each information collection in each year of the three-year project. Accordingly, NHTSA has estimated that, on average, there will be 33 respondents to the eligibility questionnaire (100 potential participants ÷ 3 years) and 12 respondents for each of the other information collections (35 research participants ÷ 3 years) annually.

Frequency: This study is a one-time information collection.

Estimated Total Annual Burden Hours: 51 hours.

The annual estimated burden for the information collection is 51 hours. This is the aggregate of the estimated annual burden for seven information collections that would be part of the one-time study. The information collections includes: (1) an eligibility questionnaire to be administered to up to 100 potential research respondents; (2) an informed consent form to be administered to up to 35 research participants; (3, 4, 5) study drives with vehicles 1, 2, and 3; (6) a vehicle technology questionnaire after each study drive; and (7) an exit interview (including the time for a debrief).

The study will begin with a screening process to identify eligible participants. As stated above, the research team intends to identify 35 eligible participants to account for potential attrition and ensure that the target sample of 24 participants is achieved. In order to identify 35 eligible participants, NHTSA estimates that the research team will need to contact up to 100 potential participants. These potential respondents will be contacted via phone and will be asked to answer eligibility questions. NHTSA estimates that the eligibility screening questionnaire will take, on average, 15 minutes to complete and that the total burden for eligibility screening will be 25 hours (15 minutes × 100 respondents).

After the screening process, up to 35 eligible participants will be given an appointment to arrive on-site at the testing facility. Each respondent will begin with a consenting process, which is completed on-site at the testing facility at the beginning of the study session. This consenting process includes an overview of the study and an explanation of the informed consent form. This consenting process is expected to take 15 minutes. Therefore, NHTSA estimates the total burden for obtaining informed consent to be 8.75 hours (15 minutes × 35 research participants).

Once participants have signed their consent forms, they will be brought outside to the front seat of the first testing vehicle and instructed to adjust the seat to their liking and fasten their seatbelt. The experimenter will provide general safety instructions for the study. The respondent will be reminded that the primary task during the study is to drive safely while operating the vehicle and that they, as the driver, are always ultimately in control of the vehicle, regardless of whether they are just driving or completing a task. The respondent will also be reminded to obey the rules of the road and wear their seatbelt at all times while operating the vehicle. The respondent will be given a brief introduction to the operation of the first vehicle, the location of the various controls, and will be instructed on the set of tasks they will perform. They will then be asked to practice each of the tasks one at a time while the vehicle is stationary. The head-mounted eye-tracking system will then be fitted and calibrated inside the testing vehicle. While stationary, the respondent will review a map of the route (public streets in Phoenix) they will be driving. In addition, the respondent will have an opportunity to practice and establish a comfort level with driving the vehicle and wearing the eye-tracking system prior to data collection during the on-road drive. Once comfortable with the vehicle, the experimenter will direct the respondent out of the Exponent facility and onto public roads to begin the drive. Throughout the drive, the respondent will complete each of the tasks one at a time when prompted by the experimenter. NHTSA estimates that it will take approximately 50 minutes for the vehicle and task familiarization and training (approximately 15 minutes), the eye tracker setup and calibration (approximately 15 minutes), and the 20-minuted planned drive. Therefore, NHTSA estimates that the total burden for the study drive in vehicle 1 to be 30 hours (50 minutes × 35 research participants).

After completing a full drive of the pre-determined route in the first test vehicle, the respondent will return to the start location and complete the vehicle technology questionnaire based on the vehicle they just drove. NHTSA estimates that completing the vehicle technology questionnaire will take approximately ten minutes, for a total burden of six hours (10 minutes × 35 research participants).

Each research participant will then complete the study drive for vehicle 2, including vehicle and task familiarization and training (approximately 15 minutes), the eye tracker setup and calibration (approximately 15 minutes), and the 20-minuted planned drive. As with vehicle 1, NHTSA estimates that this will take each respondent approximately 50 minutes, for a total burden of 30 hours. And as with vehicle 1, each participant will also complete the vehicle technology questionnaire after study drive 2, which is estimated to take each participant approximately 10 minutes. The process is then repeated again for vehicle 3.

At the end, participants will complete an exit questionnaire (estimated to take approximately 10 minutes per participant) and a final debriefing (estimated to take approximately 10 minutes per participant). The total burden for the exit questionnaire and final debriefing is estimated to be 12 hours (20 minutes × 35 respondents). The total burden for the entire study (including screening, consenting, study drives, and questionnaires) is estimated to be 152 hours. The details are presented in Table 1 below.

TABLE 1—TOTAL STUDY BURDEN HOURS

Form No.	Information collection	Number of respondents	Time per response (minutes)	Frequency of response	Total burden hours
1814	Eligibility Questionnaire	100	15	1	25
1815	Informed Consent	35	15	1	8.75
N/A	Study Drives: (Eye Tracker Setup & Calibration, Vehicle Familiarization// Training, Planned Drive).	35	50	3	87.51
1816	Vehicle Technology Questionnaire	35	10	3	17.49
1817	Exit Questionnaire (including time for debriefing)	35	20	1	11.67
	Total	.....	.....	.....	152

As explained above, because this information collection request is for a three-year approval, NHTSA has estimated the annual burden associated with each information collection by averaging the burden across the three-year period for which NHTSA is seeking approval. NHTSA has estimated annual burden hours by first dividing the total number of respondents per information collection by three and then rounding to the nearest whole number. Accordingly, NHTSA estimates the burden for the eligibility questionnaire based on an average of 33 respondents completing the questionnaire each year (100 potential respondents ÷ 3 years = 33.33 respondents). For the remaining eight information collections, NHTSA estimates that there are, on average, 12 research participants per year (35 research participants ÷ 3 years). Based on the estimates of 33 annual respondents for eligibility questionnaire and 12 annual respondents to each of the other information collection, NHTSA has estimated that the total annual burden hours for the collections is 51 hours.

To calculate the opportunity cost to participants in this study, NHTSA used the average (mean) hourly earnings from employers in all industry sectors in the State of Arizona, which the Bureau of Labor Statistics lists at $30.31 per hour.[2] NHTSA estimates that the annual opportunity cost is approximately $2,019.55. Table 2 provides estimates for the total annual burden hours and opportunity costs.

TABLE 2—ANNUAL BURDEN ESTIMATES

Form No.	Information collection	Number of respondents	Time per response (minutes)	Opportunity cost per response [3]	Frequency of response	Total burden hours	Total opportunity costs [4]
1814	Eligibility Questionnaire	33	15	$7.58	1	8	$250.14
1815	Informed Consent	12	15	7.58	1	3	90.96
N/A	Study Drives (Eye Tracker Setup & Calibration, Vehicle Familiarization/Training, Planned Drive).	12	50	25.26	3	30	909.36
1816	Vehicle Technology Questionnaire	12	10	5.05	3	6	181.80
1817	Exit Questionnaire (including time for debriefing).	12	20	10.10	1	4	121.24
	Annual Estimates	.....	.....	.....	.....	51	1553.50

Estimated Total Annual Burden Cost: $504.

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 travel costs are minimal and expected to be offset by the compensation that will be provided to the research participants. NHTSA estimates that each of the recruited participants will travel less than 30 miles one-way to the research location (60 miles round trip). Using the IRS standard mileage rate of $0.70 per mile,[5] each respondent is expected to incur no more than $42 in transportation costs. Therefore, NHTSA estimates that the total costs to all respondents will be no more than $1,470 ($42 × 35 participants), or approximately $504 per year ($42 × 12 respondents per year).

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 Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 automated collection techniques or other forms of information technology.

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. 2026–06507 Filed 4–2–26; 8:45 am]

BILLING CODE 4910–59–P

[2] US Department of Labor, Bureau of Labor and Statistics, May 2023 State Occupational Employment and Wage Estimates Arizona: *https://www.bls.gov/oes/tables.htm#00-0000.*

[5] From Internal Revenue Service's 2025 standard mileage rates for self-employed and business. *https://www.irs.gov/tax-professionals/standard-mileage-rates,* last accessed December 16, 2025.

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Local Assistance and Tribal Consistency Fund

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995. The public is invited to submit comments on the collection listed below.

DATES: Written comments must be received on or before June 2, 2026.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

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:

Title: Local Assistance and Tribal Consistency Fund (LATCF).

OMB Control Number: 1505–0276.

Type of Review: Revision of a currently approved collection.

Abstract: Section 605 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act of 2021, established the Local Assistance and Tribal Consistency Fund (''LATCF''), which appropriated $2 billion in total funding across fiscal years 2022 and 2023 to Treasury to make payments to eligible revenue sharing counties and eligible Tribal governments. Specifically, for each of fiscal years 2022 and 2023, Treasury reserved $250 million of the total amount appropriated to allocate and pay to eligible Tribal governments and $750 million of the total amount appropriated to allocate and pay to eligible revenue sharing counties. Additionally, Section 103 of Division LL of the Consolidated Appropriations Act, 2023 made additional funding available across fiscal years 2023 and 2024 for payments to eligible revenue sharing consolidated governments. Treasury determined the total allocation for eligible revenue sharing consolidated governments to be approximately $10.5 million, approximately $5.3 million reserved for each of fiscal years 2023 and 2024. Under this program, recipients have broad discretion on uses of funds, similar to the ways in which they may use funds generated from their own revenue sources.

Form: Obligation and Expenditure Report.

Affected Public: Tribal and County Governments.

Estimated Total Annual Burden Hours: 1,400 hours. The estimated burden hours associated with this collection have decreased since the launch of the LATCF program. In order to receive LATCF payments, Treasury previously collected signed award terms and conditions, recipient payment information from all recipients, and a certification regarding economic conditions from eligible Tribal governments. As of April 30, 2026, LATCF funds will no longer be available for payment, so these three forms have been removed from Treasury's data collection. Recipients must continue to comply with the records retention and access requirements in the signed award terms and conditions. In addition, as LATCF recipients close out their LATCF award, the number of recipients required to complete the annual obligation and expenditure report will gradually decrease. Treasury anticipates that this number will continue to decrease each calendar year as additional recipients close out.

Frequency of Response: Once, On Occasion, Annually.

Estimated Total Number of Annual Responses: 1,400.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 1,400.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

(Authority: 44 U.S.C. 3501 et seq.)

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2026–06530 Filed 4–2–26; 8:45 am]

BILLING CODE 4810–AK–P

FEDERAL REGISTER

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Part II

Department of Agriculture

7 CFR Part 1b

National Environmental Policy Act; Final Rule

DEPARTMENT OF AGRICULTURE

7 CFR Part 1b

[USDA–2025–0008]

RIN 0503–AA86

National Environmental Policy Act

AGENCY: Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA) is adopting the interim final rule (IFR) published on July 3, 2025, with minor changes, as final. The IFR revised departmental regulations implementing the National Environmental Policy Act (NEPA) and removed various USDA agency regulations for implementing NEPA. The IFR was in response to the Council on Environmental Quality's (CEQ) rescission of its NEPA implementing regulations (which USDA's NEPA regulations were designed to supplement), statutory changes to NEPA, executive orders, and case law. In the IFR, USDA provided a 30-day comment period for the public to review and make comments. This final rule addresses public comments and adopts as final the IFR, with certain substantive changes as explained herein.

DATES: This final rule is effective April 3, 2026.

FOR FURTHER INFORMATION CONTACT: Scott Vandegrift, Chief Environmental Review and Permitting Officer, Office of the Secretary, 202–720–5166, *SM.OSEC.NRE.NEPA@usda.gov.* Individuals who use telecommunications devices for the hearing-impaired may call 711 to reach the Telecommunications Relay Service, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The following acronyms are used frequently:

APA—Administrative Procedure Act
CE—Categorical Exclusion
CEQ—Council on Environmental Quality
CFR—Code of Federal Regulations
EA—Environmental Assessment
EIS—Environmental Impact Statement
E.O.—Executive Order
FANEC—Finding of Applicability and No Extraordinary Circumstance
FONSI—Finding of No Significant Impact
FRA—Fiscal Responsibility Act of 2023
IFR—Interim Final Rule
NEPA—National Environmental Policy Act
ROD—Record of Decision
U.S.C.—United States Code
USDA—U.S. Department of Agriculture

I. Background

On February 25, 2025, CEQ issued an interim final rule rescinding their regulations in response to Executive Order (E.O.) 14154, *Unleashing American Energy.*

CEQ's interim final rule (IFR) rescinded its NEPA implementing regulations, including 40 CFR parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, and 1508. The effective date of CEQ's interim rule was April 11, 2025. The background of CEQ's regulations, recent litigation, and relevant executive orders leading up to their February 25, 2025, IFR support the rationale underlying this final rule. CEQ published a final rule on January 8, 2026, affirming their IFR.

The Department of Agriculture (USDA) is issuing this final rule to affirm its IFR that revised, moved and republished, or removed portions of USDA's existing regulations for implementing the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321–4347, as amended by the Fiscal Responsibility Act of 2023 (FRA), as well as add new portions to the USDA NEPA implementing regulations. USDA issued the IFR for three independent reasons, and those reasons remain valid.

First, CEQ's regulations were repealed effective April 11, 2025; see *Removal of National Environmental Policy Act Implementing Regulations,* 90 FR 10610 (Feb. 25, 2025). USDA and its agencies' regulations were promulgated as a ''supplement'' that ''incorporates and adopts'' the CEQ's NEPA regulations, see 7 CFR 1b.1(a). However, the CEQ regulations (40 CFR parts 1500 through 1508) no longer provided a valid foundation for USDA NEPA regulations.

Second, Congress recently amended NEPA in significant part, in the FRA, Public Law 118–5, signed on June 3, 2023, in which Congress added substantial detail and direction in Title I of NEPA regarding procedural issues that CEQ and individual acting agencies had previously addressed in their own procedures. USDA recognized the need to update its regulations considering these significant legislative changes. Since USDA's regulations were originally designed as a supplement to CEQ's NEPA regulations, USDA had been awaiting CEQ action before revising its regulations, consistent with CEQ direction. *See* 40 CFR 1507.3(b) (2024); see also 86 FR 34154 (June 29, 2021). However, with CEQ's regulations rescinded, and with USDA's NEPA implementing regulations then unmodified more than two years after this significant legislative overhaul, it was exigent that USDA move quickly to conform its regulations to the statute as amended.

And third, the U.S. Supreme Court recently issued a landmark decision in *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025), in which it decried the ''transform[ation]'' of NEPA from its roots as ''a modest procedural requirement,'' into a significant ''substantive roadblock'' that ''paralyze[s]'' ''agency decision-making''. *Id.* at 1507, 1513 (quotations omitted). The Supreme Court explained that part of that problem had been caused by decisions of lower courts, which it rejected, issuing a ''course correction'' mandating that courts give ''substantial deference'' to reasonable agency conclusions underlying its NEPA process. *Id.* at 1513–14. But the Court also acknowledged, and through its course correction sought to address, the effect on ''litigation-averse agencies'' which, in light of judicial ''micromanage[ment],'' had been ''tak[ing] ever more time and [ ] prepar[ing] ever longer EISs [environmental impact statements] for future projects''. *Id.* at 1513. USDA incorporated this case's holdings into these regulations, availing itself of the latest information and guidance from the Court for its future NEPA application.

For these reasons USDA published an IFR to revise, move and republish, or remove portions of the USDA NEPA implementing regulations, as well as add new portions, given the CEQ NEPA regulations no longer provide a foundation for USDA NEPA regulations and leave the Department without necessary interpretation of, and implementing regulations for, NEPA (90 FR 29632 (July 3, 2025)). In the IFR preamble, USDA addressed how NEPA is a vital part of Federal agency planning and decision-making, and explained that USDA agencies need clear standards and guidelines as soon as possible to conduct the work of providing critical services and funds to Americans, as directed by Congress. USDA is affirming the final rule for these same reasons.

In publishing the IFR, USDA found that notice and comment was not required because the rule was interpretive or a rule of agency procedure or practice under 5 U.S.C 553(b)(A) and that, to the extent prior notice and solicitation of public comment would otherwise be required or this action could not immediately take effect, the need to expeditiously replace its existing rules satisfied the ''good cause'' exceptions in 5 U.S.C. 553(b)(B) and (d). The Administrative Procedure Act (APA) authorizes agencies to issue regulations without notice and public comment when an agency finds, for good cause, that notice

and comment is ''impracticable, unnecessary, or contrary to the public interest,'' 5 U.S.C. 553(b)(B), and to make the rule effective immediately for good cause. 5 U.S.C. 553(d)(3). USDA's prior rules were promulgated as a ''supplement[ ]'' to the CEQ's NEPA regulations, and USDA also ''adopt[ed]'' the CEQ's regulations by incorporation. Following the rescission of CEQ's regulations, USDA's current rules were left to supplement a NEPA framework that no longer exists.

That being so, rescinding the old regulations immediately without replacing them would have created a vacuum that would inflict immense uncertainty on agencies and regulated parties and potentially grind all projects under USDA's purview to a halt. This could have had significant economic effects on USDA's customers due to delays in approvals or investing in projects that could be subject to legal challenges from not having clear uniform NEPA standards, which could have also been delayed. Therefore, pairing the rescission with a new structure immediately was absolutely critical. Because of this need for speed and certainty, notice-and-comment was, to the extent it was otherwise required at all, impracticable and contrary to the public interest.

For the same reasons stated in the present section, above, USDA found that ''good cause'' existed under 5 U.S.C. 553(d)(3) to waive the 30-day delay of the effective date that would otherwise be required. The IFR was accordingly effective immediately. USDA voluntarily took comments on the IFR. USDA requested and encouraged public comments on the IFR with the rationale that comments may inform USDA's decision making during this time of substantial regulatory change.

Several commenters stated that the IFR is subject to the APA, which they allege requires public notice and comment when issuing, amending, or rescinding a rule through informal rulemaking processes unless one of two exceptions applies. These commenters disagreed with USDA's determination that the IFR is procedural or interpretive in nature, and that USDA had good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. These commenters deemed the voluntary 30-day comment period insufficient and requested that the comment period for the IFR be extended given the amount of content to review for not only the USDA IFR, but for those IFRs related to NEPA implementing regulations and procedures published by other departments/agencies at the same time. Other commenters agreed with USDA's good cause rationale regarding the comment period and encouraged USDA to publish a final rule as soon as possible.

As described in the IFR preamble, USDA maintains that notice and comment was not required because the rulemaking fell within various exceptions to the notice-and-comment requirement. *See* 5 U.S.C. 553(b). The APA did not require USDA to publish a notice of proposed rulemaking and consider public comments before the effective date of the rule because three separate exceptions to the APA's general requirement apply here: (1) the USDA departmental and agency-specific NEPA regulations were procedural only and did not dictate or preclude any specific actions that could be taken; rather, the legacy USDA departmental and agency-specific NEPA regulations prescribed *processes* for USDA and agencies to follow when complying with NEPA; (2) the legacy USDA departmental and agency-specific NEPA regulations merely provided an interpretation of a statute rather than making discretionary policy choices establishing enforceable rights or obligations for regulated parties; and (3) good cause exists to forgo notice-and-comment procedures and put the rule into immediate effect because the legacy USDA departmental and agency-specific NEPA regulations were expressly promulgated to supplement CEQ's NEPA regulations.

Following the rescission of CEQ's NEPA regulations, USDA and its agencies were left with vestigial NEPA regulations that ''supplemented'' a CEQ regulatory regime that no longer existed, which was not tenable and could have caused significant economic harm to USDA's customers. 5 U.S.C. 553(b)(A)–(B). Portions of this rulemaking also include general statements of policy. 5 U.S.C. 553(b)(A). Regardless, USDA did provide notice and an opportunity to comment on the IFR for a 30-day period. USDA determined that 30 days was adequate because the scope of the IFR was limited to revising or rescinding previously promulgated USDA departmental and agency-specific NEPA regulations. Moreover, USDA monitored and posted the comments as they were received. The public comment period concluded on August 4, 2025.

Furthermore, USDA's IFR contained all the elements of a notice of proposed rulemaking as required by the APA. 5 U.S.C. 553(b); *see also Little Sisters of the Poor Saints Peter & Paul Home* v. *Pennsylvania,* 591 U.S. 657 (2020). USDA explained its position with sufficient detail to put the public on notice that it was revising the departmental NEPA regulations and rescinding the seven agency-specific regulations and provided its rationale along with an opportunity to comment. The public understood the action USDA was taking and took advantage of the opportunity to comment.

USDA issued two corrections during the comment period. The first was to change the erroneous citation to 7 CFR 2407 to the correct citation of 7 CFR 3407 and correct numbering of items listed in § 1b.4 by redesignating the second paragraph (c)(30)(xiv) as (c)(30)(xix) (90 FR 33871 (July 18, 2025)). The second was to clarify the comment deadline ending date as August 4, 2025, rather than July 30, 2025 (90 FR 34165 (July 21, 2025)).

USDA received approximately 6,075 written submissions in response to the IFR published on July 3, 2025. The overwhelming majority of the comments (approximately 5,020) were identical campaign form letters sent in response to organized initiatives. USDA received approximately 1,055 unique public comments, though many of these were also very similar in form with only minor content added to make them unique. The volume and substantive content of the comments received indicates that the public had an adequate opportunity to comment. Thus, while USDA maintains for the reasons noted above that its IFR is subject to the exceptions set forth in 5 U.S.C. 553(b), this final rule represents the culmination of a process functionally equivalent to a traditional notice-and-comment rulemaking regardless of the initial procedural basis for the IFR.

Since publishing the IFR, USDA has identified opportunities to clarify content included in this final rule to make implementation of the revised regulations more efficient, effective, and consistent with other departments or agencies where applicable.

USDA is issuing this final rule to primarily respond to public comments on the IFR, as well as explain clarifications provided in response to feedback provided by reviewers and implementers of the revised regulations. This final rule explains that USDA is reaffirming its decision to rescind seven agency-specific NEPA regulations and revise the departmental NEPA regulations, subject to the additional revisions made by this final rule. This final rule therefore supersedes the IFR.

USDA considered and is responding to substantive public comments in this final rule. Summaries of and responses to these comments are provided in the pertinent sections of this final rule preamble. Both general support and

opposition to the IFR were expressed by unique comments received. None of the comments received altered USDA's conclusion that there is a need to revise, move and republish, or remove portions of the USDA NEPA implementing regulations, as well as add new portions, given the CEQ NEPA regulations no longer provide a foundation for USDA NEPA regulations and leave the Department without necessary interpretation of, and implementing regulations for, NEPA. Comments did, however, inform opportunities to change some content between the interim and final rule as described in the sections pertinent to the comment topic.

Several commenters on the IFR expressed support for the revised regulations and USDA's approach to fulfilling NEPA's statutory requirements while allowing for efficient, timely, and effective NEPA reviews and program implementation. Many of these commenters described their experience trying to move important infrastructure, energy, timber, and other projects through the NEPA process over the last couple of decades. They expressed frustration with the overly burdensome processes and analysis requirements that were created in response to evolving case law and the frequent revisions to the now-rescinded CEQ NEPA regulations, all of which have created confusion and unnecessary delays. For these reasons, they expressed support for a course-correction on NEPA compliance by aligning the USDA regulations with the intent of the Act in a way that meaningfully evaluates environmental effects to inform the decision-making process while still expanding the various services and resources that USDA programs provide across the nation.

Other numerous commenters on the IFR expressed lack of support for the revised regulations and USDA's approach to fulfilling NEPA's statutory requirements. These commenters see the revised regulations as failing to facilitate informed agency decisions that require a full evaluation of environmental impacts and not promoting a transparent process for informing and engaging the public. Many of these commenters described their positive and results-oriented experience engaging with federal agencies to inform the decision-making process and ensure sufficient environmental effects analysis was completed. They expressed frustration with the rescission of the CEQ NEPA regulations and the confusion and inconsistency that will be created by each federal department and/or agency issuing their own version of NEPA implementing regulations and/or procedures. For these reasons, they encouraged a version of USDA regulations that more readily mirror the processes and procedures that were described in the now-rescinded CEQ NEPA regulations.

USDA acknowledges both these supportive and non-supportive comments.

II. Basis for Consolidating and Revising USDA's NEPA Regulations

A. USDA NEPA Regulations

In 1974, the Secretary of Agriculture issued Memorandum No. 1695, Supplement 4 (Revised), to establish guidelines for the preparation of environmental impact statements and compliance with other procedural requirements of § 102(2) of the NEPA. On May 1, 1979 (44 FR 25606) and July 30, 1979 (44 FR 44802), the Department of Agriculture (USDA) proposed and finalized rules setting forth policies and procedures for compliance with NEPA and CEQ's implementing regulations (40 CFR parts 1500 through 1508). On occasion, the Department has further amended its NEPA regulations to refine and adjust to better meet its organizational and program needs. See 46 FR 47747, 48 FR 11403, 60 FR 66479, 76 FR 4801.

Prior to the IFR, USDA promulgated the most recent iteration of its NEPA regulations in 1995 (60 FR 66479, Dec. 22, 1995), to ''[supplement] the regulations for the implementation of the National Environmental Policy Act (NEPA), for which regulations were published by the CEQ in 40 CFR parts 1500 through 1508 [and incorporate and adopt] those regulations''. Subtitle A, part 1b.1 of title 7 of the Code of Federal Regulations (1995) (hereinafter 7 CFR 1b). USDA NEPA regulations were dependent upon provisions in the 1978 CEQ regulations. Similarly, individual USDA agency NEPA regulations expressly state that their ''purpose'' is to supplement and implement CEQ regulations:

(1) Agricultural Research Service, subtitle B, chapter V, part 520, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 520): ''These procedures incorporate and supplement, and are not a substitute for, CEQ regulations under 40 CFR parts 1500–1508, and Department of Agriculture NEPA Policies and Procedures under 7 CFR part 1b.'' (7 CFR 520.1 (1986));

(2) Animal and Plant Health Inspection Service, subtitle B, chapter III, part 372, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 372): ''These procedures implement section 102(2) of the National Environmental Policy Act (NEPA) by assuring early and adequate consideration of environmental factors in Animal and Plant Health Inspection Service planning and decision-making and by promoting the effective, efficient integration of all relevant environmental requirements under NEPA. The goal of timely, relevant environmental analysis will be secured principally by adhering to NEPA implementing regulations (40 CFR parts 1500–1508), especially provisions pertaining to timing (§ 1502.5), integration (§ 1502.25), and scope of analysis (§ 1508.25).'' (7 CFR 372.1 (2018));

(3) Farm Service Agency, subtitle B, chapter VII, subchapter G, part 799, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 799): ''This part: . . . (2) Establishes FSA procedures to implement the (i) National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 through 4370); (ii) CEQ regulations (40 CFR parts 1500 through 1518); and (iii) USDA NEPA regulations (§§ 1b.1 through 1b.4 of this title).'' (7 CFR 799.1 (2016));

(4) National Institute of Food and Agriculture, subtitle B, chapter XXXIV, part 3407, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 3407): ''The purpose of this regulation is to supplement the regulations for implementation of NEPA established by the CEQ and codified at 40 CFR parts 1500–1508, as adopted by USDA in 7 CFR part 1b.'' (7 CFR 3407.1 (1991));

(5) Natural Resources Conservation Service, subtitle B, chapter VI, subchapter F, part 650, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 650): ''The procedures included in this rule supplement CEQ's NEPA regulations, 40 CFR parts 1500–1508. CEQ regulations that need no additional elaboration to address NRCS-assisted actions are not repeated in this rule, although the regulations are cited as references. The procedures include some overlap with CEQ regulations. This is done to highlight items of importance for NRCS. This does not supersede the existing body of NEPA regulations.'' (7 CFR 650.1 (1979));

(6) Rural Development, subtitle B, chapter XVIII, subchapter H, part 1970, of title 7 of the Code of Federal Regulations (hereinafter 7 CFR 1970): ''This part also supplements the CEQ regulations implementing the procedural provisions of NEPA, 40 CFR parts 1500 through 1508. To the extent appropriate, the agency will take into account CEQ guidance and

memoranda.'' (7 CFR 1970.1 (2016)); and

(7) U.S. Forest Service, chapter II, part 220, of title 36 of the Code of Federal Regulations (hereinafter 36 CFR 220): ''This part establishes Forest Service, U.S. Department of Agriculture (USDA) procedures for compliance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321–4347) and the CEQ regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500 through 1508) . . . This part supplements and does not lessen the applicability of the CEQ regulations and is to be used in conjunction with the CEQ regulations and USDA regulations at 7 CFR part 1b.'' (36 CFR 220.1 (2008)).

Departmental and agency NEPA regulations have been largely organizational and technical, with limited substantive content. The Department's past judgment has been that effective NEPA implementation could be achieved by reliance on a policy statement in 7 CFR 1b.2 and individual USDA agency NEPA regulations for tailored technical procedures. For the reasons described above, the Department now believes that a change is necessary to advance the Department's mission in an efficient, flexible, and innovative manner while ensuring the conservation and protection of the environment.

USDA has analyzed how best to respond to CEQ's interim and final rule and fulfill NEPA's statutory requirements while allowing for efficient program implementation. In the Department's judgment, given that NEPA is a procedural statute that simply directs consideration of reasonably foreseeable environmental impacts, it is sufficient for the Department to issue a set of uniform procedures, and it is not necessary for each subcomponent with NEPA responsibilities across the Department to supplement the Department NEPA regulations. Therefore, USDA is correcting course and right-sizing its NEPA regulations consistent with applicable law.

B. USDA Agency-Specific NEPA Regulation Summaries

1. Statement of Purpose

USDA's revised NEPA implementing regulations, as adopted via this final rule, are a more faithful implementation of the statute as amended in 2023 than its previous version of regulations. These regulations implement major structural features of the 2023 amendments to NEPA, such as deadlines and page limits for environmental assessments (EAs) and environmental impact statements (EISs), as directed at NEPA § 107 (e) and (g), 42 U.S.C. 4336a(e) and (g), and provide that USDA will complete preparation of these documents within the maximum length and on the timeline that Congress intends. They incorporate Congress's definition of ''major Federal action'' and the exclusions thereto, as codified at NEPA § 111(10), 42 U.S.C. 4336e(10). They incorporate Congress's mandated procedure for determining the appropriate level of review under NEPA, as codified in NEPA § 106, 42 U.S.C. 4336. They incorporate Congress's direction with respect to establishment, adoption, and application of categorical exclusions (CEs), as codified at NEPA § 109 (42 U.S.C. 4336c) and § 111(1), 42 U.S.C. 4336e(1). They provide procedures governing project-sponsor-prepared EAs and EISs, as directed at NEPA § 107(f), 42 U.S.C. 4336a(f). They incorporate Congress's revision to the requirements for what an agency must address in its EISs, as codified at NEPA § 102(2)(C), 42 U.S.C. 4332(2)(C), and Congress's requirement that public notice and solicitation of comment be provided when issuing a notice of intent to prepare an EIS, as directed at NEPA § 107(c), 42 U.S.C. 4336a(c). All of these are crucial features of Congress's policy design and its purpose in the 2023 amendments that NEPA review be more efficient and certain.

Moreover, the revised regulations respond to the President's directive in E.O. 14154, *Unleashing American Energy,* 90 FR 8,353, and E.O. 14192, *Unleashing Prosperity Through Deregulation,* 90 FR 9065 (Feb. 6, 2025), to ensure that regulatory requirements are grounded in applicable law and to alleviate any unnecessary regulatory burdens. The revised regulations also reflect the Supreme Court's recent and unequivocal statement that NEPA is a purely procedural statute. The Department is conscious of the Supreme Court's admonition that NEPA review has grown out of all proportion to its origins of a ''modest procedural requirement,'' creating, '' 'under the guise' of just a little more process,'' ''[d]elay upon delay, so much so that the process seems to 'borde[r] on the Kafkaesque.' '' *Seven County,* 145 S. Ct. at 1513–1514. These regulations, therefore, are intended to align NEPA with its Congressionally mandated dimensions, reflecting the guidance given also by the President and the Supreme Court, and making review under it faster, more flexible, and more efficient and effective.

Several commenters on the IFR disagree with USDA's approach in the revised regulations and allege it is not consistent with E.O. 14154, nor is it justified by the executive order which some state is contrary to the statutory direction contained in NEPA. Several other commenters support USDA's approach and expressed their appreciation for USDA's compliance with the E.O. 14154 and attempt to more closely align the departmental NEPA regulations with the statutory intent of NEPA as originally intended and amended.

E.O. 14154 directs all agencies to prioritize efficiency and certainty and avoid and minimize delays and ambiguity in the permitting process. USDA's revised departmental regulations guide compliance with NEPA that will better advance the priorities articulated in E.O. 14154. Consolidating NEPA procedures under one department-wide regulation provides consistency, making USDA's NEPA process more transparent, efficient, and certain for both employees and sponsors, applicants, or other third parties who may work on efforts that span more than one USDA subcomponent.

The rescission of the CEQ NEPA regulations, along with the U.S. Supreme Court decision in *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025), provided additional reason for USDA to take a hard look at the NEPA regulatory structure across the Department. With the broader NEPA regulatory environment upended with the rescission of the CEQ regulations, USDA saw this as an opportunity to make necessary course corrections to the department's NEPA regulatory structure and move away from the overcomplicated and burdensome NEPA regulatory framework that evolved over the decades due to promulgation of agency-specific NEPA regulations that continued to layer process requirements on top of those already required by CEQ's NEPA regulations. While previous USDA NEPA regulations (to include agency-specific regulations) necessarily incorporated and adopted the CEQ regulations, CEQ's rescission of their NEPA regulations means departments and agencies are no longer entirely beholden to interpreting and applying NEPA as laid out in any version of 40 CFR parts 1500–1508.

USDA acknowledges that CEQ's regulations previously provided a framework for NEPA compliance and informed agency practices. However, as CEQ explained in its final rule affirming the removal of its regulations, CEQ lacks

independent statutory authority to maintain NEPA implementing regulations that bind agencies in the absence of an executive order delegating rulemaking authority to CEQ. 91 FR at 622–23; *see also* Executive Order 14154, *Unleashing American Energy,* 90 FR 8,353. Accordingly, departments and agencies may now exercise discretion to adopt procedures consistent with NEPA and executive policies. Indeed, as explained above, because USDA's prior NEPA implementing procedures were expressly designed as a supplement to CEQ's rescinded regulations, CEQ's recission necessitated that USDA adopt new procedures designed to independently implement NEPA.

To this end, USDA is not carrying forward process requirements, which may have been codified in now rescinded regulations, where these do not prioritize efficiency and certainty and do not avoid and minimize delays and ambiguity in the permitting process. Additionally, USDA took into consideration that USDA subcomponents and responsible officials have multiple obligations to consider, such as analyzing the most important resource impacts within statutorily mandated page limits and deadlines, being responsive to varying levels of public interest, managing fluctuations in budget and workforce capacity, and accounting for other situations that require process flexibility. Therefore, in revising the departmental NEPA regulations, USDA consulted with CEQ under NEPA section 102(2)(B), 42 U.S.C. 4332(2)(B) and placed emphasis on: (1) more closely aligning the procedures and processes outlined in the revised 7 CFR 1b regulations with statutory requirements; and (2) promoting responsible official discretion to determine whether to conduct certain processes based on circumstances unique to the USDA subcomponent and the proposal or project at hand.

Furthermore, USDA is currently coordinating with CEQ on the *Permitting Technology Action Plan* that responds to the Presidential Memorandum of April 15, 2025 on *Updating Permitting Technology for the 21st Century.* This permitting technology update is departmental in scope. Logistically and fiscally, it is more efficient and effective to have the entire Department operating under one set of NEPA regulations as part of information technology modernization, improved customer service delivery, and establishment of more predictable and consistent permitting and environmental review processes—rather than trying to accommodate and design around seven or more ways of conducting NEPA within the same Department, as would be the case with the seven agency-specific NEPA regulations that had been promulgated within USDA.

Some commenters noted that USDA's IFR was not consistent with regulations or procedures published in other department and agency IFRs. USDA recognizes that its approach to implementing NEPA may differ from other department and agency approaches to implementing NEPA. Through this final rulemaking, USDA is revising and affirming NEPA implementing procedures that fit its programs and authorities while maintaining government-wide consistency to the extent possible. As previously discussed, following the removal of CEQ's NEPA regulations, USDA has flexibility to determine department and agency-specific NEPA procedures to modernize, simplify, and accelerate NEPA reviews and support responsible development.

Furthermore, USDA notes that NEPA requires departments/agencies to consult with CEQ when developing NEPA procedures. *See* 42 U.S.C. 4332(2)(B). NEPA does not require departments and agencies to coordinate with one another to ensure identicality between their respective NEPA procedures, let alone between the means by which each department/agency issues those procedures. Department and agency statutory authorities and subject-matter expertise and capacity differ greatly, and variance on these matters is to be expected. Indeed, department and agency NEPA regulations and procedures were not homogenous or identical during the era in which CEQ maintained overarching implementing regulations, as demonstrated by seven non-identical, agency-specific NEPA regulations that had been promulgated within USDA, and there is no requirement or reasonable expectation that they should now be consistent with other departments and agencies when the CEQ regulations have been vacated and rescinded.

Several commenters on the IFR allege that the revised regulations require NEPA compliance and an EIS, or EA at a minimum, needs to be completed.

The establishment of NEPA implementing regulations does not require a NEPA analysis. *See Heartwood* v. *U.S. Forest Serv.,* 230 F.3d 947, 954–55 (7th Cir. 2000) (finding that neither NEPA or the CEQ regulations required the Forest Service to conduct an EA or an EIS prior to the promulgation of its procedures creating a CE).

Several commenters on the IFR allege the changes made to the departmental NEPA regulations, as well as rescission of some agency NEPA regulations, requires programmatic consultation with U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act (ESA).

Neither the revised USDA NEPA implementing regulations themselves nor the rescission of agency-specific NEPA regulations would result in adverse impacts on endangered or threatened species or designated critical habitat. NEPA and USDA's implementing regulations provide procedures to ensure that agencies account for the environmental impacts of their actions. The commenter's alleged harm to species is speculative. Procedural regulations do not create proximate cause of any potential harm or take, which would result from future agency actions rather than USDA's procedural structure. Such future actions would be subject to the ESA's consultation requirements. Therefore, Section 7 of the ESA does not apply to this rulemaking.

USDA has revised its NEPA implementing regulations to conform to the 2023 statutory amendments, to respond to President Trump's direction in E.O. 14154 to, ''[c]onsistent with applicable law, prioritize efficiency and certainty over any other objectives, including those of activist groups, that do not align with the policy goals set forth in section 2 of [that] order or that could otherwise add delays and ambiguity to the permitting process,'' (E.O. 14154, Section 5(c)) and to address the pathologies of the NEPA process and NEPA litigation as identified by the Supreme Court. Where USDA has retained an aspect of its preexisting NEPA implementing regulations, it is because that aspect is compatible with these guiding principles; where USDA has revised or removed an aspect, it is because that aspect is not so compatible.

2. General Overview of Changes

USDA is modifying the department-level NEPA regulations found at 7 CFR 1b to provide a valid foundation from which USDA mission areas, agencies, and staff offices (or subcomponents) implement NEPA. 7 CFR 1b primarily retains and moves the placement of the following information currently contained in 7 CFR 1b and the individual agency NEPA regulations below: CEs, which includes a list of USDA agencies and offices excluded from completing an EA or EIS; and emergency action provisions. Some additional sections from agency-specific

regulations are also retained, as described in the agency-specific regulation discussions listed below. Except for the information to be moved to the revised 7 CFR 1b regulation, the following individual agency NEPA regulations are rescinded in full:

—Agricultural Research Service: 7 CFR 520;
—Animal and Plant Health Inspection Service: 7 CFR 372;
—Farm Service Agency: 7 CFR 799;
—National Institute of Food and Agriculture: 7 CFR 3407;
—Natural Resources Conservation Service: 7 CFR 650;
—Rural Development: 7 CFR 1970; and
—U.S. Forest Service: 36 CFR 220.

The following summaries capture additional specific changes that are occurring for each affected USDA regulation. For all regulations, references to CEQ's rescinded NEPA implementing regulations (40 CFR parts 1500 through 1508) were removed. Where USDA agency NEPA regulations cited portions of the agency regulation that are now being rescinded, those references were also removed and revised to refer to the applicable section in the revised 7 CFR 1b regulation. Where USDA agency NEPA regulations used agency-developed terms, such as those associated with agency-developed forms and other document types, these have been generalized to allow for the application of consistent Department implementing regulations for NEPA. As discussed previously, USDA agencies will be able to issue agency-specific procedures through technical and program guidance that aligns with NEPA and the Department regulations at 7 CFR 1b.

3. USDA Departmental NEPA Regulations (7 CFR 1b)

USDA is revising the department-level NEPA regulations at 7 CFR 1b to provide necessary guidance and direction for implementing NEPA in the absence of the CEQ NEPA implementing regulations, as rescinded effective April 11, 2025.

With the CEQ NEPA implementing regulations having been rescinded, USDA identified opportunities to reduce redundant and duplicative regulation revision efforts for agency-specific NEPA regulations and instead establish necessary direction at the department-level. This allows the Department to establish consistency across the subcomponents, where desired, in how NEPA is implemented.

Some commenters on the IFR supported USDA's decision to issue revised regulations alone rather than issuing regulations and procedures/technical guidance together or procedures/technical guidance alone. Commenters view this regulations-only approach as establishing more transparency, stability, and durability of USDA's intended approach and commitment to implementing NEPA over the long-term, whereas procedures/technical guidance can be updated at any time with little to no public notice.

USDA is adopting the regulations-only approach in this final rule. It finds that a department-wide regulation offers consistency, stability, transparency, and clear expectations for USDA subcomponents and their stakeholders.

The following provides a summary of what is included or revised in each section of the department-level NEPA regulations, as well as the rationale for the changes.

7 CFR 1b.1—Purpose: Previous paragraphs (a) and (b) in this section are removed. Paragraphs (a) through (d) are added.

In this section, USDA removes reference to CEQ NEPA regulations at 40 CFR parts 1500 through 1508 and adds clarification of the purpose of the revised departmental NEPA regulations. It codifies the Department's determination that this rule is an interpretative rule. This section specifies the mission areas, agencies, and staff offices (hereinafter USDA subcomponents or subcomponent) the part applies to.

In the final rule, 7 CFR 1b.1(c) is revised to remove ''the U.S. Department of Agriculture'' and replace it with the acronym USDA. This aligns with the use of USDA throughout the regulations.

No changes have been made to 7 CFR 1b.1(a), (b), and (d) relative to the version released with the IFR in July 2025.

7 CFR 1b.2—Policy: Previous paragraphs (a), (b), (c), and (d) in this section are removed. Paragraphs (a) through (i) are added and this section is now revised to read as indicated in 7 CFR 1b.2. In this section, USDA outlines the Department's policy on complying with NEPA and specifies roles and responsibilities at the Department for managing NEPA compliance.

7 CFR 1b.2(a) outlines USDA's intent to comply with NEPA. In the final rule, the phrase ''as amended by the Fiscal Responsibility Act of 2023'' is revised to ''as amended''. NEPA was amended again by the One Big Beautiful Bill Act of 2025 one day after the IFR published. Additional legislation could be proposed and passed that would amend NEPA again; therefore, USDA finds it appropriate to keep the language regarding amendments to NEPA general instead of citing specific Acts to circumvent the need for administrative updates to the regulations in the future.

7 CFR 1b.2(b) clarifies how USDA will manage NEPA compliance. The final rule changes the USDA senior agency official from the Under Secretary of Natural Resources and Environment to the Deputy Secretary of USDA, as referenced in 7 CFR 1b.2(a) and (b) (to include applicable paragraphs). As all agency or mission area NEPA regulations have been rescinded and USDA is operating under one department-wide regulation, it was determined the senior agency official should be a level higher than a mission area Under Secretary as the senior agency official holds responsibility for ensuring overall Department compliance with NEPA. (All references to the ''senior agency official'' throughout the regulations were revised to reflect this change and any references to the Under Secretary of Natural Resources and Environment were removed throughout the regulations.) This section provides clarification on the issuance of agency-specific NEPA guidance for processes and practices that address agency-specific laws and program efficiency. 7 CFR 1b.2(b)(2) is revised to refer to ''any mission area'', rather than ''another mission area''. This change was necessitated because of the change in the senior agency official (now the Deputy Secretary, not a mission area Under Secretary).

Some commenters on the IFR disagreed with the language in 7 CFR 1b.2(b)(2)(vi) that allows subcomponents to establish procedures for bonding provisions, alleging the language is ambiguous and questioning USDA's statutory authority for this provision. Commenters expressed concern that this provision could be misinterpreted as allowing bonding requirements on the public to participate in the NEPA process as it is not clear what parties this provision applies to. This provision is removed and the list in 7 CFR 1b.2(b)(2) renumbered to reflect this change.

7 CFR 1b.2(c) allows USDA subcomponents to establish subcomponent-specific NEPA guidance so long as the guidance avoids creating unnecessary process. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.2(d) adds requirements to submit to Congress on an annual basis a report that identifies any EA and EIS that such lead agency did not complete by the deadline described in NEPA § 107(g), 42 U.S.C. 4336a(g), as amended in 2023, and provide an explanation for

failure to meet deadlines. This section specifies USDA roles and responsibilities for completing this report. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.2(e) adds the process for how USDA subcomponents will determine when NEPA does not apply. Consideration of whether the action is a major Federal action is added, in line with the definition of major Federal action in NEPA, as amended by the FRA. NEPA does not apply to ''non-Federal actions''; therefore, under the terms of the statute, NEPA does not apply to actions with no or minimal Federal funding, or with no or minimal Federal involvement where a Federal agency cannot control the outcome of the proposal. A but-for causal relationship is insufficient to make an agency responsible for a particular action under NEPA. See *Dept. of Transp.* v. *Pub. Citizen,* 541 U.S. 752, 767 (2004). By the same token, minimal Federal funding or involvement, which may in a causal sense be a but-for cause of an action, does not by itself convert that action into a Federal action within the meaning of the language of the statute.

Several commenters on the IFR disagreed with the definition of ''major Federal action'' and proposed changes to the definition, while several other commenters supported the definition as it is defined in NEPA and encouraged USDA to accurately apply it to agency programs and actions, especially as it pertains to loans and loan guarantees. Some commenters disagreed with inclusion of the clause that states the ''terms 'major' and 'Federal action' each have independent force'' and alleged this inappropriately changes the definition of major Federal action as provided in NEPA. Some commenters proposed that USDA include a list in 7 CFR 1b that identifies actions that are not considered major Federal actions.

Some commenters on the IFR also disagreed with the consideration of ''whether the proposal is an action for which another statute's requirements serve the function of the Federal agency's compliance with the Act'' and suggested this was not appropriate to include as considerations for when NEPA applies and therefore should be removed.

The term ''major Federal action'' is statutorily defined in NEPA, as amended by the Fiscal Responsibility Act of 2023. 42 U.S.C. 4336e(10). USDA does not have the authority to change the definition. The clarification that the terms ''major'' and ''Federal action'' have independent force is to prompt consideration that an action may be Federal but not major, or major but not Federal. This does not change the definition of major Federal action but rather ensures it is accurately considered and applied. The definition of, and exclusions from, the NEPA term of art ''major Federal action'', read holistically, support the view that the words ''major'' and ''Federal'' within that term of art do have independent force—*e.g.,* ''non-Federal actions'' with ''no or minimal'' federal funding or involvement (*i.e.,* actions that are not ''Federal'' in common-sense terms, and/or that are not ''major'' when viewed from the perspective of ''how much'' of the action is truly Federal), are not ''major Federal actions''. Therefore, the clarification that the terms ''major'' and ''Federal action'' have independent force is in keeping with the text and structure of NEPA generally and the definition of ''major Federal action'' specifically.

USDA considered whether the regulations should specify those actions that are not considered major Federal actions; however, it was decided these determinations are best made on a case-by-case basis—either at a program or project level—by USDA subcomponents so that the regulations do not have to be routinely revised to amend this list. As the regulations apply to multiple USDA subcomponents, it would be difficult to create a list that universally applies to all USDA subcomponents. 7 CFR 1b.2(e) clarifies that threshold determinations of whether NEPA applies may be made on a case-by-case or programmatic basis and record keeping of the justifications for these determinations is advisable. This includes determination of whether an action is a major Federal action.

With regards to consideration of whether the proposal is an action for which another statute's requirements serve the function of the Federal agency's compliance with the Act, USDA finds this ''functional equivalent'' provision is appropriate. Other laws, such as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), may serve as a functional equivalent for NEPA. The functional equivalent of NEPA for CERCLA (Superfund) actions is the CERCLA Remedial Investigation (RI) and Feasibility Study (FS) process, which includes the Record of Decision. While NEPA requires the formal preparation of an EIS, the RI/FS process under CERCLA assesses a site's impacts and selects a remedy, embodying the intent of NEPA.

The Department is not proposing any change in its current application of the functional equivalent doctrine by codifying it. It is codifying the status quo by incorporating the functional equivalence doctrine into its regulations (7 CFR 1b.2(e)(6)). This is a longstanding doctrine from case law. See Mandelker, Daniel NEPA Law and Litig. 5:16 (2025). ''Where federal regulatory action is circumscribed by extensive procedures, including public participation, for evaluating environmental issues and is taken by an agency with recognized expertise, formal adherence to the NEPA requirements is not required unless Congress has specifically so directed.'' Id., quoting State of MD. v. Train, 415 F. Supp. 116, 122 (D. Md. 1976).

In the final rule, references to ''USDA'' in 7 CFR 1b.2(e) and applicable paragraphs are revised to ''USDA subcomponent'' to be consistent with terminology used throughout the revised regulations.

7 CFR 1b.2(f) adds the process for how USDA subcomponents will determine the level of NEPA that applies. Where some agency-specific NEPA regulations identified categories of actions generally requiring an EA or EIS, these sections have not been carried forward into 7 CFR 1b. NEPA does not require the identification of categories of actions other than those actions that are categorically excluded from documentation in an EA or EIS when a Federal agency has determined the actions normally do not significantly affect the quality of the human environment within the meaning of NEPA § 102(2)(C), 42 U.S.C. 4332(2)(C), NEPA § 111(1), 42 U.S.C. 4336e(1)). Because the determination of no significance was made during the process of establishing the CE, it is the consideration of whether an extraordinary circumstance exists that may preclude the use of the category (see 7 CFR 1b.3(f)). In determining whether a CE applies to a proposed action, and therefore does not require preparation of an EA or EIS, an agency should evaluate the action for extraordinary circumstances that indicate a normally excluded action is likely to have reasonably foreseeable significant adverse effects. Determinations of whether to prepare an EA or EIS should be based on the anticipated degree of effect, in accordance with NEPA, not on the type of action. An EA shall be prepared when a Federal agency finds that a CE does not apply to an action and the action does not have a reasonably foreseeable significant impact on the quality of the human environment, or the significance of such effect is unknown (NEPA § 106(b)(2) (42 U.S.C. 4336(b)(2); 7 CFR

1b.2(f)(2)(iv)(A)) and 1b.5(a)). An EIS shall be issued when a Federal agency finds that a CE does not apply and determines an action has a reasonably foreseeable significant impact on the quality of the human environment (NEPA § 106(b)(1), 42 U.S.C. 4336(b)(1); 7 CFR 1b.2(f)(2)(iv)(B) and 1b.7(a)). This policy accurately reflects the statutory requirements of NEPA for determining the appropriate level of NEPA review (CE, EA, or EIS). In the final rule, the references to ''USDA'' in 1b.2(e), (e)(1), and (e)(4) were revised to read as ''a USDA subcomponent''.

This section also includes the new considerations for whether the effects of the proposed action (or alternatives) are significant (7 CFR 1b.2(f)(3)). When defining considerations for significance, USDA is using the concept of ''affected environment'' and a list of types of effects that include both short- and long-term effects, both beneficial and adverse effects, effects on public health and safety, economic effects, and effects on the quality of life of the American people.

Some commenters on the IFR disagreed with USDA's considerations for significance. Some would like to see the considerations of significance as they existed in the CEQ NEPA regulations prior to the 2020 revision (context and intensity framing). Others did not support the inclusion of considerations for social and economic factors as part of the affected environment and degree of effects, alleging this will expand—not streamline—effects analysis beyond what NEPA intended. Still other commenters supported the addition of considerations for social and economic effects.

Congress enacted NEPA to declare a national policy ''to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and [to] fulfill the social, economic, and other requirements of present and future generations of Americans''. 42 U.S.C. 4331(a). Given the statutory language as it relates to fulfilling the social and economic requirements of present and future generations, USDA finds it appropriate to include considerations of social (*i.e.,* ''effects on the quality of life of the American people'') and economic effects in the consideration of affected environment and degree of effects.

With regards to the rationale the responsible official provides as to whether the degree of effect is significant, USDA is aligning considerations of significance with the statutory items that must be disclosed in an EIS, per NEPA § 102(2)(C)(i–v) (42 U.S.C. 4332), such as disclosure of reasonably foreseeable environmental impacts (as both short- and long-term effects), consequences of not implementing the action, irreversible and irretrievable commitment of Federal resources, and long-term productivity of the human environment. Instead of leaving the list of types of effects as disparate disclosures, USDA finds it logical to bring these together when it comes to considerations for significance. The terms ''compares to'' and ''contributes to,'' as included in the considerations for significance, provide the necessary precision or focus for conducting the analysis of the effects and considering how the potential impacts compare to the consequences, especially as it relates to effects on public health and safety, economics, and the quality of life of the American people, as well as identifying irreversible and irretrievable commitments and how these contribute to loss of long-term productivity for the human environment. Outlining the significance considerations in this manner allows those conducting effects analysis to better focus on the issues to be analyzed in detail for reasonably foreseeable significant impacts and allows the responsible official to better communicate their rationale for deciding how to proceed and why.

As part of the final rule, 7 CFR 1b.2(f)(3)(iii)(A) is revised to add ''and beneficial'' to the phrase ''How the unavoidable short- and long-term adverse [and beneficial] impacts . . .''. As pointed out by some commenters on the IFR, it is appropriate to also compare the beneficial impacts of implementing the action to the short- and long-term adverse or beneficial consequences of not implementing the action, especially as 7 CFR 1b.2(f)(3)(ii)(B) and 7 CFR 1b.11(a)(12)(i) say both beneficial and adverse effects should be considered. 7 CFR 1b.2(f)(3)(iii)(B) is revised to change ''or'' to ''and'' and add the word ''Federal'' in the phrase ''How the irreversible [and] irretrievable commitment of a [Federal] resource'', as this aligns with the statutory language found in NEPA § 102(2)(C)(v), 42 U.S.C. 4332(2)(C)(v).

7 CFR 1b.2(g) specifies that as part of USDA subcomponent decision-making, NEPA should be integrated with other environmental analyses to demonstrate compliance with other laws. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.2(h) adds limitations on actions taken during the NEPA process. In the final rule, 7 CFR 1b.2(h) is revised to correct the citation ''§ 1b.2.h'' to ''paragraph (h)'' and change the reference to ''USDA'' to ''USDA subcomponent'' or ''subcomponent'' to be consistent with terminology used throughout the revised regulations.

7 CFR 1b.3—Categorical Exclusions and Findings of Applicability and No Extraordinary Circumstance: Revises the title of this section from ''Categorical Exclusions'' to ''Categorical Exclusions and Findings of Applicability and No Extraordinary Circumstance''. Department-level CEs previously included in paragraph (a) of this section are moved to § 1b.4, with revisions occurring to these as described in the discussion of changes for § 1b.4. Previous paragraphs (b) and (c) in this section are removed. Paragraphs (a) through (j) are added and this section is now revised to read as indicated in 7 CFR 1b.3.

This section adds procedures for establishing and revising (7 CFR 1b.3(b)), adopting (7 CFR 1b.3(c)), removing (7 CFR 1b.3(d)), and applying (7 CFR 1b.3(e)) CEs.

In the final rule, 7 CFR 1b.3(a) and 7 CFR 1b.3(c)(3) are revised to change the phrase ''USDA's Natural Resources and Environment mission area'' to ''USDA''. This change is necessary due to the senior agency official changing from the Under Secretary of Natural Resources and Environment to the Deputy Secretary. In the last sentence of 7 CFR 1b.3(a), the term ''USDA agency'' at the end of the sentence was changed to ''USDA subcomponent'' to be consistent with terminology used throughout the revised regulations.

In the final rule, 7 CFR 1b.3(b)(3) is revised to clarify that public notice must be provided in the **Federal Register** regarding USDA's establishment or revision of a CE and location of availability of any additional written record. As previously written, it was interpreted that the entire written record must be provided in the **Federal Register**, and that was not the intent. The intent is to make the public aware of where the written justification can be found, which does not need to be in the **Federal Register** notice itself. The final rule also revises the term ''justification'' to ''record'' in this section, as well as in 7 CFR 1b.3(d)(1–3) and revises references to ''categories'' in § 1b.3(c)(3)(iii) to now read as ''categorical exclusions''.

7 CFR 1b.3(e) adds clarification that USDA subcomponents may use any of

the CEs listed at 7 CFR 1b.4, as well as use non-USDA categories that were adopted by any other USDA subcomponent as specified at § 1b.3(c)(3)(ii).

Several commenters on the IFR disagreed with the provision in the revised regulations that allows any USDA subcomponent to use the CEs now listed in the departmental NEPA regulations at 7 CFR 1b.4, which were initially promulgated through USDA agency-specific NEPA regulations that have now been rescinded. Some commenters also disagreed with the provision that allows any USDA subcomponent to use a CE already established by another USDA subcomponent or adopted from another agency by another USDA subcomponent. Commenters allege additional analysis is required to understand the effects anticipated if the CEs are used by different USDA subcomponents. Some commenters want all agency-promulgated CEs to be formally ''adopted'' by the Department to allow for appropriate use by subcomponents implementing actions in different settings.

As explained in the preamble for the IFR, the USDA NEPA regulations have always included Department-wide CEs (now moved to 7 CFR 1b.4). See 48 FR 11403 (March 18, 1983) and 60 FR 66481 (Dec. 22, 1995). Given the issuance of one set of departmental NEPA regulations to provide consistency for all USDA subcomponents implementing NEPA, the rescission of agency-specific NEPA regulations, and the overlap of similar programs and activities across USDA mission areas and agencies, the Department finds it is appropriate for USDA subcomponents to apply the same CE where the actions proposed by the subcomponent apply to the actions described by a CE. The focus of a CE is on the character of the actions being proposed and ensuring such actions do not result in an extraordinary circumstance that creates reasonable uncertainty whether the degree of the effect is significant or certainty that a reasonably foreseeable significant effect will occur. The focus is not on the identity of the agency that conducts the action. Where a CE is relevant only to a USDA subcomponent's bespoke program, the CE is already written in a way that its use will be limited to that subcomponent. For example, CE USDA–26c–USFS applies to the ''Approval, modification, or continuation of minor, short-term (1 year or less) special uses of NFS lands''; therefore, this CE clearly only applies to the U.S. Forest Service. Additionally, the revised regulations applied numbering that includes the acronym of the USDA subcomponent that initially promulgated the CE, making it clear which subcomponent the CE generally applies to or indicating which subcomponent should be consulted to ensure proper application should another USDA subcomponent want to apply the CE.

There is, therefore, no reason in principle that a USDA subcomponent cannot rely on another agency's CE or adopted CE for the same kind of proposed action. In the case of USDA subcomponents being able to use one another's CEs, USDA subcomponents also share the same extraordinary circumstances review protocol and are readily able to confer with their fellow USDA subcomponents when questions arise. Similarly, for CEs that have already been adopted by a USDA subcomponent, another USDA subcomponent using that CE for the first time can readily confer with the agency that originally promulgated the CE without going through another formal adoption process. In addition, should a USDA subcomponent's proposed action be different from the proposed action encompassed by the CE originally promulgated by another agency, there would be no reason for the USDA subcomponent to rely on that other agency's CE, and the concerns the commenter raises would not arise.

Upon reviewing CEs adopted by USDA agencies since 2024, USDA found that 5 categories had been adopted twice by USDA agencies (Rural Utility Service and Forest Service) for actions that overlap mission areas and instances where these two agencies often function as joint leads or participating agencies on an action. Furthermore, the one example raised by a commenter alleging a CE promulgated by the Farm Service Agency for construction or ground disturbance actions could not apply to the Forest Service is moot because the CE has already been adopted by the Forest Service. These examples readily illustrate why USDA included the provisions in the revised regulations that allow USDA subcomponents to use any CE originally promulgated by another USDA subcomponent (as found in 7 CFR 1b.4) or adopted by another USDA subcomponent (as listed on a USDA website). USDA subcomponents already consult with each other on the historical use and substantiation used to establish a CE when they are unsure if a CE supports an action.

7 CFR 1b.3(e) also clarifies that USDA subcomponents may apply one or more CEs to a proposed action.

Several commenters on the IFR disagreed with the clarification in the revised regulations that more than one CE can be applied to a set of actions, alleging that this practice could lead to significant adverse impacts when ''stacking'' the use of more than one CE in the same area.

In some circumstances, the combination of CEs can cover all aspects of a proposed action and support a subcomponent's determination that the proposed actions, when considered in their entirety, are not likely to have a reasonably foreseeable significant adverse effect. The intent is not to allow for improper segmentation, whereby a subcomponent would improperly divide a single project into arbitrary segments divorced from logical termini, *e.g.,* by dividing a 10-acre project into 1-acre segments. Rather, the intent is to clarify that a subcomponent may apply multiple CEs when considering proposed actions in their entirety. In such cases, the subcomponent must make a single, comprehensive determination that the CEs, when applied together, are applicable to the action as a whole and do not undermine the conclusion that the proposed action as a whole does not warrant further review in an EA or EIS.

A USDA subcomponent's reliance on multiple CEs is not precluded by NEPA, as they constitute ''*categories* of action,'' not distinct ''actions,'' and therefore a subcomponent can reasonably determine that an action or all constituent elements of an action fit within multiple designated ''categories''. If applying more than one CE to a set of actions, the cause-effect relationship must account for the impact of all the actions. It may very well be that the actions as a whole, even though implemented under more than one category, do not lead to an extraordinary circumstance or significant effects. Therefore, the actions may appropriately proceed under more than one category and would continue to be excluded from further analysis in an EA or EIS.

In summary, no changes have been made to section 1b.3(e) relative to the version released with the IFR in July 2025.

7 CFR 1b.3(f) adds procedures for considering extraordinary circumstances, explanation of what constitutes an extraordinary circumstance, and clarification for how the subcomponent should proceed based on the determination of whether there are extraordinary circumstances. Consideration of extraordinary circumstances takes into account the nature of the proposed actions and the context of the potentially affected environment, with a list of resources or

circumstances the responsible official may want to screen for in the potentially affected environment. This section also clarifies an extraordinary circumstance means a unique situation exists in which actions that normally do not have significant impacts and are therefore categorically excluded from documentation in an EA or EIS, create uncertainty whether the degree of the impact is significant for the relevant resources considered (7 CFR 1b.11(a)(17)). The mere presence of one or more of the resources or circumstances listed in 7 CFR 1b.3(f)(1) does not mean an extraordinary circumstance exists. If there is a cause-effect relationship (impact) between the proposed actions and the resource considered, an extraordinary circumstance exists only when there is reasonable uncertainty whether the degree of the effect is significant or certainty that the degree of effect is significant. In such instances, the agency will conduct additional NEPA review under an EA or EIS, as appropriate.

In the final rule, 7 CFR 1b.3(f)(2) is revised to add clarification to the sentence that begins with ''If there is a cause-effect relationship . . .''. This sentence is split into two sentences and the first sentence now reads as: ''If there is a cause-effect relationship (impact) between the proposed actions and the resource considered, the responsible official should consider if there is something unique to the actions proposed or to the condition of the affected environment or resource(s) considered that creates uncertainty about the degree of potential effect or would lead to a reasonably foreseeable significant effect.'' This clarification better conveys USDA's intent for how responsible officials should consider extraordinary circumstances. Categories are identified for those actions that routinely have been found to not result in reasonably foreseeable significant effects, and thus that the agency has determined ''normally does not significantly affect the quality of the human environment. However, when applying a CE, responsible officials should consider if there is something unique to the actions proposed or to the condition of the affected environment or resource(s) considered that creates uncertainty about the degree of potential effect or would lead to a reasonably foreseeable significant effect.

Previously, some agencies had mandated lists of resources to consider for extraordinary circumstances while other agencies had no list. USDA adds a list of resources (based on the previously existing lists in some USDA agency-specific NEPA regulations) a responsible official may consider for extraordinary circumstances but does not mandate any of these must be considered. Considerations for extraordinary circumstances will be made at the responsible official's sole discretion and determined on a case-by-case basis, considering the nature of the proposed action and the potentially affected environment. This section adds clarification on what constitutes the existence of an extraordinary circumstance and specifies that effects analysis completed to demonstrate compliance with other applicable laws also can be relied on to determine no extraordinary circumstance exists for the resource considered. The Department added this clarification because some agencies were creating duplicative and unnecessary reports in the past.

Several commenters on the IFR expressed concern with the way extraordinary circumstances are defined in the revised regulations. Commenters also generally did not support the clarification that responsible officials have sole discretion to determine resources to be considered for extraordinary circumstances, to modify the proposed action or take other steps to create certainty regarding the degree of effect, or to determine there is ''reasonable certainty'' a reasonably foreseeable significant impact will not occur. Some commenters also requested that consideration of ''important or prime agricultural, forest, or range lands'' be removed from resources that may be considered, and the consideration of ''American Indians and Alaska Native religious or cultural sites'' be added to resources that may be considered.

USDA finds it appropriate to provide for responsible official sole discretion when determining resources for consideration for extraordinary circumstances, as this determination shall be based on the nature of the actions proposed and in the context of the potentially affected environment. Responsible official discretion and determinations of whether an extraordinary circumstance exists is informed by interdisciplinary review (7 CFR 1b.3(g)(2)(v)). To make this clearer in response to the comments expressing concern about responsible official ''sole discretion'', a sentence in 7 CFR 1b.3(f) is revised to read: ''Resources for consideration for extraordinary circumstances will be determined at the responsible official's sole discretion, [added: as informed by interdisciplinary review] . . .''.

Rather than adding undue process for each and every action undergoing a CEs review, the USDA regulations promote responsible official discretion to determine which resources need to be considered for extraordinary circumstances. Consideration of some resources may be filtered out when looking at what is present in the potentially affected environment and where or how actions will occur.

Section 1b.3(f)(1), which provides a non-exclusive list of the resources the responsible official may screen for in the potentially affected environment when considering extraordinary circumstances, is revised in the final rule to change ''important or prime agricultural, forest, or range lands'' to ''prime, unique, or important farmland as defined by and subject to the provisions of the Farm Protection Policy Act''. The extraordinary circumstance that was listed as ''Property (*e.g.,* sites, buildings, structures, and objects) of historic, archeological, or architectural significance, as designated by Federal, Tribal, State, or local governments, or property eligible for listing on the National Register of Historic Places'' in the IFR is revised in the final rule to have the last portion of the sentence read as ''or property eligible for or listed on the National Register of Historic Places''. The intent is for properties already listed on the National Register of Historic Places to be considered for extraordinary circumstances, but the previous wording implied it was only properties eligible for listing that needed to be considered. The same section is also revised in the final rule to add ''American Indians and Alaska Native religious or cultural sites'' as a standalone consideration.

7 CFR 1b.3(g) adds the concept of a finding of applicability and no extraordinary circumstance (FANEC), which applies to all CEs. For those categories requiring NEPA documentation, the regulations specify that these determinations must be documented to demonstrate the appropriate use of the category, adequate consideration of extraordinary circumstances, and a determination that no extraordinary circumstance exists. The regulations give agencies flexibility on how to document these determinations so long as certain items are addressed. It also clarifies documentation considerations for other applicable environmental laws and regulations and timing of action.

In the final rule, 7 CFR 1b.3(g)(2)(iii) is revised to replace the word ''certify'' with the phrase ''state how'', to now read: ''Describe the proposed action and state how the category or categories

used are applicable to the actions''. The word ''certify'' was raising questions internally as to what was required to certify the category or categories used, when the intent is merely to state how the category(ies) apply.

7 CFR 1b.3(h) clarifies that USDA subcomponents may rely on other CE determinations. In the final rule, 7 CFR 1b.3(h) is revised to clarify that reliance on CE determinations can also include those determinations made within the USDA subcomponent, not just those determinations of other agencies, as there was internal interpretation that USDA subcomponents could not rely on their own previous determinations. The title of this section was also revised to remove the phrase ''of other agencies'', as this phrase was contributing to much of the misinterpretation. This change also aligns with the reliance approach outlined in 7 CFR 1b.9(e)(8). This section was also revised to clarify how responsible officials may rely on CE determinations. Reliance can just be on a previous determination that a category or categories applies to the activities being proposed when the activities are substantially the same as those described by the USDA subcomponent or other agency, but the extraordinary circumstance considerations are not substantially the same. Reliance can also be on both the previous determination that a category or categories applies to the activities being proposed when the activities are substantially the same and the previous determination that no extraordinary circumstances exist when the potentially affected environment and resources considered for extraordinary circumstances are substantially the same. The phrase ''substantially the same'' was already used in 7 CFR 1b.3(h) and was used in 7 CFR 1b.9(e)(8)(i) (as published in the IFR); therefore, this phrase is not solely introduced as part of this final rule but is appropriately used in place of language that was similar in meaning but not exact in wording. As previously worded, it was not clear internally that reliance could only be for the finding that the category (or categories) fits the actions being proposed, or for both that finding and the finding that no extraordinary circumstances exist, as specified at 7 CFR 1b.3(g). In the final rule, the last sentence in this section regarding documentation of reliance was deleted and is now addressed at 7 CFR 1b.9(e)(8)(ii).

7 CFR 1b.3(i) outlines other documentation USDA subcomponents may need to consider when applying CEs. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.3(j) clarifies when timing of the agency action may occur when a CE applies. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.4—Categorical Exclusion of USDA Subcomponents and Actions: This section revises the title from ''Exclusion of Agencies'' to ''Categorical Exclusion of USDA Subcomponents and Actions''. Previous paragraphs (a) and (b) are combined into one paragraph, now paragraph (a), which is revised to read as indicated in 7 CFR 1b.4. Paragraphs (b), (c), and (d) are added to this section.

7 CFR 1b.4(a) includes the list of USDA subcomponents generally excluded from preparing an EA or EIS, with the list of those subcomponents previously listed not changing during this rulemaking process; however, other general offices of the Department were added to this list.

Some commenters on the IFR suggested that the programs and activities of the Food Safety and Inspection Service (FSIS) should not be excluded from the preparation of an EA or EIS. FSIS programs and activities are currently excluded from the preparation of an EA or EIS in 7 CFR 1b.4(a)(5) of the IFR. This CE was carried over from the prior version of 7 CFR 1b.4.

Several commenters on the IFR assert that FSIS' actions constitute major Federal actions with significant environmental effects and that the CE is inconsistent with NEPA. One group of commenters, the Center for Biological Diversity (CBD), Humane World for Animals (formerly, Humane Society of the United States), and Humane World Action (formerly, Humane Society Legislative Fund) previously submitted a petition requesting promulgation of a rule rescinding the CE for FSIS programs and activities in 7 CFR 1b.4(a)(5). In their comments on the IFR, these organizations include some of the same arguments made in their petition for rulemaking and reference the petition for rulemaking. Another commenter independently submitted comments on this rulemaking that mirror the comments submitted by CBD, Humane World for Animals, and Humane World Action on the IFR and some of the arguments in the petition.

After carefully considering the issues raised by the comments on the IFR, USDA has decided to retain the CE in 7 CFR 1b.4(a)(5). Specific arguments raised in these comment letters on the IFR are addressed below.

The commenters argue that NEPA authorizes categorical exclusions only for individual actions or categories of actions. Commenters claim that the CE in 7 CFR 1b.4(a)(5) violates NEPA because it categorically excludes FSIS as an entity and does not categorically exclude individual actions or categories of actions of FSIS.

The commenters mischaracterize the nature of FSIS' categorical exclusion by suggesting it applies to the agency as an entity. The CEs in 7 CFR 1b.4(a) apply to ''programs and activities'' of the listed subcomponent agencies, not the agencies as entities. The CEs in 7 CFR 1b.4(a) thus reflect USDA's determination that the programs and activities carried out by FSIS (and other USDA subcomponents) do not normally result in reasonably foreseeable significant impacts on the natural or physical environment, which is the statutory standard for establishment of a CE, *see* 42 U.S.C. 4336e(1). This analysis, while clearer under the current version of 7 CFR 1b.4(a), was the fundamental analysis underlying the initial promulgation of the CE. The original language from 1983 establishing the CE for FSIS' programs and activities was as follows: ''The USDA agencies listed below carry out programs and activities which have been found to have no individual or cumulative effect on the human environment. These agencies are excluded from the requirements to prepare implementing procedures. Actions of these agencies are categorically excluded from the preparation of an EA or EIS unless the agency head determines that an action may have a significant environmental effect.''

Thus, the CE is not a blanket exemption from NEPA documentation. Rather, the establishment of a CE, and subsequent agency findings that an action is excluded pursuant to that categorical exclusion, are forms of NEPA compliance expressly authorized by statute, *see* 42 U.S.C. 4336(a)(2), (b)(2), 4336e(1). The establishment of (or, in this case, the decision to maintain) a CE is based on a determination that FSIS' programs and activities do not normally require preparation of an EA or EIS.

The commenters also argue that FSIS authorizes actions that have significant impacts on the environment. USDA disagrees. USDA has concluded that FSIS actions involve programs and activities that normally do not significantly affect the quality of the human environment and therefore, to the extent that NEPA applies to the FSIS' actions at the threshold state (which, as explained in what follows, it does not, as clarified by recent statutory amendments), the CE is appropriate.

Moreover, FSIS' actions involve programs and activities that are either mandatory, *i.e.,* non-discretionary, or ministerial in nature and, therefore, do not constitute ''major Federal actions'' that trigger NEPA review in the first instance, as illuminated by the definition of and exclusions from the definition of that term as codified in the 2023 statutory amendments to NEPA, *see* 42 U.S.C. 4336e(10). In the discussion below, we describe representative FSIS activities and explain how they do not constitute major Federal actions.

FSIS administers inspection programs under the Federal Meat Inspection Act (FMIA), (21 U.S.C. 601–695) the Poultry Products Inspection Act (PPIA) (*Id.* §§ 451–470), and the Egg Products Inspection Act (EPIA) (*Id.* §§ 1031–1056). These statutes *require* FSIS to provide inspection services to establishments that meet statutory requirements and to apply the mark of inspection to products that are not adulterated or misbranded (*See id.* §§ 455, 457, 603–604, 1034, 1035). FSIS has no authority to deny inspection or label approval based on effects to natural resources such as emissions, wastewater discharges, odors, traffic patterns, land use, or other environmental factors regulated by agencies such as the Environmental Protection Agency (EPA) or the Occupational Safety and Health Administration (OSHA), or state and local authorities.

Likewise, FSIS' line speed rulemakings address a narrow, inspection-administration question: what maximum rate, if any, is compatible with FSIS' ability to carry out required post-mortem inspection and with establishments' ability to maintain process control so that adulterated products do not enter commerce. The statutes do not give FSIS authority or discretion to make rulemaking decisions for line speed based on potential environmental impacts.

The Secretary is authorized to withhold or suspend inspection services, or issue ''regulatory control actions,'' where establishments fail to comply with sanitation requirements. While FSIS has discretion to choose among these enforcement mechanisms based on the facts of a particular case, this discretion is limited to ensuring compliance with food safety requirements and protecting public health. Nothing in the FMIA, PPIA, or EPIA authorizes FSIS to alter the manner in which it carries out its obligations to prevent adulterated products from entering commerce in light of environmental considerations, waste reduction, or other such policy objectives. These actions therefore do not constitute major Federal actions and are therefore not subject to NEPA as a threshold matter. *See* 42 U.S.C. 4336e(10)(B)(vii).

Additionally, FSIS' decisions regarding the number of government inspectors assigned to an establishment are driven by statutory inspection mandates and staffing needs and do not authorize, fund, or control establishment operations or environmental outcomes. The statutes do not authorize FSIS to assign or withhold inspectors to influence establishment production volume, waste generation, or other potential environmental effects. Therefore, FSIS' decisions regarding the number of government inspectors assigned to an establishment do not constitute major Federal actions. *See* 42 U.S.C. 4336e(10)(B)(i), (vii).

In commenters' final argument, they contend that FSIS actions, particularly those related to slaughter line speeds, have reasonably foreseeable downstream effects on animal production, transportation, pollution, and waste management that must be analyzed under NEPA.

Under NEPA, the ''mandated focus . . . is 'the proposed action'—that is, the project at hand—not other future or geographically separate projects that may be built (or expanded) as a result of or in the wake of the immediate project under consideration''. (*Seven County Infrastructure Coalition* v. *Eagle County* 145 S. Ct. 1497, 1515 (2025)) ''[A] court may not invoke but-for causation or mere foreseeability to order agency analysis of the effects of every project that might somehow or someday follow from the current project. NEPA calls for the agency to focus on the environmental effects of the project itself, not on the potential environmental effects of future or geographically separate projects.'' (*Id.* at 190 (internal citations omitted)) ''The agency may draw what it reasonably concludes is a 'manageable line'—one that encompasses the effects of the project at hand, but not the effects of projects separate in time or place.'' (*Seven County,* 145 S. Ct. 1497, 1517) Therefore, ''[a]n agency may decline to evaluate environmental effects from separate projects upstream or downstream from the project at issue''. (*Id.* at 191)

These same principles apply here. FSIS' actions are limited to ensuring food safety, proper labeling, and humane handling. As such, FSIS regulates sanitation standards, wholesomeness of products, labeling claims, and humane methods of handling and slaughter. FSIS does not regulate animal production, transportation, pollution, or waste management. These activities are regulated by other Federal, state, or local authorities. As such, when determining whether an FSIS action (*i.e.,* regulation of slaughter line speeds) may require NEPA analysis (as described above FSIS does not believe any of its actions are major Federal actions), FSIS is not required to look at effects that may be ''factually foreseeable'' but are irrelevant to the agency's decision-making process and over which FSIS possesses no regulatory authority. (*Id.* at 187) For these reasons, downstream effects that an FSIS action may lead to or relate to, such as animal production, transportation, pollution, and waste management activities which are conducted and/or regulated by others, are not effects of FSIS' action and do not trigger NEPA review by FSIS.

Though FSIS has no obligation to analyze these downstream effects, it has addressed factual contentions about them in response to public comments in prior line speed rulemakings. *See* Modernization of Swine Slaughter Inspection, 84 FR 52300, 52317 (Oct. 1, 2019); Modernization of Poultry Slaughter Inspection, 79 FR 49566, 49610–11 (Aug. 21, 2014). In these rulemakings, commenters asserted that faster line speeds would cause an increase in the total number of animals that a facility would process, which in turn would cause increased water usage, emissions, and consumption of electricity. As FSIS explained in those proceedings, these assertions are misplaced. Faster line speed may allow for more efficient processing but has no direct effect on consumer demand that determines the total number of animals slaughtered. Accordingly, FSIS determined these rulemakings would not have significant effects and sustained the application of the categorical exclusion.

In summary, FSIS does not engage in major Federal actions significantly affecting the quality of the human environment. Instead, FSIS programs and activities either: (1) are ministerial or mandatory, and not discretionary, and therefore do not fall within the definition of ''major Federal action'' subject to NEPA, *see* 42 U.S.C. 4336e(10); or (2), even if they did fall within this definition, normally do not significantly affect the quality of the human environment, and are therefore appropriate bases for establishment of a categorical exclusion, *see id.* § 4336e(1).

Therefore, it remains appropriate for USDA to retain the CE for FSIS' programs and actions in 7 CFR 1b.4(a)(5).

7 CFR 1b.4(b) clarifies how CEs are organized and numbered in the revised regulations. No changes have been made to this section relative to the version released with the IFR in July 2025.

The department-level CEs previously listed in 7 CFR 1b.3 have been moved to 7 CFR 1b.4(c) in this section. Examples of actions that fit the category were added to some of the department-wide categories, as further described under the agency-specific regulation changes discussed below. Some agencies had CEs that were duplicative of the department-wide categories or served as examples of those categories; therefore, these were removed as separate categories and added as examples of the department-wide categories where applicable.

CEs previously codified in USDA agency-specific NEPA regulations are now consolidated under 7 CFR 1b.4(c) and (d) in this section. Any changes to the CE language, as previously documented in agency-specific NEPA regulations, are discussed under the applicable agency-specific justification sections below. Other than these few modifications to categories, the majority of categories remain unchanged as originally promulgated and are simply moved from one section of USDA's regulations to another.

Categories are organized in the revised regulations by those that do (7 CFR 1b.4(d)) or do not (7 CFR 1b.4(c)) require NEPA documentation. New numbering was assigned to each CE to make it easier to reference categories across the Department as any USDA subcomponent may utilize the CEs listed in 7 CFR 1b. Numbering includes acronyms at the end indicating the agency that initially established the category to help agency personnel more readily locate the categories they are likely to continue using frequently, as well as to allow Department personnel to identify the agency that originally promulgated the CE should another USDA subcomponent need to consult that agency on appropriate application of the category.

7 CFR 1b.5—Environmental Assessments: This section is added to read as indicated in 7 CFR 1b.5. This section adds procedures for issuing EAs and reinforces the role of an EA.

7 CFR 1b.5(a) outlines the conditions for when an EA will be completed. In the final rule, 7 CFR 1b.5(a) is revised to remove two erroneous inclusions of the phrase ''the policy in'' when referencing sections 1b.2(e) and 1b.2(f) in the regulations.

7 CFR 1b.5(b) adds requirements for defining the ''Scope of Analysis'' in an EA. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.5(c) gives agencies flexibility on how to format the EA so long as certain items are addressed. It also provides clarification on requirements for analysis of alternatives for an EA and reiterates the importance of deadline and page limit requirements from NEPA, as amended in 2023. Consideration of taking no action shall be included as part of the environmental impacts analysis to contrast the potential impacts of the proposed action, and any alternative(s) if developed, with the current condition and expected future condition if the proposed action or alternative were not implemented (7 CFR 1b.5(c)(2)(i)). This is necessary to inform aspects of the consideration of significance, as specified in 7 CFR 1b.2(f)(3).

In the final rule, 7 CFR 1b.5(c) is revised to specify the scope of analysis must be included in the elements for an EA. This is not a new requirement; the requirement in 1b.5(b) to address scope of analysis in the EA was included in the IFR. However, Department personnel pointed out that this requirement could be easily missed in the process of developing an EA because it was not highlighted as a required element for an EA.

In the final rule, 7 CFR 1b.5(c)(3) is revised to change the word ''consequences'' to ''impacts''. As pointed out by Department personnel, this change is necessary to align with terminology used in this section (environmental impacts) when clarifying the option to combine the potentially affected environment discussion with the environmental impacts discussion.

In the final rule, 7 CFR 1b.5(c)(6) is revised to clarify that the certifying statement for page limits and deadlines does not require a signature, as this was raising questions internally as to whether an EA needs to be signed by the responsible official to make this statement ''certified''. The revised language also clarifies that approval to publish the EA to a USDA website indicates the responsible official has reviewed the EA and concurs with the certifying statement.

In the final rule, 7 CFR 1b.5(c)(7) is added to the list of elements required for an EA and reads as ''*Unique identification number*''. The USDA subcomponent shall include a unique identification number on the environmental assessment, as required by § 1b.9(u)''. This is not a new requirement, as the requirement in 1b.9(u) to provide a unique identification number on EAs and EISs for tracking purposes was included in the IFR. However, Department personnel pointed out that this requirement could be easily missed in the process of developing an EA because the unique identification number was not highlighted as a required element for an EA.

7 CFR 1b.5(d) emphasizes the statutory requirements for EA page limits. In the final rule, this section is revised to add the citations to NEPA for page limits for EAs to clarify these page limits are statutorily required and not a requirement established in the USDA NEPA regulations.

7 CFR 1b.5(e) states that subcomponents are to adhere to the statutory deadlines and publish an EA ''in as substantially complete form as is possible''. This section also requires responsible officials to certify that they made a good faith effort to satisfy the page limit and deadline requirements in the statute. It clarifies when seeking an extension to the deadline is appropriate. These new additions provide the Department's policy on how it will apply the new statutory deadlines in 42 U.S.C. 4336a(g) and page limits in 42 U.S.C. 4336a(e). This policy is based on the rationale that NEPA is governed by a ''rule of reason''. *Dept. of Transp.* v. *Pub. Citizen,* 541 U.S. 752, 767 (2004). In establishing deadlines for the EA process in the 2023 revision of NEPA, Congress supplied the measure of that reason in NEPA § 107(g), 42 U.S.C. 4336a(g). ''Time and resources are simply too limited for us to believe that Congress intended'' consideration under NEPA to extend indefinitely. *Metro. Edison Co.* v. *People Against Nuclear Energy,* 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 551 (1978)). This section also clarifies when it may be appropriate to publish a notice of intent to prepare an EA and provides direction on making the EA available to the public.

In the final rule, the second sentence in 7 CFR 1b.5(e)(1) is revised to add ''of environmental impacts'' at the end of the sentence. This is to clarify the stage at which the interdisciplinary review referred to is occurring. As pointed out by Department personnel, interdisciplinary review also occurs to inform development of the proposed action. This change clarifies that at this stage of interdisciplinary review the proposed action is considered final and now interdisciplinary review is shifting

to analyzing impacts of that proposed action.

In the final rule, 7 CFR 1b.5(e)(3) is revised to now include paragraphs (i), (ii) and (iii). In paragraph (ii), clarification is provided that publishing a notice of intent for an EA will be at the sole discretion of the responsible official and clarifies what the notice of intent will include if one is published, as there was internal confusion as to whether the notice of intent for an EA needed to be the same as that for an EIS (as outlined in 7 CFR 1b.7(b)). The added language in paragraph (iii) also clarifies that, notwithstanding other statutory or regulatory requirements, the decision to solicit public comment in the notice of intent for an EA shall be at the sole discretion of the responsible official, as there is no statutory requirement in NEPA to solicit public comment in a notice of intent published for an EA, though there is such a statutory requirement for a notice of intent published for an EIS. This does not change the Department's stance in the IFR because the IFR did not require EAs to provide an opportunity for public comment, as this is not statutorily required by NEPA.

7 CFR 1b.5(f) provides requirements for publishing the EA to a USDA website. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.5(g) clarifies circumstances where it may be appropriate to extend deadlines for an EA. In the final rule, this section is revised to remove the erroneous first ''as'' in the phrase ''such as time as'', now reading as ''such time as''.

7 CFR 1b.5(h) adds a requirement for the responsible official to certify that the EA was completed within the deadline. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.6—Finding of No Significant Impact: This section is added to read as indicated in 7 CFR 1b.6.

This section adds procedures for issuing findings of no significant impact and reinforces the role of a finding of no significant impact (FONSI). It gives agencies flexibility on how to format the FONSI so long as certain items are addressed. It also provides direction on making the FONSI available to the public, providing notifications, and timing of the action.

7 CFR 1b.6(a) specifies the general requirements for when a FONSI will be prepared. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.6(b) outlines the elements that must be addressed in the FONSI. In the final rule, 7 CFR 1b.6(b)(3) is revised to remove an erroneous sentence at the end of the paragraph. The sentence had previously been revised to reflect the correct statement found in the sentence prior to the last sentence in this paragraph, but the incorrect sentence at the end of the paragraph was not deleted. The following correct sentence remains: ''If the responsible official finds no significant impacts based on mitigation, state the authority for any mitigation that the responsible official has adopted and any applicable monitoring or enforcement provisions.'' The following erroneous sentence has been deleted: ''If the responsible official finds no significant effects based on mitigation, the mitigated finding of no significant impact will state any mitigation requirements enforceable by the subcomponent or voluntary mitigation commitments that will be undertaken to avoid significant effects, and any applicable monitoring or enforcement provisions.''

7 CFR 1b.6(c) clarifies other considerations for documentation. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.6(d) includes requirements for publishing the FONSI. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.6(e) includes requirements for the responsible official to provide notifications of the availability of the FONSI. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.6(f) provides clarification on the timing of the action. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7—Environmental impact statements: This section is added to read as indicated in 7 CFR 1b.7.

This section adds procedures for issuing EISs and reinforces the role of an EIS.

7 CFR 1b.7(a) outlines the conditions for when an EIS will be completed. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(b) outlines the requirements for publishing the notice of intent. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(c) specifies the scoping process that may be applied. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(d) adds clarity on the process for requesting comments during preparation of an EIS to align with statutory requirements in NEPA (§ 102(2)(C), 42 U.S.C. 4332(2)(C); (§ 107(c), 42 U.S.C. 4336a(c)).

7 CFR 1b.7(d) also specifies that a request for comment may be undertaken at any time that is reasonable in the process of preparing an EIS, as the publication of a draft EIS is no longer required. NEPA does not require publication of a draft EIS, and filing a draft EIS with the Environmental Protection Agency and publishing the notice of availability in the **Federal Register**, as previously required by the now rescinded CEQ regulations, adds time and unnecessary process. Responsible officials still have the discretion to publish a draft EIS on a USDA website, along with any other pre-decisional materials that, in their judgment, may assist in fulfilling their responsibilities under NEPA and in facilitating the request for comments.

7 CFR 1b.7(d) also reiterates that USDA subcomponents must ensure the process of obtaining and addressing comments and the publication of draft or pre-decisional materials must not cause the subcomponent to violate the Congressionally mandated deadline for completion of an EIS.

In the final rule, 7 CFR 1b.7(d)(2)(iv) is revised to remove the phrase ''including by affirmatively soliciting comments in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action or action alternatives''. A slightly revised version of this phrase is added at the end of 7 CFR 1b.7(d)(2) that reads as: ''May request the comments of the following in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action or action alternatives:''. This change was made to clarify that solicitation of comments should occur in a manner designed to inform all of the entities listed, as some Department personnel were interpreting that only to apply to the public when the phrase was included at the end of paragraph 1b.7(d)(2)(iv) of this section.

7 CFR 1b.7(e) provides requirements to provide for electronic submission of comments and publishing all substantive comments electronically, or summarizing substantive comments and including this summary as an appendix in the EIS. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(f) specifies that subcomponents shall consider comments and should address

comments raising substantive issues or recommendations. This section also focuses the subcomponent on addressing comments by capturing the action the responsible official took in response to the issue raised or recommendation made, and recommends that documentation of how comments were addressed should be included as an appendix in the EIS.

Section 1b.7(f) also requires electronic publication of substantive comments and provides an alternative course of action (providing a summary of comments received) if USDA subcomponents do not have the capability or capacity to electronically publish comments.

Section 1b.7(f) also specifies that USDA subcomponents shall consider substantive comments but leaves discretion for addressing substantive comments in writing. There is no requirement in NEPA to address comments in writing; however, documentation of how comments were considered is highly encouraged to demonstrate the rationale for how the responsible official decides to proceed during the iterative development of the proposed action and action alternatives and the iterative analysis process. This documentation of how the responsible official proceeded and why is advantageous to demonstrating that decisions made during the iterative NEPA process are not arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; however, experience implementing the previous CEQ NEPA regulation requirement for responding to comments has demonstrated this process led to burdensome and time-consuming efforts that routinely prevented USDA subcomponents from meeting the 2-year deadline for completing an EIS, which is now statutorily required (NEPA § 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A)).

Additionally, the approach to ''response to comments'' that has been employed by some USDA subcomponents was not always been the most effective in that it did not focus on demonstrating the action the responsible official took in response to the substantive issue raised and/or recommendation made. In some cases, the ''response to comments'' documentation generated levels of paperwork that exceeded the page count of the environmental document itself, defying one of the key principles of NEPA to generate better decisions, not better documents.

For this reason, section 1b.7(f) also clarifies that if documentation is completed to demonstrate how comments were considered and addressed, the documentation should focus on capturing the actions taken, as specified at 7 CFR 1b.7(f)(2), to facilitate a more efficient and effective approach to demonstrate how the responsible official responded to the substantive issue raised and/or recommendation made to improve the decision on how to proceed (*e.g.,* issues to be analyzed in detail, alternatives to be considered or analyzed, or the alternative selected for implementation).

Some commenters disagreed with the emphasis to focus on ''substantive'' comments and the definition of substantive as provided in the revised regulations. In keeping with one of the key principles of NEPA to generate better decisions, not better documents, USDA is inclined to have responsible officials focus on those issues that are substantive as these issues contain information that meaningfully informs the decision-making process, which includes consideration of reasonably foreseeable impacts on the human environment, the resulting significance determination, decisions on how to proceed (*i.e.,* alternatives to be considered or analyzed or the alternative selected for implementation), and compliance with applicable laws and regulations. (Also see discussion on edits made to the definition of ''substantive'' under section 1b.11 in the preamble.)

Numerous commenters on the IFR did not support the reduction in opportunities for public comment for the various levels of NEPA review (CE, EA, and EIS), as may have been outlined in some USDA agency-specific NEPA regulations that are now rescinded. Commenters with differing opinions on USDA's overall approach to amending the regulations tended to agree that the lack of opportunity for public comment, particularly for EISs, could have unintended adverse consequences, particularly when it comes to informing and improving agency decisions and waiving exhaustion of administrative remedies.

Several commenters on the IFR stated that the regulations should require a comment period for EAs and require scoping for CEs (which may provide an opportunity to comment), as may have been required by some USDA agency-specific NEPA regulations prior to rescission. Several other commenters supported EAs not having a comment period as they are generally completed for projects that are not likely to have reasonably foreseeable significant impacts but for which a CE does not apply to the actions proposed.

Numerous commenters on the IFR stated that the regulations should require publication of a draft EIS (DEIS) and require a comment period on the DEIS, with many alleging this is a requirement of NEPA itself. These commenters did not support what they see as the loss of transparency and democracy that the DEIS comment period brought to agency decision-making. Some commenters supported the reduction of process associated with publishing a DEIS and soliciting, considering, and responding to additional public comments, contending that the public comment process has become a mechanism for some organizations to spam agencies with form letters and create work that is not value added to the decision-making process but rather serves to further delay implementation of necessary agency actions.

Responsible officials have multiple obligations to consider, such as analyzing the most important resource impacts within statutorily mandated page limits and deadlines, being responsive to varying levels of public interest, managing fluctuations in budget and workforce capacity, and accounting for other situations that require process flexibility. Rather than adding undue process for each and every action undergoing NEPA review, the USDA regulations align with the statutory intent and purpose of NEPA and promote responsible official discretion to determine when and how to involve the public and solicit public comment, unless otherwise statutorily required.

Comment on CEs and EAs is not statutorily required by NEPA. USDA declines to add or keep comment opportunities for CEs and EAs when not statutorily required. USDA acknowledges that this is a shift in practice for the public regarding certain public scoping or comment requirements included in the prior regulations for certain USDA subcomponents. For example, the Forest Service's now rescinded NEPA implementing regulations required scoping for all Forest Service proposed actions, including actions that qualified for CEs (formerly 36 CFR 220.4(e)(1)). As discussed in more detail below, in the section *U.S. Forest Service NEPA Compliance Regulations (previously at 36 CFR 220),* although there was no requirement in the text of those regulations for written comments on CEs or EAs during scoping under the Forest Service's prior regulations, agency practice generally provided an opportunity for written comment.

USDA declines to continue to require scoping across-the-board within the USDA NEPA regulations because scoping is not required by statute for any level of NEPA review. Rather than adding undue process for each and every action undergoing NEPA review, the USDA regulations align with the statutory intent and purpose of NEPA and promote responsible official discretion to determine when and how to conduct scoping. With regards to the Forest Service, the agency has separate statutory requirements to provide comment opportunities for certain EAs. These comment opportunities are addressed in 36 CFR parts 218 and 219 and these regulations were not affected by the rescission of 36 CFR part 220 or other aspects of this rulemaking.

Publication of a draft EIS and solicitation of public comments on a draft EIS are not statutorily required by NEPA. CEQ's prior regulations generally required, in relevant part, that agencies provide members of the public an opportunity to comment on a draft EIS. 40 CFR 1503.1 (1978) (rescinded). However, Congress comprehensively amended NEPA in the FRA to provide more prescriptive instructions to agencies on completing timely and unified Federal NEPA reviews. 42 U.S.C. 4336a. Specifically, Congress expressly provided for public comment for the first time, at one (and only one) step of the process for developing an environmental document: when an agency issues a notice of intent to prepare an EIS, it must invite public comment on that notice regarding ''alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action''. 42 U.S.C. 4336a(c). Congress retained the original obligation to make the EIS available through the Freedom of Information Act (FOIA).

Congress elected only to require public comment at the notice of intent stage in the NEPA process for an EIS. USDA's stance is that comment at the notice of intent stage is unique in that it provides an opportunity for fact-gathering from persons who may have relevant (indeed, unique) information about environmental conditions of land they live on or by with respect to projects that USDA subcomponents have determined may have a reasonably foreseeable significant impact. It makes sense that Congress required solicitation of public comment on all notices of intent to prepare an EIS, while imposing no such requirement with respect to an EA, because Congress imposed a shorter deadline for agencies to develop an EA than to develop an EIS and because an EA, by definition, is typically prepared only for proposed actions that are not anticipated to have reasonably foreseeable significant impacts. Accordingly, Congress intended that government and public resources should focus on developing and facilitating public engagement on matters considered in EISs.

As previously stated, the only statutory requirement to solicit public comment is found at 42 U.S.C. 4336a(c), which requires that each notice of intent to prepare an EIS shall include a request for public comment on alternatives or impacts and on relevant information, studies, or analysis with respect to the proposed agency action. There is also a statutory requirement at 42 U.S.C. 4332(C) for the head of the lead agency to consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Both statutory requirements for soliciting comments are accounted for in the revised regulations. USDA will abide by the statutory requirement to solicit comments on EISs, as outlined in this final rule, and declines to add comment opportunities that are not statutorily required for EISs. As noted above, the Forest Service continues to have separate statutory requirements to provide public comment opportunities for certain EISs, as provided by 36 CFR parts 218 and 219.

While USDA has considered and agrees with comments describing how the agency decision-making process can be improved by public comments and other forms of public participation, Congress has not elected to make pre-decisional public involvement a requirement. Crucially, however, the fact that USDA's NEPA procedures no longer prescribe a particular public comment process or period over and above what NEPA requires, apart from the USDA decision to require subcomponents to publish a notice of intent in the **Federal Register** that invites comment when intending to prepare an EIS, does not prevent responsible officials from exercising their discretion to solicit additional public comment when they determine that doing so would assist in reasoned decision-making, not preclude them from meeting statutory deadlines (for EAs/EISs), and not otherwise create unnecessary delays and ambiguity in the environmental review and permitting process. USDA will continue to make its environmental documents available to the public consistent with FOIA, and this requirement is not affected by this rulemaking.

Some commenters on the IFR disagreed with the clarification in the revised regulations that while comments must be considered, there is no requirement to address in writing how comments were considered, alleging failure to address comments in writing would be a violation of NEPA and/or the APA. Additionally, commenters that supported overall streamlining of NEPA processes expressed concern that failure to address in writing how comments were considered by the responsible official could have unintended consequences under the guise of efficiency. These commenters explained that implementation of agency actions could become more difficult if and when these actions are litigated, as the decision could be found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law under the APA.

As clarified in the preamble of the IFR, there is no requirement in NEPA to address comments in writing. Documentation of how comments were considered is highly encouraged to demonstrate the rationale for how the responsible official decides to proceed during the iterative development of the proposed action and action alternatives and the iterative analysis process. However, USDA prefers to maintain responsible official discretion to determine when such documentation would be useful, depending on the nature of the proposed action and the comments received.

While there is no express requirement in NEPA or APA to address comments on a NEPA analysis in writing, USDA subcomponents will determine when such procedural requirements apply on a case-by-case basis and address comments in writing as required or when determined helpful at the discretion of the responsible official, with the understanding that this discretionary additional process cannot preclude the USDA subcomponent from meeting the statutory deadline for completing an EA or EIS (NEPA Section 107(g); 42 U.S.C. 4336a(g)). NEPA analyses are subject to judicial review under the APA, and this regulation directs preparers to provide sufficient reasoning for findings and decisions. The Department finds that subcomponents can provide sufficient reasoning without prescribing a ''response to comments'' or requiring comments to be addressed in writing. Agencies have multiple obligations to consider, such as analyzing the most important resource impacts within page limits and deadlines, and it is up to preparers to prioritize the content and time of the analysis while providing

sufficient reasoning for decisions made. The Department doesn't find that a mandatory response to comment requirement meets that objective.

In summary, no changes have been made to section 1b.7(f) relative to the version released with the IFR in July 2025.

7 CFR 1b.7(g) adds requirements for defining the ''Scope of Analysis'' in an EIS. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(h) gives subcomponents flexibility on how to format the EIS so long as certain items are addressed. This section also eliminates some aspects of EIS formatting previously required in the CEQ NEPA Implementing Regulations, such as the summary, table of contents, list of preparers, and index. These sections also add additional time and process that do not meaningfully inform decision-making and were more relevant when documents were primarily issued in hard copy instead of electronically.

In the final rule, 7 CFR 1b.7(h) is revised to specify the scope of analysis must be included in the elements for an EIS. 7 CFR 1b.7(h)(1)(v) is added to the list of items that should be included on the cover of the EIS. Item (v) reads as, ''The unique identification number, as required by § 1b.9(u).'' Neither of these are new requirements, as the requirement in 1b.9(g) to address scope of analysis in the EIS and 1b.9(u) to provide a unique identification number on EAs and EISs for tracking purposes were included in the IFR. However, Department personnel pointed out that these requirements could be easily missed in the process of developing an EIS because they were not highlighted as required elements for an EIS.

In the final rule, 7 CFR 1b.7(h)(3) is revised to change the phrase ''negative environmental impacts'' to ''consequences''. As pointed out by Department personnel, this change is necessary to align the consideration (in the EIS) of the consequences of taking no action in the case of a no action alternative with the significance considerations outlined at 7 CFR 1b.2(f)(3)(iii)(A), which includes more than just negative environmental impacts. 7 CFR 1b.7(h)(3)(i) is revised to add the phrase ''and recommend alternative uses of available resources for unresolved conflicts associated with the proposed action (NEPA section 102(2)(H))'' at the end. This addition is necessary to align with the statutory requirement to study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources (NEPA section 102(2)(H); 42 U.S.C. 4332(H)).

In the final rule, 7 CFR 1b.7(h)(4) is revised to change the word ''consequences'' to ''impacts''. As pointed out by Department personnel, this change is necessary to align with terminology used in 1b.7(h)(5) (environmental impacts), which is what 1b.7(h)(4) is referring to when clarifying the option to combine the potentially affected environment discussion with the environmental impacts discussion.

In the final rule, 7 CFR 1b.7(h)(8) is revised to clarify that the certifying statement for page limits and deadlines does not require a signature, as this was raising questions internally as to whether an EIS needs to be signed by the responsible official to make this statement ''certified''. The revised language also clarifies that approval to publish the EIS to a USDA website indicates the responsible official has reviewed the EIS and concurs with the certifying statement.

7 CFR 1b.7(i) emphasizes the statutory requirement for EIS page limits. In the final rule, 7 CFR 1b.7(i) and (i)(1) were revised to add the citations to NEPA for page limits for EISs to clarify these page limits are statutorily required and not a requirement established in the USDA NEPA regulations.

7 CFR 1b.7(j) adds a requirement for the responsible official to certify the EIS meets the page limit. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(k) emphasizes the statutory deadline for EISs. It states that responsible officials are to adhere to the statutory deadlines and publish an EIS ''in as substantially complete form as is possible'' and requires responsible officials to certify that they made a good faith effort to satisfy the requirements in the statute. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(l) clarifies when seeking an extension to the deadline is appropriate. In the final rule, this section is revised to remove the erroneous first ''as'' in the phrase ''such as time as'', now reading as ''such time as''.

7 CFR 1b.7(m) adds a requirement for the responsible official to certify that the EIS was completed within the deadline. No changes have been made to this section relative to the version released with the IFR in July 2025.

The additions in sections 1b.7(i) through (m) provide the Department's policy on how it will apply the new statutory deadlines in NEPA § 107(g), 42 U.S.C. 4336a(g) and page limits in NEPA § 107(e), 42 U.S.C. 4336a(e). This policy is based on the rationale that NEPA is governed by a ''rule of reason''. *Dept. of Transp.* v. *Pub. Citizen,* 541 U.S. 752 (2004). In establishing deadlines for the EIS process in the 2023 revision of NEPA, Congress supplied the measure of that reason in NEPA § 107(g), 42 U.S.C. 4336a(g). ''Time and resources are simply too limited for us to believe that Congress intended'' consideration under NEPA to extend indefinitely. *Metro. Edison Co.* v. *People Against Nuclear Energy,* 460 U.S. 766, 776 (1983) (citing *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 551 (1978)).

7 CFR 1b.7(n) gives the responsible official discretion to publish a draft EIS and provides requirements for publishing the completed EIS to a USDA website. Publishing the EIS on a USDA website stops the NEPA deadline clock (2 years to complete an EIS). No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.7(o) specifies the requirement to file the EIS with the Environmental Protection Agency is still the primary means for making the completed EIS available to the public, in addition to publication on a USDA website. In the final rule, the phrase ''Office of Federal Activities'' was removed because EPA reorganized in 2025 and this office now exists under another name. Due to the potential for future reorganizations, USDA finds it prudent to keep the reference to EPA general with regards to EIS filing procedures.

7 CFR 1b.8—Records of decision: This section is added to read as indicated in 7 CFR 1b.8.

This section adds procedures for issuing records of decision and gives subcomponents flexibility on how to format the record of decision (ROD) so long as certain items are addressed. This section specifies requirements to make the ROD available to the public and provide notification to certain parties.

7 CFR 1b.8(a) specifies the general requirements for when a ROD will be prepared. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.8(b) outlines the elements that must be addressed in the ROD. In the final rule, 7 CFR 1b.8(b)(6) is revised to include the sentence, ''If the responsible official decides to adopt any mitigation, state the statutory or regulatory authority for the mitigation.'' This aligns with recommendations from some commenters on the IFR, as indicated by the discussion on changes

made to the definition of ''mitigation'', found below in the preamble for 7 CFR 1b.11—Definitions and Acronyms.

7 CFR 1b.8(c) includes requirements for publishing the ROD. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.8(d) includes requirements for the responsible official to provide notifications of the availability of the ROD. In the final rule, this section was revised to remove erroneous inclusion of the word ''during'' in the phrase ''and any parties that submitted comments during in response to publication of the notice of intent''.

7 CFR 1b.8(e) clarifies timing of action. Notwithstanding other statutory or regulatory requirements, there is no longer a requirement to delay implementation of the action once the Environmental Protection Agency has published the notice of availability for the EIS, the ROD has been made available to the public, and necessary notifications are provided. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.9—Efficient and effective environmental reviews: This section is added to read as indicated in 7 CFR 1b.9.

This section adds best practices for efficient and effective environmental reviews.

7 CFR 1b.9(a), (b), (c), and (d) provides best practices for managing the proposal record and includes recommendations for assembling and managing documentation developed during the environmental review process, responding to Freedom of Information Act requests, managing potential withholdings and privileges, and managing classified information.

In the final rule, 7 CFR 1b.9(a) is revised to clarify that the proposal record is not determinative of the scope and content of an administrative record prepared for litigation pursuant to the APA or other law.

No changes have been made to 7 CFR 1b.9(b), (c), or (d) relative to the version released with the IFR in July 2025.

7 CFR 1b.9(e) outlines best practices for reducing paperwork. USDA has removed usage of the terms ''tiering'' and ''adopting'', which were described in the now rescinded CEQ NEPA Implementing Regulations. The term ''rely'' or ''relying'' is used (instead of adopting or tiering) as this is the term used in NEPA when referring to programmatic documents (NEPA § 108; 42 U.S.C. 4336b) and expands the original concept of ''adopting'' (now relying) to include not only whole environmental documents but also portions thereof, to include supporting analysis that may not be included in an environmental, finding, or decision document in whole. To avoid confusion with NEPA § 109 (42 U.S.C. 4336c), the term ''adopting'' is only used in reference to adopting another Federal agency's CEs (the subject of NEPA § 109) and is no longer used in the context of adopting analyses. Additional clarification is provided regarding reliance on programmatic documents, to align with language added to NEPA, as amended in 2023. The terms ''incorporating'' or ''incorporating by reference'' continue to apply and are included in the regulations.

Several commenters on the IFR disagreed with the page limits and deadlines for EAs and EISs, as prescribed to in 7 CFR 1b.9(e) and other sections of the revised regulations. Commenters described the page limits and deadlines as being ''arbitrary and capricious'' and alleged they are being used by the Department to circumvent adequate effects analysis. Other commenters supported the establishment of page limits and deadlines and encouraged strict adherence to these. Additionally, some commenters proposed establishment of page limits and deadlines for CEs that require NEPA documentation, 10 pages and 3 months respectively, with recommendations for when the timeline would start.

The page limits and deadlines for EAs and EISs, as referred to in the revised regulations, are statutory requirements now included in NEPA, as amended by the FRA. The page limit and deadline discussion in the revised regulations merely emphasizes and reflects congressional intent for succinct and timely completion of EAs and EISs. Given the variability in complexity of actions covered by CEs, whether the categories are promulgated by agencies or statutorily authorized, USDA declines to establish page limits or timelines for those categories requiring NEPA documentation as laws considered during the environmental review process, such as Endangered Species Act or National Historic Preservation Act, could necessarily require page limits or timelines longer than those proposed.

In the final rule, 7 CFR 1b.9(e)(7) is revised as the previous wording in the phrase ''developed specifically to support that environmental document or associated decision document'' was interpreted to mean that information that may be developed for a previous project and relied on for a project at hand (as described in 7 CFR 1b.9(e)(8)) could not also be incorporated by reference. Information that is initially developed for another project could be relied on for a project at hand and also incorporated by reference. USDA's intent was not to preclude incorporation by reference of information that may have initially been developed for another project and is being relied on for the project at hand; therefore, the phrase ''developed specifically to support that environmental document or associated decision document'' is revised to now read as: ''that specifically supports the environmental document or associated finding or decision document''. The term ''finding'' is added to this phrase as well, as CEs and EAs have finding documents (finding of applicability and no extraordinary circumstance and finding of no significant impact, respectively), not decision documents like an EIS (record of decision).

Additionally, 7 CFR 1b.9(e)(7)(i) is revised to add the phrase ''and make the materials reasonably available for review by potentially interested parties'' at the end of the sentence. 7 CFR 1b.9(e)(7)(ii) is revised as the previous wording was being interpreted by Department staff to imply that information could not be incorporated by reference after an opportunity for comment was provided. The wording, as included in the IFR, was: ''Subcomponents may not incorporate material by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment, when an opportunity for comment is provided.'' It is revised to read as: ''When an opportunity for comment is provided and the documents or information being commented on refer to material incorporated by reference, this material must be reasonably available for inspection, in draft or final form, by potentially interested persons within the time allowed for comment.'' This better conveys USDA's intent that, when USDA solicits comment on a proposal that incorporates by reference certain documents or information, those materials must be readily available for inspection during the comment period—in draft or final form—as information relied on during a comment period may be preliminary and then updated in response to comment received. (In those instances where USDA is incorporating by reference certain documents or information but is not soliciting comment, those materials incorporated by reference will also be made readily available.) Material may also continue to be incorporated by

reference after an opportunity for comment is provided, including in response to comments. Nothing in this provision requires USDA subcomponents to provide an opportunity to comment where not otherwise required or where comment would be inconsistent with USDA's NEPA procedures. 7 CFR 1b.9(e)(7)(iii) is revised with clarifying language that unredacted information that is privileged, classified, or subject to any other potential withholdings should also not be incorporated by reference.

Several commenters on the IFR did not support the removal of the Determination of NEPA Adequacy (DNA) as part of rescinding the Forest Service NEPA regulations previously found at 36 CFR 220. These commenters did not find the use of ''relying on analysis'' to be a sufficient substitute for the DNA, as formerly outlined in the Forest Service NEPA regulations. Commenters highlighted the efficiencies provided by use of DNA as rationale for including this provision in the revised departmental NEPA regulations. Still other commenters disagreed with the concept of a DNA and relying on analysis altogether, asserting that NEPA does not provide for use of previously completed analysis to be applied to other actions.

The DNA only existed in the Forest Service NEPA regulations (36 CFR part 220). The DNA was a tool to help evaluate the suitability of a previously completed analysis document for potential application to a new proposed action. In the 5 years the DNA was available (from the 2020 revision to 36 CFR part 220 to the rescission of this regulation in July 2025), the agency only used this tool four times. The Department coordinated with Forest Service staff when crafting the language used in 7 CFR 1b.9(e)(8). The Forest Service does not see the elimination of the DNA as a hinderance to gaining efficiencies and conducting adequate consideration of effects given the provision included in the departmental NEPA regulations for ''relying'' on analysis. With the change in the regulations, the Forest Service plans to use 7 CFR 1b.9(e)(8) as a DNA-type tool for assessing and relying on previously completed analysis, either in whole or in part, whether the analysis was completed within agency or by another agency or external party. The efficiencies gained by relying on existing analyses are now appropriately expanded to all USDA subcomponents.

In the final rule, 7 CFR 1b.9(e)(8) is revised to remove the phrase ''it makes sense to do so given'', as recommended by some commenters on the IFR. The sentence where that phrase is found now reads as: ''USDA subcomponents may rely on previous analysis completed by the subcomponent or analysis completed by any other Federal agency where the nature of the proposal, the potentially affected environment, and the anticipated effects are substantially the same for the current proposal being considered''. The following sentence, which was previously included 7 CFR 1b.9(e)(8)(i), was moved to 7 CFR 1b.9(e)(8) in the final rule with minor edits: ''The USDA subcomponent relying on the previously completed analysis shall specify the reliance in the applicable environmental document or finding or decision document and provide explanation of how the nature of the proposal, the potentially affected environment, and the anticipated effects (both quantitatively and qualitatively) were determined to be substantially the same.'' (In the final rule, in the phrase ''not included in an EA, EIS, FONSI, ROD or FANEC documentation itself'', the erroneous inclusion of ''documentation'' was removed.)

The phrase ''substantially the same'' was already used in 7 CFR 1b.3(h) and was used in 7 CFR 1b.9(e)(8)(i) (as published in the IFR); therefore, this phrase is not solely introduced as part of this final rule but is appropriately used in place of language that was similar in meaning but not exact in wording. The phrase ''substantially the same'' is used for these revisions as it refers to retaining the main characteristics of intent, function, and impacts (effects) of a proposal while allowing minor variations for specific situations (*e.g.,* tailoring design criteria or mitigations to account for unique aspects of the affected environment, or explaining why effects have slight variation but the same outcome with regard to degree of anticipated effect). The focus on main characteristics permits flexibility for practical application without requiring factors or terminology to be identical in every way.

7 CFR 1b.9(e)(8)(i) is revised in the final rule to not repeat discussion included in the previous paragraph and now just focuses on how EAs and EISs relied on in full should be published to a USDA website. 7 CFR 1b.9(e)(8)(ii) is revised in the final rule to specify how reliance on previous CE determinations will be documented for those CEs requiring NEPA documentation, rather than referring back to § 1b.3(h), which is revised as described previously in this preamble.

7 CFR 1.9(f) outlines best practices for reducing delay. In the final rule, 7 CFR 1b.9(f)(9) is revised to remove erroneous inclusion of the word ''during'' in the phrase ''Requiring comments received during in response to publication of a notice of intent''.

7 CFR 1b.9(g), (h), (i), and (j) emphasizes the importance of interdisciplinary preparation, methodology, scientific accuracy, and disclosing information availability. No changes have been made to these sections relative to the version released with the IFR in July 2025.

7 CFR 1b.9(k) adds public involvement discussions that encourage USDA subcomponents to consider the most effective ways of engaging and informing the public, while allowing necessary discretion on the methods to use given the nature of the proposal and the public entities most likely to be interested or affected. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.9(l) and (m) emphasize the need to eliminate duplication with State, Tribal, and local procedures and promotes timely and unified Federal reviews, to include outlining processes for identifying lead, joint, and cooperating agencies, and provides process for resolving disagreements concerning major Federal actions.

Several commenters on the IFR disagreed with the revised regulations not specifying how responsible officials must engage cooperating agencies. These commenters suggested the final rule specify how responsible officials will ''request the participation of each cooperating agency at the earliest practicable time'', as required by NEPA, and ultimately how the lead agency ''may . . . designate any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency''—with some asserting that designation of cooperating agencies is required by NEPA. These commenters contend that early engagement with state, local, and Tribal governments promotes efficiency as these entities often bring local knowledge, data, and working relationships to the NEPA process.

42 U.S.C. 4336a(a)(3) states that a ''lead agency *may,* with respect to a proposed agency action, designate any Federal, State, Tribal, or local agency that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal to serve as a cooperating agency''. A lead agency may, but is not statutorily required to, designate cooperating agencies; however, USDA

recognizes the value of inviting eligible agencies to participate as cooperating agencies early in the proposal intake and development process, especially when an eligible agency will need to rely on an EA or EIS to authorize actions associated with the proposal for which they have jurisdiction by law. Therefore, the final rule adds a requirement for when a responsible official will extend an invitation to, or approve a request from, an eligible agency to be a cooperating agency, as described in the next paragraph.

Rather than adding unnecessary process for each and every action undergoing NEPA review, the USDA regulations align with the statutory intent and purpose of NEPA and generally promote responsible official discretion to determine when and how to invite and designate cooperating agencies. Clarification is added in the final rule at 7 CFR 1b.9(m)(1)(ii) that when a USDA subcomponent is serving as the lead agency, it will fulfill the role of lead agency as outlined at 42 U.S.C. 4336a(a)(2), which includes statutory requirements on engaging cooperating agencies if any have been designated. The cooperating agency section at 7 CFR 1b.9(m)(3) was expanded in the final rule to clarify expectations of responsible officials for considering eligible agencies, as outlined in 42 U.S.C. 4336a(a)(3), as cooperating agencies. A requirement is added that when an eligible agency will need to rely on an EA or EIS to authorize actions associated with the proposal for which they have jurisdiction by law, the responsible official for the lead USDA subcomponent will extend an invitation to, or approve a request from, the eligible agency.

7 CFR 1b.9(n) adds additional clarification on how USDA agencies should proceed with unified documentation, as required by NEPA, where another Federal agency is the lead agency. In the final rule, 7 CFR 1b.9(n) is revised to add a sentence that specifies that when an environmental document is being developed by more than one USDA subcomponent, all USDA subcomponents shall contribute to the completion of one environmental document and shall not develop separate documents for each subcomponent, unless justified by other statutory requirements that make it more efficient to do so. This is in response to recent internal experiences where USDA subcomponents have continued to push for doing their own documents rather than unified documentation for actions covered by more than one USDA subcomponent. 7 CFR 1b.9(n)(2) was also revised to add ''or authorizing'' to the sentence that begins as ''When multiple signature blocks are included, the document shall specify what each signing responsible official is approving [or authorizing] . . .''. This was in response to internal feedback that there is a difference between ''approving'' and ''authorizing'' and the regulations should account for this when requiring specification of what responsible official is approving or authorizing.

7 CFR 1b.9(o) specifies the agency official at USDA who will determine when a disagreement needs to be elevated to CEQ when there are interagency disagreements concerning the designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause unsatisfactory environmental effects.

7 CFR 1b.9(p), (q), and (r), outlines recommended approaches for preparing EAs and EISs for programmatic actions and provides direction for relying on and reevaluating environmental documents. No changes have been made to sections 1b.9(p) and (q) relative to the version released with the IFR in July 2025.

A commenter raised concerns that it was not clear what triggered the need to reevaluate an EIS and additionally what triggered the need to issue a supplemental EIS. In the final rule, 7 CFR 1b.9(r) is revised to clarify what triggers the need to reevaluate any environmental document, as wording in the IFR was creating both external and internal confusion. The phrase ''remains to occur'' was replaced with ''incomplete and ongoing'' to be more specific to the status of the action, which may have started but has not been completed. Paragraphs (1), (2), and (3) are added to 7 CFR 1b.9(r) provide necessary direction to USDA subcomponents on how to proceed based on the outcome of the reevaluation for environmental documents that are not an EIS that has been filed with the Environmental Protection Agency (EPA), as well as for EISs that have been filed with the EPA. In specifying procedures for EISs, it is also necessary to specify procedures for those environmental documents that are not an EIS. In addition to the public comment, since publishing the IFR, numerous USDA staffs have inquired about the process and requirements for making updates to environmental documents. Rather than having each USDA subcomponent develop this guidance, USDA has determined it is appropriate to include these procedures in the revised regulations to ensure consistency and transparency in how environmental documents are reevaluated, updated, necessary notifications considered and made, and document access provided. The revised regulations still provide for a necessary level of responsible official discretion when it comes to documentation formatting, as this is necessary to account for unique program circumstances across USDA mission areas.

7 CFR 1b.9(s) and (t) outline approaches for evaluating proposals for rules, regulations, and legislation. No changes have been made to these sections relative to the version released with the IFR in July 2025.

7 CFR 1b.9(u) specifies the need to apply unique identification numbers to EAs and EISs. In the final rule, 7 CFR 1b.9(u) is revised to change the word ''on'' to ''for'' in the phrase ''which the subcomponent will reference on other documents associated with the proposal''. This correction was necessary as it was being interpreted by Department staff that every document included in a proposal record for an EA or EIS would need to have the unique identification number added to it. The intent is that the unique identification number is used to associate other published documents with the EA or EIS, such as the FONSI (for an EA) or ROD (for an EIS). The unique identification number can also be used in the proposal record file name but does not need to be added to every document included in the proposal record.

7 CFR 1b.9(v) adds direction on how to proceed for emergencies, specifically allowing for actions to address imminent threats prior to any NEPA analysis.

Some commenters on the IFR expressed concern with the emergency authorities and the potential for responsible officials to mis-apply them. Some commenters also questioned the authority of the Department to establish emergency authorities and recommended carrying over language from the rescinded CEQ NEPA regulations.

As explained in the preamble for the IFR, some emergency authorization or emergency procedure language previously included in agency-specific NEPA regulations has been moved to this section in 7 CFR 1b, with much of the language being revised to provide for consistent department-wide language but with the intent remaining the same, as described in the agency-specific regulation changes included below. Where language and procedures were essentially the same across agencies, these procedures are now discussed only once. Where procedures

differed necessarily across agencies, these different procedures are included. Specifics as to some wording changes that were made for agency-specific procedures are discussed under the applicable agency-specific regulation, listed below. This section adds a general emergency action provision for agencies that did not have such provisions in their regulations to coordinate on issuing alternative arrangements for complying with NEPA when completing a CE or EA when reasonably foreseeable significant effects are not anticipated. It specifies that for emergency actions where reasonably foreseeable significant impacts are likely, the responsible official will consult with CEQ about alternative arrangements for NEPA compliance.

The intent of NEPA is to improve agency decision-making and inform the public of the anticipated degree of effects associated with major Federal actions. There are instances where emergency circumstances exist such that Federal agencies must make real-time decisions and implement actions to address imminent threats to life, property, or important natural, cultural, or historic resources. Examples include wildfire suppression response activities or response to natural disaster events impacting basic functionality of infrastructure and utility services that are critical to public safety and initial emergency response and recovery efforts (*e.g.,* transmission lines, communication networks, public transportation networks and systems). The immediacy with which these actions need to be implemented makes it infeasible and impracticable to complete a NEPA analysis without incurring a high likelihood of harm to life, property, or important natural, cultural, or historic resources. Where analysis and documentation are feasible and practicable, even when focused or delayed, agencies should use 7 CFR 1b.9(v)(2) or (3), as applicable.

The need to allow for implementation of actions for emergency circumstances has been standard practice as evidenced by the rescinded Forest Service (36 CFR part 220) (73 FR 43084–01 (July 24, 2008)) and Rural Development (7 CFR Subtitle B part 1970) (81 FR 11000–01 (March 2, 2016)) NEPA regulations. While wording varied between the regulations, both included a category of emergency actions that provided for immediate implementation and did not require NEPA analysis prior to implementation, though did require that adverse effects be considered and mitigated where possible (36 CFR 220.4(b)(1); 7 CFR 1970.18(a)). Both regulations also included a category of emergency actions that may need to be implemented before NEPA analysis was completed, but for which alternative arrangements could be approved to allow the actions to be initiated prior to documenting and disclosing the effects of those actions (36 CFR 220.4(b)(2) and (3); 7 CFR 1970.18(b) and (c)).

In response to the concerns raised, and to align with guidance issued by CEQ on January 21, 2026 regarding emergencies and NEPA, the following revisions are made to 7 CFR 1b.9(v) to better clarify the intent of emergency actions.

In the final rule, 7 CFR 1b.9(v) is revised. This section was called ''Emergencies—Immediate actions'' in the IFR and in the final rule is called ''Emergency actions''. Paragraph 1b.9(v) is now paragraph 1b.9(v)(1) and is revised to clarify that NEPA's analysis and documentation requirements should not impede timely execution of action needed to address imminent threats to life, property, or important natural, cultural, or historic resources. In the IFR, this section read as: ''If emergency circumstances exist that make it necessary to take action to mitigate harm to life, property, or important natural, cultural, or historic resources, the responsible official may take such actions without preparing an environmental analysis or environmental document. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and mitigate foreseeable adverse environmental effects to the extent practical.'' Paragraph 1b.9(v)(1) now reads as: ''If emergency circumstances exist that make it necessary to take action to address imminent threats to life, property, or important natural, cultural, or historic resources, the responsible official may take such actions without preparing a NEPA analysis. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and consider taking steps to mitigate reasonably foreseeable adverse environmental effects to the extent practical and consistent with agency authority.'' The term ''immediate'', as it relates to describing the type of actions, has been removed as the section is being retitled to ''emergency actions''. The term ''imminent threat'' is added to describe why the actions need to be implemented without preparing a NEPA analysis and to align with CEQ guidance on emergencies. The term ''NEPA analysis'' replaces the phrases ''environmental analysis or environmental documentation'' to clarify the emergency action procedures are only applicable to NEPA. The phrase ''and consistent with agency authority'' is added to the last sentence to recognize that the responsible official's ability to mitigate reasonably foreseeable adverse effects is also predicated on agency authority to do so.

In the final rule, 7 CFR 1b.9(w) is removed. Paragraphs 1b.9(w)(1) and (w)(2) in the IFR are now paragraphs 7 CFR 1b.9(v)(2) and (3), respectively, in the final rule.

In the final rule, the first sentence of 7 CFR 1b.9(v)(2) (formerly 1b.9(w)(1)) is revised. In the IFR, this section read as: ''When urgent actions are not likely to have a reasonably foreseeable significant environmental impacts, but an emergency exists that makes it necessary to take urgently needed actions before preparing documentation associated with a categorical exclusion, environmental assessment, or finding of no significant impact, USDA subcomponents may authorize alternative arrangements for environmental compliance so long as the alternative arrangements are limited to actions necessary to address the emergency circumstance.'' In the final rule, it reads as: ''When taking actions other than those described in paragraph (1) that are not likely to have reasonably foreseeable significant impacts, but emergency circumstances exist that make it necessary to take actions before preparing a categorical exclusion that requires NEPA documentation, an environmental assessment, or a finding of no significant impact, USDA subcomponents may authorize alternative arrangements for NEPA compliance so long as the alternative arrangements are limited to actions necessary to address the emergency circumstance.'' The term ''urgent'', as it relates to describing the type of actions, has been removed as there are now only ''emergency actions''. The phrase ''reasonably foreseeable significant environmental impacts'' is changed to ''reasonably foreseeable significant impacts'' to be consistent with terminology used in statute and elsewhere in the revised regulations. The term ''NEPA compliance'' replaces the phrase ''environmental compliance'' to clarify the emergency action procedures are only applicable to NEPA.

In the final rule, 7 CFR 1b.9(v)(3) (formerly 1b.9(w)(2)) is revised. In the IFR, the first sentence read as: ''When urgent actions are likely to have significant environmental impacts, but an emergency exists that makes it necessary to take urgently needed actions before preparing an

environmental impact statement or record of decision, the responsible official taking the action shall request consultation . . .''. In the final rule, the first sentence is revised to read as: ''When taking actions other than those described in paragraph (1) that are likely to have reasonably foreseeable significant impacts, but emergency circumstances exist that make it necessary to take the actions before preparing an environmental impact statement or record of decision, the responsible official taking the action shall request consultation . . .''. The term ''urgent'', is as it relates to describing the type of actions, has been removed as there are now only ''emergency actions''. The phrase ''significant environmental impacts'' is changed to ''reasonably foreseeable significant impacts'' to be consistent with terminology used in statute and elsewhere in the revised regulations. In the 1b.9(v)(3) paragraph, after references to the USDA senior agency official, ''or their designee'' is added as this clarification aligns with 7 CFR 1b.2(b)(2)(vi) (as renumbered in the final rule, and which did not otherwise change as part of the final rule), which allows the senior agency official to delegate certain duties for NEPA compliance.

7 CFR 1b.10—Documents prepared by applicant or third party: This section is added to read as indicated in 7 CFR 1b.10.

This section adds procedures for EAs and EISs prepared by an applicant or third party. Specifies responsibilities of USDA subcomponents when documentation is being prepared by an applicant or third party. Recognizes that NEPA § 107(f), 42 U.S.C. 4336a(f), allows an applicant or other third party (*e.g.,* contractor) to complete an EA or EIS in whole or in part, under supervision of a Federal agency. For purposes of the USDA NEPA regulations, applicant or other third-party preparation is expanded to include, in whole or in part, documentation for a finding of applicability and no extraordinary circumstance for CEs requiring NEPA documentation. This is to account for the various ways USDA subcomponents currently work with applicants and third parties to complete documentation associated with a proposal, which includes more than just the preparation of EAs and EISs. Applicants often complete documentation for actions that fit CEs requiring NEPA or statutorily required environmental review documentation.

Some commenters on the IFR disagreed with documentation prepared by an applicant or third party being expanded to include documentation for CEs, alleging this is not permitted by NEPA as the Act only addresses this for EAs and EISs. However, NEPA does not speak to documentation for CEs. 42. U.S.C. 4336a(f) requires procedures for project sponsor preparation of EAs and EISs, but does not require procedures for project sponsor preparation of CEs. The absence of a requirement is not the same as a prohibition. Disallowing sponsor preparation of a lesser form of NEPA review than an EA or EIS would seem to be inconsistent with Congress's intent. The USDA NEPA regulations provide procedures for CE determinations at 7 CFR 1b.3 and therefore it is also appropriate to provide procedures for applicants or third parties who are developing NEPA documentation for those CEs that require it.

In the final rule, this section is revised to remove erroneous uses of the term ''agency'' and replace it with ''subcomponent'' for consistency with other terminology used throughout the revised regulations.

7 CFR 1b.11—Definitions and Acronyms: This section is added to read as indicated in 7 CFR 1b.11.

This section adds cross-references to key definitions from NEPA and carries over some definitions from the 2020 CEQ NEPA Implementation Regulations (such as the definition for ''effects''), with modifications made for some definitions such as: mitigation (or mitigation measure) and significance.

In the final rule the definition of ''Agency'' (7 CFR 1b.11(a)(3)) is revised to remove ''the Unites [sic] States Department of Agriculture'' and instead use the USDA acronym. This aligns with the use of ''USDA'' throughout the regulations.

Several commenters on the IFR stated that consideration of direct, indirect, and cumulative effects should explicitly be stated as a requirement in the revised regulations and the definition of ''effects'' should be revised to include these terms.

Sections 1b.5 and 1b.7 in the revised regulations include ''Scope of Analysis'' direction for EAs and EISs. The scope of analysis direction stems from the U.S. Supreme Court decision in *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025). The revised regulations clarify that when completing an EA or EIS, a USDA subcomponent will document where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the proposed action (and action alternatives, if any) or project at hand that extend outside the geographical territory of the proposal or might materialize later in time. To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time (*i.e.* temporal), or separate in place (*i.e.* spatial), or that fall outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the EA or EIS and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.

Instead of formulating the evaluation of environmental effects of USDA subcomponent actions using the artificial devices of ''direct,'' ''indirect,'' and ''cumulative'' effects that do not appear in the statute, USDA's NEPA regulations focus on the underlying principle of what constitutes an ''effect''. In reorienting the focus of its regulations, USDA does not change or purport to change the scope of effects that USDA subcomponents are required by statute to consider. Both before and after the updates to USDA's NEPA regulations, USDA subcomponents were and are required to consider effects that are both reasonably foreseeable and have a reasonably close causal relationship to their proposed actions and reasonable action alternatives, consistent with the statute, as clarified by the Supreme Court in the *Public Citizen* and *Seven County* decisions.

Additionally, in light of Supreme Court's *Seven County* decision, USDA elected to update its regulations to reflect the phrasing provided by the Supreme Court regarding effects. That is, ''To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time, or separate in place, or that fall outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the environmental assessment [or environmental impact statement] and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.'' 7 CFR 1b.5(b)(3) and 7 CFR 1b.7(g)(3). ''Similarly, the USDA subcomponent will document in the

environmental assessment [or environmental impact statement] where and how it drew a reasonable and manageable line relating to its consideration of any environmental effects from the proposed action (and action alternatives, if any) or project at hand that extend outside the geographical territory of the proposal or might materialize later in time.'' 7 CFR 1b.5(b)(2) and 7 CFR 1b.7(g)(2). *Id.* (citing *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025)).

This language, adapted directly from the *Seven County* decision, provides USDA with direction on how to consider, as appropriate, the environmental consequences of an USDA subcomponent's action that may previously have been expressed in concepts such as ''indirect effects'' and ''cumulative effects''. This focus on the meaning of ''effect'' has led USDA to restore in large part the concept of ''connected action'' to the way it was defined in the pre-2020 CEQ regulations, with clarifying emphasis that the subject of analysis is the Federal action, not action taken by non-Federal entities. *See* 40 CFR 1508.25(a)(1) (rescinded). Even as originally defined in the pre-2020 CEQ regulations, the term ''cumulative impact'' referred to the ''incremental impact'' of the proposed action in relation to the context within which that action was taken. *See* 40 CFR 1508.7 (rescinded). That is, the focus, even of the ''cumulative impact analysis'' should always have been on change wrought by the effects of the proposed action, and the *Seven County* decision merely refines that focus.

In summary, NEPA does not include a statutory requirement to analyze direct, indirect, or cumulative effects, and the Supreme Court *Seven County* decision further validates this interpretation. USDA's Scope of Analysis provision sufficiently addresses the concept of direct, indirect, and cumulative effects and provides for their consideration in reasoned decision-making.

Some commenters assert that the revised regulations should require that NEPA effects analysis address climate change and environmental justice considerations.

NEPA does not contain any provisions addressing any specific type of environmental impact. Direction from within the executive branch may in the past have pushed agencies to place special emphasis upon certain categories of effects (*i.e.,* ''climate change,'' ''environmental justice''), but that direction has now been rescinded. *See* 91 FR 618 (Jan. 8, 2026) (final rule rescinding CEQ's NEPA regulations); Executive Order 14173, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (Jan. 21, 2025) (revoking Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;* Executive Order 14154, *Unleashing American Energy,* 90 FR 8,353 (Jan. 20, 2025) (revoking Executive Order 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All*). In other words, the distinctions and concepts identified by commenters do not exist in statute and were conceptual creations of CEQ, some agencies, and courts to formulate analysis and guide agency decision-making.

In the final rule, the definition of ''Effects'' (7 CFR 1b.11(a)(12)) is revised to reword the last sentence in bullet (i). The sentence previously read as: ''Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the USDA subcomponent believes that the effect will be beneficial.'' It now reads as: ''Effects appropriate for analysis under NEPA may be either beneficial or adverse, or both, with respect to these values.'' This change better ensures a consistent definition of effects across Federal departments and agencies. In this definition, bullet (iii) was also removed as this bullet was included prior to adding the Scope of Analysis direction included for EAs and EISs. It was erroneously left in the IFR and now removed as it conflicts with that direction.

''Mitigation'' (7 CFR 1b.11(a)(29)) is added to clarify mitigations are determined by the responsible official and are a reactive response to the effects analysis and are documented in the finding of no significant impact or record of decision. See further discussion below on adding the term ''design criteria'' to the definition section. In the final rule, the definition of ''Mitigation'' is revised to include the following sentence, as recommended by some commenters on the IFR: ''When adopting mitigations as part of the FONSI or ROD, the statutory or regulatory authority for any mitigation must be provided.'' This addresses the concern that unless mitigations are tied to statute or regulation, applicants/third parties could be subject to costly and burdensome mitigations at the whim of the responsible official. Minor edits were also made to the second sentence of the definition, changing ''mitigations'' to ''mitigation measures'' and adding the acronyms for FONSI and ROD.

''Significance'' (7 CFR 1b.11(a)(50)) is defined as explained under the changes made to section 7 CFR 1b.2.

This section also adds definitions for new terms introduced in the regulations, such as: design criteria (or design elements or design features), emergency, environmental review, extraordinary circumstances, finding of applicability and no extraordinary circumstance, issue, level of NEPA, NEPA process, notice of availability, proposal record, proposed action, purpose and need, scale, scope, senior agency official, and substantive.

The definition for ''Design criteria'' (7 CFR 1b.11(a)(11)) is added to demonstrate that when these criteria are added to proposed actions or alternatives to achieve similar outcomes of ''mitigations'' (7 CFR 1b.11(a)(29)), they are added in response to an issue and therefore once the issue has been addressed in this manner it is not an issue that needs to be analyzed in detail. Design criteria are proactive responses to issues identified early in the interdisciplinary process of developing the proposed action and/or action alternatives or when conducting preliminary effects analysis, whereas adding ''mitigations'' (or ''mitigation measures'') is a reactive response by the responsible official to the effects analysis. The definition clarifies that these two terms achieve similar outcomes (for example, avoid or minimize adverse effects), yet apply in distinctly different ways, and also facilitate analytic analysis.

In the final rule, the definition for ''Design criteria'' is revised to include ''resource protection measures'' and ''best management practices'' as alternative terms that mean the same thing, as informed by internal feedback that these are terms used by some USDA subcomponents. The phrase ''proactively added to the proposed action'' in the first sentence is revised to now read as ''that are included as part of the proposed action''. The phrase ''in coordination with the applicant if applicable'' was also added to the first sentence as recommended by some commenters on the IFR, with the first sentence now reading as: ''*Design criteria* (or *design elements, design features,* [*resource protection measures],* [*best management practices],* or *conservation practices* etc.) means constraints or requirements proactively added to the proposed action (or action alternatives) or through an iterative interdisciplinary process, in coordination with the applicant if applicable, to avoid or minimize

adverse impacts.'' This change was made to address the concern raised by some commenters on the IFR that USDA subcomponents could add costly and/or burdensome design criteria to proposals submitted by applicants/third parties without their input or consent. The second to last sentence in the definition paragraph is revised with wording that makes it clear design criteria are part of the proposed action (similar language was also added to the last sentence of the definition paragraph) and wording is added to clarify that recommendations for design criteria could be identified as part of interdisciplinary preparation or through external comments. Verbs in (i) through (iii) were revised to eliminate the present participle (removed ''ing'' endings).

Some commenters on the IFR disagreed with the revised regulations highlighting the differences between ''design criteria'' and ''mitigation measures''. Some had particular concern with the phrase used in the definition of design criteria that states, ''[w]hen design criteria are added in response to an issue, that issue should no longer be analyzed in detail in the analysis process''. Some also expressed concern with the definition for mitigation measures and propose it should carry forward the CEQ guidance that ''[m]itigation measures may be relied upon to make a finding of no significant impact only if they are imposed by statute or regulation, or submitted by an applicant or agency as part of the original proposal''—alleging the agency cannot enforce application of mitigations (or implementation of design criteria) without statutory authority.

The USDA NEPA regulations purposefully differentiate between design criteria that are intrinsic to the proposed action (*i.e.* proactively added to the proposed action prior to final effects analysis occurring) and mitigation measures that address effects (*i.e.* are reactive to the effects described in the final effects analysis). If the applicant or agency has included criteria or constraints as part of the original proposal, these are design criteria (per USDA's definition), not mitigation measures, though both design criteria and mitigation measures serve to minimize or eliminate undesired adverse effects. Section 1b.6(b)(3), which outlines the elements required for a finding of no significant impact, already includes the suggested language that the agency identify the statutory or regulatory authority for mitigations. Section 1b.8(b)(6), which outlines the elements required for a record of decision, is revised in the final rule to reflect the language already included in section 1b.6(b)(3). USDA's application of the terms ''design criteria'' and ''mitigation measures'', as well as clarification that when an issue is addressed through the addition of design criteria that issue should no longer be analyzed in detail (7 CFR 1b.11(a)(11)), is in alignment with the CEQ's 2011 guidance on mitigation and monitoring, which was cited by some commenters (CEQ Memo: *Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact,* January 14, 2011).

The definition of ''emergency'' (7 CFR 1b.11(a)(13)) is added as this term was used in some of the USDA agency-specific NEPA regulations for emergency action provisions and the concept is carried forward into the USDA NEPA regulations for ''emergency actions'' (7 CFR 1b.9(v)). In the final rule, the definition of ''Emergency'' is revised to now read as: ''*Emergency* means circumstances exist that make it necessary to take action where delaying action to follow standard procedures for completing NEPA analysis would be contrary to the public interest, as determined by a responsible official.'' This is to align with changes made to terminology and wording used in 7 CFR 1b.9(v), for the reasons described for that section.

The definition of ''extraordinary circumstances'' (7 CFR 1b.11(a)(17)) is a concept carried forward from the now rescinded CEQ NEPA regulations and is defined in the USDA NEPA regulations. Some USDA agency-specific NEPA regulations included a definition of extraordinary circumstances, while others did not. While these former definitions served to inform the new definition, none of the previous definitions were used in their entirety. The definition included in the USDA NEPA regulations clarifies that an extraordinary circumstance is a unique situation that exists in which actions that normally do not have significant impacts—and are therefore categorically excluded from documentation in an EA or EIS—create uncertainty whether the degree of the effect is significant. The CEQ NEPA regulations and some USDA agency-specific NEPA regulations defined or discussed extraordinary circumstances in a way that created confusion as to when an extraordinary circumstance existed. Some interpreted an extraordinary circumstance to be present when a resource considered for extraordinary circumstances, such as federally listed threatened or endangered species or wetlands, was present. It is not the mere presence of a resource that means an extraordinary circumstance exists, but rather the cause-effect relationship between the proposed actions and the resource considered. An extraordinary circumstance exists only when there is reasonable uncertainty about whether the degree of the impact is significant for the resource being considered.

In the final rule, the definition of ''Federal Agency'' (7 CFR 1.11(a)(18)) is revised to remove the erroneous phrase ''these USDA implementing procedures'' and correctly replaced with ''this part''. The last sentence of the definition now begins with, ''For the purposes of this part . . .''.

The definition of ''finding of applicability and no extraordinary circumstance'' (7 CFR 1b.11(a)(19)) is added, as the USDA NEPA regulations clarify that the use of a CE is dependent on determinations that a category (or categories) applies to the proposed actions and no extraordinary circumstance exists. In the final rule, this definition is revised to add a sentence at the end that reads, ''For those categories that require NEPA documentation, this finding must be documented.'' This aligns with 7 CFR 1b.3(g).

The definition of ''issue'' (7 CFR 1b.11(a)(23)) is added to promote analytic analysis that is focused on cause-effect relationships between the actions proposed (cause) and the reasonably foreseeable impacts (effect) on resources found in the affected environment. The purpose of considering issues is to identify opportunities to modify the proposed action, develop an action alternative, or supplement, improve, or modify the analysis to better understand the effects.

The definitions of ''level of NEPA'' and ''NEPA process'' (7 CFR 1b.11(a)(27) and (30)) are added as these terms are used in the regulations in several instances to refer to the different levels of NEPA or process to be completed, those being CE, EA, or EIS. This also helps clarify that using a CE is a NEPA process, as some entities in the past have erroneously alleged that an agency's use of a CE is ''circumventing NEPA''.

The definition of ''proposal record'' (or ''project record'') (7 CFR 1b.11(a)(38)) is added to standardize this term and concept for USDA as it is a key piece of the NEPA and integrated environmental review processes that can be overlooked. A well-organized and complete proposal record also can facilitate paperwork reduction.

The definition of ''proposed action'' (7 CFR 1b.11(a)(39)) is added to differentiate this from a proposal.

''Proposal'' is defined by NEPA as ''a proposed action at a stage when an agency has a goal, is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and can meaningfully evaluate its effects''. The definition of proposed action takes this a step further to indicate this includes ''design criteria'' (where these apply) and that this is the version submitted for final interdisciplinary review and effects analysis. Defining a proposed action also can help responsible officials better determine when timelines start for EAs and EISs to track and meet the deadlines now established in NEPA.

The definition of ''purpose and need'' (7 CFR 1b.11(a)(41)) is added as this is a term used in NEPA (the Act itself) but not defined. The definition clarifies the purpose and need, explains the ''why here, why now'' rationale for proposing an action, and that this also can incorporate the goals of an applicant (when applicable) and the subcomponent's statutory duty to review an application for authorization.

In the final rule, the definition of ''Record of Decision'' (ROD) (7 CFR 1b.11(a)(44)) is revised to add the word ''documented''. The beginning of the definition now reads as ''Record of decision is a documented determination by the responsible official . . .''. This is to accurately reflect that the ROD is a document as it is not included in the definition of ''environmental document'', as defined in NEPA § 111(5), 42 U.S.C. 4336e(5).

The definitions of ''scale'' and ''scope'' (7 CFR 1b.11(a)(47) and (48)) are added as these terms are used in the USDA NEPA regulations when referring to the scale and scope of actions proposed and issues considered for analysis.

In the final rule, the definition of ''Senior agency official'' (7 CFR 1b.11(a)(49)) is revised to add the following sentence at the end of the definition: ''At USDA, the Deputy Secretary is the senior agency official.'' This change was necessary to account for deleting the definition of ''USDA senior agency official''. It was found duplicative to have definitions for both of these terms when clarification could be added to the senior agency official definition to specify what position at USDA fills this role.

In the final rule, the definition of ''Significance'' (7 CFR 1b.11(a)(50)) is revised to remove the phrase ''considering whether the reasonably foreseeable impacts of the proposed action are significant and analyzing the potentially affected environment and degree of the effects of the action'' and replace it with ''the degree of effects of the specific action on the potentially affected environment'', as recommended during interagency review to avoid using the term ''significance'' in the definition and to provide greater precision with respect to the definition of this term. The definition at (iii)(A) is also revised to add the phrase ''and beneficial'' to the consideration of short- and long-term impacts, with the sentence now reading as: ''How the unavoidable short- and long-term adverse and beneficial impacts of implementing the action . . .''. The definition is also revised at (iii)(B) to change ''or'' to ''and'' and add the word ''Federal'' in the phrase ''How the irreversible [and] irretrievable commitment of a [Federal] resource''. These changes align with changes made to 7 CFR 1b.2(f)(3), as previously described in this preamble.

In the final rule the definition of ''Subcomponent'' (7 CFR 1b.11(a)(52)) is revised to remove ''the United States Department of Agriculture'' but keeps the USDA acronym. This aligns with the use of ''USDA'' throughout the regulations.

The definition of ''substantive'' (7 CFR 1b.11(a)(53)) is added to promote analytic analysis that focuses on information that meaningfully informs the consideration of reasonably foreseeable impacts on the human environment and the resulting significance determination or decisions on how to proceed. Not all issues need the same level of attention and analysis. Rather, it is substantive issues that should be the focus when conducting effects analysis and making iterative and final decisions on how to design, analyze, and implement an action. In the final rule, the definition of ''Substantive'' is revised to add ''or compliance with applicable laws, executive orders, and regulations'' to the end of the definition as this is something that must also be considered by the responsible official when reviewing substantive information, as pointed out by some commenters on the IFR.

In the final rule, the definition of ''USDA Senior Agency Official'' is removed at 7 CFR 1b.11(a)(54) and replaced by the definition of ''USDA website'' to clarify how the requirement for publishing environmental documents or otherwise making information available to the public on a USDA website can be met as this was not clear to Department staff implementing the IFR. The definition clarifies the information or document required to be made available to the public can also be published on another entity's website so long as a USDA website directs to that other entity's website.

7 CFR 1b.11(b) adds a list of acronyms that may appear throughout 7 CFR 1b or that may be used when applying 7 CFR 1b during the applicable NEPA process. No changes have been made to this section relative to the version released with the IFR in July 2025.

7 CFR 1b.12—Severability: This section is added to read as indicated in 7 CFR 1b.12.

7 CFR 1b.12 adds a severability clause that clarifies that the sections of the USDA NEPA Implementing Regulations are separate and severable from one another and describes how other sections or portions may remain valid if another section or portion is stayed or determined to be invalid. No changes have been made to this section relative to the version released with the IFR in July 2025.

3. Agricultural Research Service Procedures for Implementing NEPA (Previously at 7 CFR 520)

The Agriculture Research Service (ARS) NEPA regulations are rescinded in full except for the following sections that have been consolidated in the 7 CFR 1b regulations: 7 CFR 520.5(b)(2)(i) and (iii).

—7 CFR 520.5(b)(2)(i) and (iii) were moved to examples of activities under one of the CEs previously codified at 7 CFR 1b.3 (department-wide CEs previously under section 1b.3 are now moved to section 1b.4). (now 7 CFR 1b.4(c)(3)(iv) and (v))

4. Animal and Plant Health Inspection Service NEPA Implementing Procedures (Previously at 7 CFR 372)

The Animal and Plant Health Inspection Service's (APHIS) NEPA Implementing Procedures at 7 CFR part 372 are rescinded in full except for the following sections that have been moved to 7 CFR part 1b: 7 CFR 372.5(c)(1) through (3) and 7 CFR 372.5(c)(5) (any previously reserved sections are removed as new numbering is applied under 7 CFR 1b); and 7 CFR 372.10(b). Previously codified APHIS CEs are now found at 7 CFR 1b.4(c)(08) through (11).

Minor changes were made to former 7 CFR 372.5(c)(1) through (3) and 7 CFR 372.5(c)(5) as follows when they were moved over to 7 CFR 1b:

—372.5(c)(1)(i): some terms were removed from this paragraph and added them to examples of activities under department-wide CEs previously codified at 7 CFR 1b.3 (department-wide CEs previously

under § 1b.3 are now moved to § 1b.4). The example now reads as: ''Identifications, inspections, surveys, sampling, testing, and monitoring that does not cause physical alteration of the environment.'' (now 7 CFR 1b.4(c)(3)(i))
—372.5(c)(1)(ii): revised ''Examples of routine measures include'' to now read as ''Examples of routine measures include but are not limited to''. (now 7 CFR 1b.4(c)(8)(ii))
—372.5(c)(2)(i)(B) and (D) were moved to examples of activities under one of the CEs previously codified at 7 CFR 1b.3 (department-wide CEs previously under § 1b.3 are now moved to § 1b.4). (now 7 CFR 1b.4(c)(3)(ii) and (iii))
—372.5(c)(2)(i) and 372.5(c)(5): revised ''Examples are'' to now read as ''Examples include but are not limited to''. (now 7 CFR 1b.4(c)(9) and (11))
—372.5(c)(3)(ii) and (iii): modified by removing erroneous ''or'' in (ii) and removing erroneous ''and'' in (iii) and replacing it with ''or''. (now 7 CFR 1b.4(c)(10))

Former section 372.10(b) had more extensive changes when it was moved to 7 CFR 1b.9(v)(2)(i). It is revised as follows:

—Eliminates language regarding EAs as this discussion is now covered for all USDA agencies;; uses more generalized language about who can approve alternative arrangements for emergency actions not anticipated to have a reasonably foreseeable significant effect given the ongoing organizational restructuring at USDA that could affect office names or staff position titles; and, eliminates the requirement to document and report to CEQ the alternative arrangements approved at the agency level. (USDA agencies will continue to coordinate with CEQ on alternative arrangements for those activities anticipated to have reasonably foreseeable significant effects.)

5. Farm Service Agency General Implementing Regulations for NEPA (Previously at 7 CFR 799)

The Farm Service Agency (FSA) NEPA regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 799.12(b), 7 CFR 799.31(b)(1)(2) and (4) through (6), 7 CFR 799.32(d)(1)(2) and (3), 7 CFR 799.32(e)(1)(2) and (3). Previously codified FSA CEs are now found at 7 CFR 1b.4(c)(12) through (16) and (30) and (d)(1) and (2).

7 CFR 799.12(b) was moved to 7 CFR 1b.9(v) but is incorporated into the overall Department guidance for Emergencies, with one paragraph 1b.9(v)(2)(ii) clarifying how the FSA should coordinate alternative arrangements for urgent actions not anticipated to have reasonably foreseeable significant effects.

CEs moved to 7 CFR 1b.4(c) (CEs not requiring documentation under NEPA) because they are historically low impact actions:

—7 CFR part 799.31(b)(1) Loan Actions (combined with other ''Loan Actions'' categories under one category at 7 CFR 1b.4(c)(30))
—7 CFR part 799.31(b)(2) Repair, improvement, or minor modification actions (now 7 CFR 1b.4(c)(13))
—7 CFR part 799.31(b)(3) Administrative actions are deleted as a category and added as examples under one of the CEs previously codified at 7 CFR 1b.3. (now 7 CFR 1b.4(c)(1)(i) through (iii))
—7 CFR part 799.31(b)(4) Planting actions. (now 7 CFR 1b.4(c)(14))
—7 CFR part 799.31(b)(5) Management actions. (now 7 CFR 1b.4(c)(15))
—7 CFR part 799.31(b)(6) Other FSA actions (now labeled ''Miscellaneous FSA Actions''). 799.31(b)(6)(vi) is revised to read as: Safety net programs without ground disturbance. ''Without ground disturbance'' is added as a clarifier, as the sentence providing this clarification is not moved to 7 CFR 1b. 7CFR 799.31(b)(6)(x) is removed because the adoption provision is no longer needed here. (now 7 CFR 1b.4(c)(16))
—7 CFR 799.32(d)(1) Loan Actions (combined with other ''Loan Actions'' categories under one category at 7 CFR 1b.4(c)(30))
—7 CFR 799.32(d)(2) Minor management, construction, or repair actions (now 7 CFR 1b.4(c)(12))
—7 CFR 799.32(d)(3) Other FSA actions (combined in list with categories labeled ''Miscellaneous FSA Actions'') (now 7 CFR 1b.4(c)(16))
—7 CFR 799.32(d)(3)(iv): Removed as it is duplicative to another category already included in the now combined ''Miscellaneous FSA Actions'' list and the phrase ''(this proposed action, in particular, has the potential to cause effects to historic properties and therefore requires analysis under section 106 of NHPA (54 U.S.C. 306108), as well as under the ESA and wetland protection requirements)'' is not necessary as the determination for when compliance with NHPA (National Historic Preservation Act) and ESA (Endangered Species Act) is needed is appropriately done on a case-by-case or programmatic basis and is not appropriate to include in NEPA regulations
—7 CFR 799.32(e)(1) Loan Actions (combined with other ''Loan Actions'' categories under one category at 7 CFR 1b.4(c)(30))

CEs moved to 7 CFR 1b (CEs requiring documentation under NEPA):

—7 CFR 799.32(e)(2) Construction or ground disturbance actions (now 7 CFR 1b.4(d)(1))
—7 CFR 799.32(e)(3) Management and planting type actions (now 7 CFR 1b.4(d)(2))

FSA is applying the definition of major Federal action, as established in the FRA (Pub. L. 118–5), which also amended NEPA. The agency has determined that several types of loan actions fall within one or more of the exclusions in the definition of major Federal actions and will be treating them as such; however, it's possible not all types of loans fall within the exclusions. For this reason, FSA is retaining the existing categories titled ''Loan Actions''. FSA will continue to make case-by-case or programmatic determinations as to whether certain loans and potentially other programs or actions meet the statutory definition of major Federal action. Justifications for these and any other programmatic determinations will be made in agency-issued guidance.

6. National Institute of Food and Agriculture Implementation of NEPA Regulations (Previously at 7 CFR 3407)

The National Institute of Food and Agriculture (NIFA) regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 3407.6(a)(2)(i)(A) and (C).

—7 CFR 3407.6(a)(2)(i)(A) and (C) were moved to examples of activities under one of the CEs previously codified at 7 CFR 1b.3 (department-wide CEs previously under § 1b.3 are now moved to § 1b.4). (now 7 CFR 1b.4(c)(3)(iv) and (v))

7. Natural Resources Conservation Service Compliance With NEPA Regulations (Previously at 7 CFR 650)

The Natural Resources Conservation Service (NRCS) regulations are rescinded in full except for the following sections that have been consolidated in the 7 CFR 1b regulations: 7 CFR 650.6(a) and (d)(1) through (21). Previously codified NRCS CEs are now found at 7 CFR 1b.4(d)(3) through (23).

Minor changes were made to the CE sections as follows when they were moved over to 7 CFR 1b:

—7 CFR 650.6(a): This section was moved to examples of activities under one of the CEs previously codified at 7 CFR 1b.3. (now 7 CFR 1b.4(c)(3)(vi) through (x))

—7 CFR 650.6(d)(14): Revised as follows. In the phrase ''Work will be confined to the existing footprint of the dam. . .'', ''existing'' is replaced with ''construction'' to now read as ''Work will be confined to the construction footprint of the dam''. (now 7 CFR 1b.4(d)(16))

—7 CFR 650.6(d)(15): Revised as follows. In the phrase ''Work will be confined to the dam or abutment areas. . .'', the language ''construction footprint of the'' was inserted, to now read as ''Work will be confined to the construction footprint of the dam or abutment areas. . .'' (now 7 CFR 1b.4(d)(17))

—7 CFR 650.6(d)(16): Revised as follows. In the phrase ''Repairing embankment slope failures on structures. . .'', the language ''or reshaping the embankment'' was inserted to now read as ''Repairing embankment slope failures on structures or reshaping the embankment. . . .'' (now 7 CFR 1b.4(d)(18))

—7 CFR 650.6(d)(17): Revised as follows. In the phrase ''Work will be confined to the existing dam and abutment areas. . .'', ''existing'' is replaced with ''construction footprint of'' to now read as ''Work will be confined to the construction footprint of the dam and abutment areas. . . .'' (now 7 CFR 1b.4(d)(19))

These CEs focus on routine actions for the repair or updating of existing structures constructed under the Watershed Protection and Flood Prevention Act, Public Law 83–566, or the Flood Control Act, Public Law 78–534. The purpose of rehabilitation projects is to comply with current State safety standards and Federal performance standards, as well as the protection of environmental values associated with the project's structures.

Upon review of the substantiation records associated with the development of these CEs and the NRCS staff's professional knowledge and experience, NRCS determined it needed additional clarity to better define the appropriate scope of these CEs. The term ''existing,'' in reference to the dam structure, leads to an overly restrictive interpretation that does not meet standard maintenance procedures associated with rehabilitation actions, thus unintentionally restricting the scope and application of the CEs. NRCS completed an analysis of 47 recent site-specific dam rehabilitation EAs, all resulting in a finding of no significant impact. 38 of 47 EAs included one or more actions (NRCS practices) that could qualify for a proposed revised CE. NRCS concluded that 21 of these 38 projects could have been categorically excluded because the proposed action was limited to the dam construction footprint, which was previously disturbed during construction. 17 of those 38 EAs included some actions that could fit the revised CE. Thus, NRCS used the EA analysis to support the conclusion that as individual actions, these actions would not normally lead to significant impacts. The remaining 9 project-specific EAs did not meet the CE criteria because the rehabilitation construction footprint exceeded the original dam construction footprint or involved other actions outside the scope of the CE. These CEs are limited to developed areas, so this modification is not expected to create any new development. Therefore, NRCS determined that when applying these CEs, clarifying the parameters to account for the previously disturbed areas surrounding the finished dam, abutment, or dam slope does not typically result in a significant impact on the human environment and, therefore, justifies changes to the CEs.

The minor modifications reflect an effort by NRCS to provide further clarity and provide transparency regarding the activities, including the associated workspace, covered by the CEs. For actions under these CEs, NRCS personnel will continue to evaluate proposed actions for potential impacts and extraordinary circumstances, including responsibility of the agency to comply with the National Historic Preservation Act and the Endangered Species Act. A copy of the substantiation record for these modifications can be found at *https://www.nrcs.usda.gov/resources/guides-and-instructions/nrcs-environmental-evaluation-cpa-52-worksheet-tools-and-training.*

Additionally, for the final rule NRCS reconsidered whether 7 CFR 650.6(c)(3) needed to be retained in the 7 CFR 1b as this section outlined conditions that must be met before using the CEs listed at § 650.6(d). Rationale was provided in the IFR as to why NRCS did not find it necessary to include this language from an agency perspective; however, in discussions with other USDA subcomponents that may use the NRCS CEs and other federal agencies interested in adopting some of the NRCS CEs, NRCS has determined it appropriate to include revised language in 7 CFR 1b.4(d), as modified by this final rule, that clarifies the need to consider application of a NRCS Conservation Practice Standard or an agency-equivalent technical guideline when using the CEs. NRCS Conservation Practice Standards are regularly updated through a rigorous interdisciplinary national review process and require scientific validity, technical feasibility, and alignment with agency conservation objectives and statutory authorities. Accordingly, although USDA subcomponents or other federal agencies may apply NRCS CEs listed in § 1b.4 (d)(3)–(24), the subcomponent's or federal agency's responsible official must determine that either an applicable NRCS Conservation Practice Standard(s), a comparable subcomponent technical guideline(s), or similar agency-specific conservation or best management practice(s), sufficiently supports its use.

8. Rural Development Environmental Policies and Procedures (Previously at 7 CFR 1970)

The Rural Development regulations are rescinded in full except for the following sections that have been moved to the 7 CFR 1b regulations: 7 CFR 1970.11(b); 7 CFR 1970.18(b); 1970.53(a)(1) through (a)(7), (c)(1) through (c)(9), (d)(1) through (11), (e), (f), and (g); 1970.54(a) through (c). Previously codified Rural Development CEs are now found at 7 CFR 1b.4(c)(17) and (18) and (31) through (40) and (d)(24). The CE at 7 CFR 1b.4(d)(25) in the IFR was moved to 7 CFR 1b.4(c)(39) as part of the final rule as these actions do not require NEPA documentation. 1b.4(d)(25) now shows [Reserved] so as not to require the CEs to be renumbered.

Through this final rule, Rural Development is rescinding the process by which it determined which actions require environmental review as previously codified at 7 CFR 1970.8 and implementing the definition of major Federal action as established in the FRA (Pub. L. 118–5), which also amended NEPA. Rural Development will make case-by-case or programmatic determinations of which programs or actions do not meet the statutory definition of major Federal action. Justifications of programmatic determinations will be made in agency-issued guidance.

In the IFR, Rural Development removed several CEs for actions that the mission area had determined did not meet the definition of major Federal action under NEPA and, therefore, did not require NEPA analysis. However,

recent experiences have indicated there may still be unique circumstances in which some actions do not meet the exclusions for a major Federal action and would therefore be considered a major Federal action and subject to NEPA review. Rural Development has decided, as part of this final rule, to keep the following actions previously codified at: 7 CFR 1970.53(a)(1) through (a)(6), (b)(3), (c)(8), (c)(9), (d)(1), and (f). These categories are added at 7 CFR 1b.4(c)(18)(xviii) through (xx) and 7 CFR 1b.4(c)(33) through (40). The actions are included exactly as they were promulgated in the 7 CFR part 1970 regulations, except for one that required a change (7 CFR 1970.53(a)(2)), as described below. For actions covered by these CEs, Rural Development will make case-by-case or programmatic determinations of which actions do not meet the statutory definition of major Federal action, and where actions are determined to be major Federal actions, the applicable CE can be applied.

Actions previously codified at 1970.53(b)(1) and (2), 1970.53(h), and 1970.55 were removed in the IFR and remain removed as part of this final rule. These actions are already covered by previously promulgated Department-wide categories or are for actions that clearly do not meet the definition of major Federal action.

7 CFR 1970.11(b) is moved to 7 CFR 1b.2(h)(3) verbatim except for the addition of the following phrase at the beginning of the section to indicate it applies to the Rural Development mission area: ''When agencies under the Rural Development mission area are obligating funds''.

7 CFR 1970.18(b) is revised and moved to 7 CFR 1b.9(v)(2)(iii) to align with the overarching Department guidance for Emergencies. Adds clarification for how to coordinate to get alternative arrangements approved for emergency actions not anticipated to have a reasonably foreseeable significant effect.

7 CFR 1970.53(a)(2)(i) is revised and moved to 7 CFR 1b.4(c)(34). The original language in paragraph 1970.53(a)(2)(i) is removed and labeled [Reserved] as Rural Development has determined that the actions described are not major Federal actions. The original language also cited two regulations that are now rescinded (40 CFR 1506.1(d) and 7 CFR 1970.12).

7 CFR 1970.53(d)(4) is revised to change the phrase ''Includes pole replacements but does not include overhead-to-underground conversions'' to now read as ''Includes pole replacements and overhead-to-underground conversions''. (Now 7 CFR 1b.4(c)(18)(x).) The equipment used in overhead-to-underground is the same equipment used to install telecommunication fiber, which is covered by other agency CEs (for example, 7 CFR 1970.53(d)(1) (now 7 CFR 1b.4(c)(18)(xx) and (2) (now 7 CFR 1b.4(c)(18)(viii) for both aerial and buried fiber cable within existing rights-of-way). The action of installing underground electric is normally does not have a significant effect on the environment when performed in an existing previously disturbed utility right-of-way. Pole replacements and overhead-to-underground conversions are not significant construction activities with the potential to cause significant effects on the environment when constructed within a previously disturbed right-of-way and do not always require environmental documentation, provided that the activities are reviewed to rule out extraordinary circumstances. This revises the previous codification at 7 CFR 1970.53(d)(4), which required an environmental report. Since 2016, the agency has reviewed numerous projects of this type (overhead-to-underground conversion) as a CE without significant impact on the environment and therefore has determined they were improperly excluded in previous rulemaking [March 2, 2016, 81 FR 11032].

7 CFR 1970.54(b)(2)(i) is revised to change the phrase ''Within one mile of currently served areas irrespective of the percent of increase in new capacity'' to now read as ''Within 20 miles of currently served areas irrespective of the percent of increase in new capacity''. (Now 7 CFR 1b.4(d)(24)(ii)(B).) The change from one (1) mile to twenty (20) miles is based on the review and analysis of EAs issued by the agency, as well as other Federal agency CEs. In addition, the removal of small-scale corridor development that increased capacity by more than 30 percent of the existing user population as a threshold requiring an EA, as previously codified at 7 CFR 1970.54(b)(2)(ii), is based on the review and analysis of EAs issued by the agency, which documents that making the modifications will not normally result in significant effects on the environment. Rural Development has the administrative record of applying 7 CFR1970.53(b)(2) since the promulgation of 7 CFR 1970 and has found no instances where the review was elevated to an EA due to extraordinary circumstances. Further, the agency has reviewed records for over 100 EAs completed for projects that proposed expansion of the distribution or collection system past one mile of the currently served areas or otherwise increased the capacity by more than 30 percent of the existing user population and found all of these to have concluded in a finding of no significant impact on the environment. As none of these projects has documented a significant impact on the environment, the agency is removing the population threshold.

7 CFR 1970.54(a)(4) is revised to remove the last sentence in the following: ''Infrastructure to support utility systems such as water or wastewater facilities; headquarters, maintenance, equipment storage, or microwave facilities; and energy management systems. This does not include proposals that either create a new or relocate an existing discharge to or a withdrawal from surface or ground waters, or cause substantial increase in a withdrawal or discharge at an existing site.'' (Now 7 CFR 1b.4(d)(24)(i)(D).) The agency has reviewed more than 300 EAs for the activities described in the last sentence and found all of these to have concluded in a finding of no significant impact on the environment. Therefore, the agency has determined these activities do not normally result in a reasonably foreseeable significant effect and it is now appropriate for these actions to occur as part of using this category.

The substantiation record for these modifications can be found at *https://www.rd.usda.gov/resources/environmental-studies/environmental-guidance.*

Some commenters on the IFR expressed concern regarding the following language included in the CE now listed at 7 CFR 1b.4(c)(18) (USDA–18c–RD): ''In accordance with section 106 of the National Historic Preservation Act [NHPA] (54 U.S.C. 300101–306108) and its implementing regulations under 36 CFR 800.3(a), the agency has determined that the actions in this section are undertakings, and in accordance with 36 CFR 800.3(a)(1) has identified those undertakings for which no further review under 36 CFR part 800 is required because they have no potential to cause effects to historic properties. In accordance with section 7 of the Endangered Species Act [ESA] (16 U.S.C. 1531–1544) and its implementing regulations at 50 CFR part 402, the agency has determined that the actions in this section are actions for purposes of the Endangered Species Act, and in accordance with 50 CFR 402.06 has identified those actions for which no further review under 50 CFR part 402 is required because they will have no effect to listed threatened and

endangered species''. As part of the final rule, this language has been removed from the CE and Rural Development agencies will determine if NHPA or ESA apply to proposals and, if applicable, determine compliance based on the anticipated effects of the proposed actions.

In the final rule, 7 CFR 1b.4(c)(18) (USDA–18c–RD) was also revised to add ''or for energy or telecommunication proposals'' to the end of the first sentence. In the IFR, the CEs for financial assistance for minor construction and energy or telecommunication proposals were combined under one category in the new regulations, but the IFR erroneously only referred to minor construction projects.

9. U.S. Forest Service NEPA Compliance Regulations (Previously at 36 CFR 220)

The U.S. Forest Service regulations are rescinded in full except for the following sections that are moved to the 7 CFR 1b regulations: 36 CFR 220.6(d)(1) through (12) and (e)(1) through (25) (any previously reserved sections are removed); and 220.4(b)(2). Previously codified Forest Service CEs are now found at 7 CFR 1b.4(c)(19) through (29) and (d)(26) through (47).

Minor changes were made to the CE sections, 36 CFR 220.6(d) and (e), as follows when they were moved over to 7 CFR 1b.4(c) and (d): Generalized the requirement, or lack thereof, for documentation for CEs. The CEs requiring documentation did not change. Where the discussion of documentation used Forest Service-specific terminology (for example, decision memo), this terminology has been removed, and the 7 CFR 1b regulations just state that documentation is required. This aligns with the 7 CFR 1b regulations, which establish consistent CE documentation requirements for all USDA agencies.

36 CFR 220.6(e)(9) In the phrase, ''Implementation or modification of minor management practices to improve allotment condition or animal distribution when an allotment management plan is not yet in place'', the following language was removed: ''when an allotment management plan is not yet in place''. (Now 7 CFR 1b.4(d)(33).) An allotment management plan (AMP) is a document that specifies how the components of the program action will be implemented to reach a given set of objectives. An AMP is prepared in consultation with the permittee(s) associated with the allotment, and it prescribes the manner and extent to which livestock operations will be conducted; describes the type, location, and construction specifications for rangeland improvements; and contains such other provisions relating to livestock grazing on the associated allotment (see 36 CFR 222.1(b)). AMPs are created after a unit's land management plan and a site-specific grazing decision, both of which undergo their own NEPA analysis. An AMP is the outcome of the grazing decision process. The presence or absence of an AMP does not change the on-the-ground effects of a rangeland improvement because AMPs do not override land management plans or grazing decisions. As such, the revision of language in the CE is a minor change and technical in nature and does not modify the way rangeland improvements are designed or implemented, nor what is authorized in the land management plan or the grazing decision. Currently, most Forest Service grazing allotments have AMPs in place, making this CE unavailable to them. The proposed minor wording change will allow Federal agencies to efficiently maintain or improve rangeland conditions and animal distribution by eliminating a restriction based on paperwork requirements rather than indicators of whether the action may have significant effects, as was considered when initially establishing the category.

36 CFR 220.6(e)(16) is revised to clarify that the land management plan approval document required by 36 CFR part 219 satisfies the documentation requirement for this CE. (Now 7 CFR 1b.4(d)(38).) In the phrase, ''. . . are outside the scope of this category and shall be considered separately under Forest Service NEPA procedures,'' ''Forest Service'' was replaced with ''USDA'' to now read as, ''. . . are outside the scope of this category and shall be considered separately under USDA NEPA procedures''. An update to recordkeeping procedures does not change the significance determination made when establishing this CE.

36 CFR 220.4(b)(2) is revised as follows when moved to 7 CFR 1b.9(v)(2)(iv): eliminates language regarding CEs, EAs, and findings of no significant impact as this discussion is now covered for all USDA agencies; and, uses more generalized language about the process for approving alternative arrangements for emergency actions not anticipated to have reasonably foreseeable significant effects given the ongoing organizational restructuring at USDA that could affect office names and staff position titles.

Based on comments received on the IFR, the Forest Service has determined it is appropriate to remove the CE listed at USDA–27c–USFS given these activities are statutorily exempt from NEPA in accordance with 16 U.S.C. 497c(i)—Ski area permit rental charge. Inclusion of this CE removal in this final rule is consistent with 7 CFR 1b.3(d) and CEQ guidance to provide public notice of the removal in the **Federal Register**. In the final rule, USDA is removing the CE USDA–27c–USFS in response to comments stating that the existing CE is for an action that has statutorily been identified as no longer being a major Federal action. 16 U.S.C. 497(c)(i) states that ''[t]o reduce Federal costs in administering the provisions of this section, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 *et seq.*).'' While the Forest Service recognizes that the existing CE uses the term ''issuance of a new permit,'' while 16 U.S.C. 497c(i) uses the term ''reissuance,'' the CE clarifies the issuance of a new permit is for ''an existing ski area when such issuance is a purely ministerial action to account for administrative changes, such as a change in ownership of ski area improvements, expiration of the current permit, or a change in the statutory authority applicable to the current permit''. This is, for all intents and purposes, a reissuance of a permit for an existing ski area, though that permit may be issued to a new owner to conduct the same activities, issued to the same owner under a new term (similar to reissuing a driver's license that is set to expire), or issued under a new authority but for the same scope of activities—as outlined in the examples. The activities outlined in the CE are clearly not intended for a permit issued for a new ski area that does not already exist; therefore, any permit issued for an existing ski area is considered a reissuance. The USDA NEPA regulations at 7 CFR 1b.2(e)(2) states that NEPA does not apply to proposals exempted from NEPA by law, which this category of proposals is. Therefore, there is no need for the CE as it covers the activities now identified as not being a major Federal action for the purposes of NEPA in 16 U.S.C 497c(i) and there is no need for the agency to engage in the NEPA process when reviewing these ski area permit reissuances.

On January 13, 2026, after the promulgation of the IFR at 90 Fed Reg 29632, the United States District Court for the District of Oregon held that the CE at 7 CFR 1b.4(d)(30) (USDA–30d–

USFS), formerly codified at 36 CFR 220.6(e)(6), did not comply with the APA, and set aside and remanded the CE, *Oregon Wild* v. *USFS,* No. 1:22–1007 (D. Or.). On March 16, 2026, the court clarified, however, that decisions that had been signed as of the date of the order could proceed. The Department is currently evaluating whether to appeal the district court ruling. Given the ongoing evaluation of the court's decision, including the possibility of appeal and the ability of certain existing signed decisions to proceed, the language for that CE is included in this rule at 7 CFR 1b.4(d)(30). If USDA decides not to appeal the decision, or if an appeal is unsuccessful, the rule will be amended to reflect the legal status of the CE.

The Forest Service recognizes that the rescission of the 36 CFR 220 regulations has implications on the 36 CFR 218 regulation for the project-level pre-decisional administrative review process. The Forest Service published a proposed rule on February 6, 2026 to revise 36 CFR 218. While the 7 CFR 1b regulations do not include a ''decision notice'' for EAs, the revised regulations do clarify at 7 CFR 1b.6(c) that, ''If a statute or regulation explicitly requires a decision document to approve actions analyzed in an EA, the finding of no significant impact can be retitled to indicate its function as a decision document.'' This is to account for continued application of the 36 CFR 218 regulations for EAs that required issuance of a decision notice under the 36 CFR 220 regulations (§ 220.7(c)), until such time as the 36 CFR 218 regulations are revised to account for this change.

Some commenters on the IFR disagreed with elimination, as part of rescinding the 36 CFR 220 regulations, of what commenters characterized as the Forest Service's requirements for public comment on EAs and EISs, the mandated scoping requirement for all levels of NEPA review, and the removal of the requirement for a ''schedule of proposed actions'' (SOPA). Other commenters supported their understanding of these changes, highlighting that what they understood to be requirements in the Forest Service's now rescinded NEPA regulations went above and beyond the statutory requirements of NEPA and the regulatory requirements outlined in the now rescinded CEQ NEPA regulations.

This final rule does not revise the Forest Service 36 CFR 218 or 219 regulations, which include public comment opportunities on some EAs and EISs.

Upon reviewing the USDA agency-specific NEPA regulations, USDA determined the Forest Service regulations went well beyond the statutory requirements for public comment. Scoping for an EIS is not a statutory requirement; however, the Forest Service NEPA regulations made scoping a requirement for all levels of NEPA review, to include CEs and EAs, and were the only USDA agency-specific NEPA regulations to do so. While the agency established a practice of frequently soliciting written comments during the scoping process, this was never required by the text of 36 CFR 220. Rather, the practice emerged from an understanding of how the Forest Service's regulations interacted with CEQ's NEPA regulations. Those CEQ regulations have now been rescinded. Nothing in the statutory text of NEPA as amended requires either scoping or solicitation for public comment for CE determinations or for EAs. Furthermore, the term ''scoping'' is not and should not be conflated with statutorily required opportunities for comment on certain EAs and EISs, as reflected in provisions of 36 CFR parts 218 and 219; such opportunities remain unaffected by this rulemaking.

Rather than adding undue process for each and every action undergoing NEPA review, the USDA regulations align with the statutory requirements of NEPA and promote responsible official discretion to determine when and how to apply scoping on a project-by-project basis.

While the requirement in the Forest Service NEPA regulations to publish a SOPA has been rescinded, this does not preclude the agency from continuing to provide this information publicly—whether through the SOPA or continued publication of project information to a forest/grassland's public web page. The ability and capacity of the agency to provide this information may vary based on funding and staffing levels; therefore, the decision to provide this service should not be predetermined in regulation but appropriately decided on a recurring basis. Furthermore, USDA is currently coordinating with CEQ on the *Permitting Technology Action Plan* that responds to the Presidential Memorandum on *Updating Permitting Technology for the 21st Century.* This permitting technology update is departmental in scope. This update aims to identify the capabilities of existing agency systems that can be replicated, using modern technology and software, to enhance the efficiency, transparency, and effectiveness of environmental reviews across USDA in alignment with this final rule. This effort will inevitably lead to the decommissioning of outdated system platforms that require costly maintenance. This is yet another reason to remove regulatory requirements for systems that may not continue to exist in their current form, but whose capabilities may be replicated and expanded through current information technology modernization efforts.

C. Transition Period for USDA NEPA Regulations

Where a CE is anticipated and NEPA documentation is required by statute, in accordance with 7 CFR 1b.4(d), or as required by the Federal agency regulations or procedures from which a category was adopted, if the proposal has been accepted and a final proposed action is already being analyzed for CE applicability and extraordinary circumstances, the USDA subcomponent has the discretion to apply 7 CFR 1b as published in this final rule or to continue applying the versions of NEPA regulations being applied prior to publication of this final rule.

Where a CE is anticipated and NEPA documentation is not required in accordance with statute, 7 CFR 1b.4(c), or as required by the Federal agency regulations or procedures from which a category was adopted, the USDA subcomponent shall apply 7 CFR 1b as published in this final rule. Any proposals that are accepted after the publication of this final rule and for which a CE applies, the USDA subcomponent shall apply 7 CFR 1b as published in this final rule.

Where an EA is anticipated and publishes to a USDA website more than 45 calendar days after publication of this final rule, the EA (and associated FONSI) shall comply with 7 CFR 1b as published in this final rule. If an EA publishes to a USDA website within 45 calendar days of this final rule publishing, the USDA subcomponent has discretion to continue applying the versions of NEPA regulations being applied or to switch to applying 7 CFR 1b as published in this final rule.

Where an EIS is anticipated and a Notice of Intent (NOI) to prepare an EIS has not yet published or the NOI published 90 days or less prior to this final rule publishing, the proposal shall apply 7 CFR 1b as published in this final rule. If the NOI for an EIS published more than 90 days prior to the publication of this final rule, the USDA subcomponent has discretion to continue applying the versions of NEPA regulations being applied before publication of the NOI or to switch to applying 7 CFR 1b as published in this final rule. If the NOI stated the version

of the regulations being applied and the EIS is prepared under a different version of regulations, the EIS will clarify the regulations being applied. USDA subcomponents should post notification of the change to the USDA website, as specified in the NOI, where information about the proposal can be found and may provide notification of the change to any parties that submitted comments on the NOI.

To the extent any prior regulation is being applied because a project passed the milestones described above for a CE, EA, or EIS, and those regulations conflict with the statute, as amended, or the U.S. Supreme Court decision in *Seven County Infrastructure Coalition* v. *Eagle County, Colorado,* 145 S. Ct. 1497 (2025), the statute governs and the Supreme Court's interpretation of that statute governs.

III. Regulatory Certifications

A. Regulatory Planning and Review

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will determine whether a regulatory action is significant as defined by E.O. 12866 and will review significant regulatory actions. OIRA has determined that this final rule is a significant regulatory action as defined by E.O. 12866. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, reduce uncertainty, and use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Department has developed the final rule consistent with E.O. 13563.

B. National Environmental Policy Act

This final rule is procedural in its entirety and therefore does not require preparation of a NEPA analysis. NEPA does not require environmental analysis or documentation when establishing procedural guidance. The determination that establishing department-level NEPA regulations does not require NEPA analysis and documentation has been upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 230 F.3d 947, 954–55 (7th Cir. 2000).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act only applies to general notices of proposed rulemaking. Because a notice of proposed rulemaking is not required for this action pursuant to 5 U.S.C. 553, or any other law, no regulatory flexibility analysis has been prepared for this final rule. See 5 U.S.C. 601(2), 603(a).

D. Federalism

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

E. Consultation and Coordination With Indian Tribal Governments

E.O. 13175, *Consultation and Coordination With Indian Tribal Governments,* requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes. This final rule does not impose substantial direct compliance costs on Tribal governments and does not preempt Tribal law. The Department has reviewed this final rule in accordance with the requirements of E.O. 13175 and has determined that this final rule will not have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Therefore, consultation and coordination with Indian Tribal governments is not required for this final rule.

F. Energy Effects

The Department has reviewed the final rule under E.O. 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.* The Department has determined that the final rule will not constitute a significant energy action as defined in E.O. 13211.

G. Civil Justice Reform

The Department has analyzed the final rule in accordance with the principles and criteria in E.O. 12988, *Civil Justice Reform.* Upon publication of the final rule, (1) all State and local laws and regulations that conflict with the final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

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

H. Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Department has assessed the effects of the final rule on State, local, and Tribal governments and the private sector. The final rule will not compel the expenditure of $100 million or more, adjusted annually for inflation, in any one (1) year by State, local, and Tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202 of the Act is not required. This action also does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect subject to the requirements of 2 U.S.C. 1531–1538.

I. Paperwork Reduction Act

The final rule does not contain any recordkeeping or reporting requirements, or other information collection requirements as defined in 5 CFR part 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

List of Subjects in 7 CFR Part 1b

Environmental impact statements.

■ Therefore, for the reasons set forth in the preamble, and under the authority of 5 U.S.C. 301 and 42 U.S.C. 4321–4347, the Department revises 7 CFR part 1b to read as follows:

TITLE 7—Agriculture

PART 1b—NATIONAL ENVIRONMENT POLICY ACT

Sec.

1b.1 Purpose.

1b.2 Policy.
1b.3 Categorical exclusions and findings of applicability and no extraordinary circumstance.
1b.4 Categorical exclusion of USDA subcomponents and actions.
1b.5 Environmental assessments.
1b.6 Finding of no significant impact.
1b.7 Environmental impact statements.
1b.8 Records of decision.
1b.9 Efficient and effective environmental reviews.
1b.10 Documentation prepared by applicant or third party.
1b.11 Definitions and acronyms.
1b.12 Severability.

Authority: 5 U.S.C. 301; 42 U.S.C. 4321–4347; E.O. 11514, 3 CFR, 1966–1970 Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1978 Comp., p. 123; E.O. 12114, 3 CFR, 1980 Comp., p. 356; 40 CFR 1507.3.

§ 1b.1 Purpose.

(a) *Purpose.* The purpose of this part is to outline the procedures by which the U.S. Department of Agriculture (hereinafter USDA or the Department) will integrate the National Environmental Policy Act (NEPA) into decision-making processes. Specifically, this part: describes the process by which USDA determines what actions are subject to NEPA's procedural requirements and the applicable level of NEPA review; ensures that relevant environmental information is identified and considered early in the process in order to ensure informed decision making; enables USDA to conduct coordinated, consistent, predictable and timely environmental reviews; reduces unnecessary burdens and delays; and implements NEPA's mandates regarding lead and cooperating agency roles, page and time limits, and sponsor preparation of environmental assessments and environmental impact statements.

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

(c) *Applicability.* This part is applicable to all mission areas, agencies and general offices (hereinafter USDA subcomponent or subcomponent) of USDA.

(d) *Authority.* NEPA imposes certain procedural requirements on the exercise of USDA's existing legal authority in relevant circumstances. Nothing contained in these procedures is intended, nor should be construed to limit, USDA's other authorities or legal responsibilities.

§ 1b.2 Policy.

(a) *USDA compliance with NEPA.* It is the policy of USDA that all USDA subcomponents' policies and programs shall be planned, developed, and implemented to comply with Congress' directives in NEPA, as amended, with the understanding that NEPA is a purely procedural statute that imposes no substantive environmental obligations or restrictions.

(1) The USDA Senior Agency Official is responsible for ensuring that these USDA NEPA regulations are consistent with NEPA and will coordinate compliance for the Department.

(2) The USDA Senior Agency Official may engage the Agricultural Council on Environmental Quality (7 U.S.C. 5401, Pub. L. 101–624) when developing, revising, or amending the necessary processes to be used by the Office of the Secretary in reviewing, implementing, and planning its NEPA activities, determinations, and policies.

(3) The USDA Senior Agency Official will consult with the Council on Environmental Quality (CEQ) while developing or revising the USDA NEPA regulations, as established in this part, in accordance with NEPA section 102(2)(B), 42 U.S.C. 4332(B).

(b) *Managing NEPA compliance.* Within USDA, the Deputy Secretary shall perform all of the duties and exercise all of the powers and functions of the Senior Agency Official to ensure compliance with NEPA and the Department's policies for NEPA, including resolving implementation issues.

(1) The Senior Agency Official shall:

(i) Administer the implementation of NEPA for USDA, to include USDA subcomponent adherence to this part and approving all revisions to this part;

(ii) Centralize information technology and databases regarding documentation and analyses required by NEPA and this part; and

(iii) Compile and submit the annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate that identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in NEPA section 107(g), 42 U.S.C. 4336a(g) and provides an explanation for any failure to meet such deadline.

(2) The Senior Agency Official may delegate authority to any mission area Under Secretary, or other USDA official for a subcomponent with NEPA responsibilities, to perform the duties of the Senior Agency Official for the following:

(i) Ensuring that subcomponent staff have the resources and competencies necessary to produce timely, concise, and effective environmental documents;

(ii) Reviewing and approving the adoption or modification of any subcomponent-specific NEPA guidance (as permitted in paragraph (c) of this section);

(iii) Determining that an environmental impact statement is of extraordinary complexity and therefore, pursuant to NEPA section 107(e)(1)(B), 42 U.S.C. 4336a(e)(1)(B), may exceed 150 pages but not exceed 300 pages;

(iv) Reviewing and determining whether to authorize any deviation from the time limit for preparation of environmental assessments and environmental impacts statements, as established by NEPA section 107(g), 42 U.S.C. 4336a(g);

(v) Resolving implementation issues concerning documentation prepared by applicants and third parties (*e.g.,* contractors), as well as ensuring NEPA analyses for proposals of private applicants or other non-Federal entities commence at the earliest reasonable time;

(vi) Approving, or identifying a designee to approve, alternative arrangements for complying with NEPA for emergency actions when a reasonably foreseeable significant impact is not anticipated, as described in § 1b.9(v);

(vii) Receiving or responding to written requests that a lead agency be designated when requests are received from any Federal agency, or any State, Tribal, or local agency, or private person substantially affected by the absence of lead agency designation; and

(viii) Facilitating interagency disagreements concerning designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause reasonably foreseeable significant impacts and determining whether the disagreement needs elevated to the Council on Environmental Quality.

(c) *Subcomponent-specific NEPA guidance.* It is the policy of USDA that USDA subcomponents may establish subcomponent-specific NEPA guidance when necessary to refine NEPA processes and practices to address subcomponent-specific laws and program efficiency. Additional subcomponent-specific guidance shall avoid creating unnecessary process and should not repeat the requirements, definitions, or other matters that are set forth in this part or the Act itself.

(d) *Annual report to Congress.* NEPA section 107(h)(1)(A) and (B), 42 U.S.C. 4336a(h)(1)(A) and (B), requires the head of each lead agency to annually submit to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that identifies any environmental assessment and environmental impact statement that such lead agency did not complete by the deadline described in NEPA section 107(g), 42 U.S.C. 4336a(g) and provides an explanation for any failure to meet such deadline.

(1) The USDA Senior Agency Official (or their designee) shall coordinate USDA subcomponent responses for the annual report to Congress and consolidate these into one response that will be provided to Congress to ensure departmental awareness and oversight of environmental assessments and environmental impact statements not completed within the required deadlines established in NEPA section 107(g), 42 U.S.C. 4336a(g).

(2) Each USDA mission area that contains subcomponents with NEPA responsibilities will submit a report to the USDA Senior Agency Official, or their designee, following guidance provided by the Department on an annual basis.

(i) For those USDA mission areas with more than one subcomponent contributing to the report, subcomponent responses shall be consolidated and one response provided for the mission area.

(ii) The USDA Senior Agency Official, or their designee, shall ensure the final report meets the requirements of NEPA section 107(h), 42 U.S.C. 4336a(h).

(e) *Determining when NEPA applies.* Threshold determinations of whether NEPA applies may be made on a case-by-case or programmatic basis and record keeping of the justifications for these determinations is advisable. In determining whether NEPA applies, a USDA subcomponent will consider only the proposed action or project at hand. NEPA does not apply to a proposal when:

(1) The proposal is not a ''major Federal action''. The terms ''major'' and ''Federal action,'' each have independent force. NEPA applies only when both of these two criteria are met. Such a determination is inherently bound up in the facts and circumstances of each individual situation, and is thus reserved to the judgment of a USDA subcomponent in each instance;

(2) The proposal or decision is exempted from NEPA by law;

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

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

(5) Compliance with NEPA would clearly and fundamentally conflict with the requirements of another provision of law; or

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

(f) *Determining the appropriate level of NEPA review.* At all steps in the following process, USDA subcomponents will consider the nature of the proposal or project at hand, the potentially affected environment, and the anticipated degree of effect:

(1) In accordance with NEPA section 106(b)(3), 42 U.S.C. 4336(b)(3), when making a determination on the level of review needed, a USDA subcomponent:

(i) May make use of any reliable data source; and

(ii) Is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable.

(2) If a USDA subcomponent determines under § 1b.2(e) that NEPA applies to a proposal or decision, the subcomponent will then determine the appropriate level of NEPA review in the following sequence and manner:

(i) If the subcomponent has established, or adopted pursuant to NEPA section 109, 42 U.S.C. 336c, a categorical exclusion that covers the proposed action, the subcomponent will analyze whether to apply the categorical exclusion to the proposed action and apply the categorical exclusion, if appropriate, pursuant to § 1b.3(f) and (g).

(ii) If another agency has already established a categorical exclusion that covers the proposed action, the subcomponent will consider whether to adopt that exclusion pursuant to § 1b.3(c) so that it can be applied to the proposed action at issue, and to future activities or decisions of that type.

(iii) If the proposed action warrants the establishment of a new categorical exclusion, or the revision of an existing categorical exclusion, pursuant to § 1b.3(b), the subcomponent will consider whether to establish, or revise, and then apply the categorical exclusion to the proposed action pursuant to § 1b.3(f) and (g).

(iv) If a USDA subcomponent cannot apply a categorical exclusion to the proposed action consistent with paragraph (f)(2)(i) through (iii) of this section, the subcomponent will consider the proposed action's reasonably foreseeable significant impacts consistent with paragraph (f)(3) of this section, and then will:

(A) if the proposed action is not likely to have reasonably foreseeable significant impacts or the significance of the impacts is unknown, develop an environmental assessment, as described in § 1b.5; or

(B) if the proposed action is likely to have reasonably foreseeable significant impacts, develop an environmental impact statement, as described in § 1b.7.

(3) When considering whether the reasonably foreseeable impacts of an action are significant, USDA subcomponents will consider and analyze the potentially affected environment and degree of the effects of the action.

(i) Potentially affected environment means the condition of the physical, biological, social, and economic factors that may be impacted by an action.

(ii) In considering the degree of effects, USDA subcomponents should consider the following, as appropriate to the specific action and in the context of the potentially affected environment:

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

(B) Both beneficial and adverse effects.

(C) Effects on public health and safety.

(D) Economic effects.

(E) Effects on the quality of life of the American people.

(iii) In providing rationale for whether the degree of effect is significant, responsible officials shall consider:

(A) How the unavoidable short- and long-term adverse and beneficial impacts of implementing the action compares to the short- and long-term adverse or beneficial consequences of not implementing the action; and

(B) How the irreversible and irretrievable commitment of a Federal resource, as part of the action, contributes to a loss of long-term

productivity for the human environment.

(g) *Integrated environmental review and compliance.* It is the policy of USDA that, to the fullest extent possible, USDA subcomponents should conduct NEPA reviews concurrent and integrated with other environmental effects analyses and related surveys and studies required by all other Federal environmental review laws and Executive orders applicable to the proposal, including the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*), the National Historic Preservation Act of 1966 (54 U.S.C. 300101–306108), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the Clean Water Act of 1972 (33 U.S.C. 1251 *et seq.*).

(h) *Limitations on actions during the NEPA process.* It is the policy of USDA that, except as provided in § 1b.9(v), while a NEPA review is ongoing a USDA subcomponent will take no action concerning a proposal that would have an adverse environmental effect or limit the choice of reasonable alternatives when alternatives are necessary.

(1) For proposals that are initially developed by applicants or other non-Federal entities, USDA subcomponents will:

(i) Coordinate with the non-Federal entity at the earliest reasonable time in the planning process to inform the entity what information a USDA subcomponent might need to comply with NEPA, as well as any other applicable environmental review processes, and establish a schedule for completing steps in the NEPA review process consistent with NEPA's statutory deadlines and any internal subcomponent NEPA schedule requirements; and

(ii) Begin the NEPA process by determining whether NEPA applies, as described in paragraph (e) of this section, and if it does, determine the appropriate level of NEPA review, as described in paragraph (f) of this section, as soon as practicable after receiving the complete application.

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

(3) When agencies under the Rural Development mission area are obligating funds, the environmental review process must be concluded before the obligation of funds except for infrastructure projects where the assurance that funds will be available for community health, safety, or economic development has been determined as necessary by the Agency Administrator. At the discretion of the Agency Administrator, funds may be obligated contingent upon the conclusion of the environmental review process prior to any action that would have an adverse effect on the environment or limit the choices of any reasonable alternatives. Funds so obligated shall be rescinded if the agency cannot conclude the environmental review process before the end of the fiscal year after the year in which the funds were obligated, or if the agency determines that it cannot proceed with approval based on findings in the environmental review process. For the purposes of this section, infrastructure projects shall include projects such as broadband, telecommunications, electric, energy efficiency, smart grid, water, sewer, transportation, and energy capital investments in physical plant and equipment, but not investments authorized in the Housing Act of 1949.

(4) An adjudication may be a multi-member commission that employs staff recommendations as described here. For adjudication, the environmental document will normally precede the final staff recommendation and that portion of the public hearing related to the impact study. In appropriate circumstances, the document may follow preliminary hearings designed to gather information for use in the statements.

§ 1b.3 Categorical exclusions and findings of applicability and no extraordinary circumstance.

(a) *Generally.* This section describes the process USDA uses for establishing and revising categorical exclusions (CEs), for adopting other agencies' CEs, for removing CEs, for applying CEs to a proposed action, for considering extraordinary circumstances, and for relying on another Federal agency's CE determination. USDA categorical exclusions, including CEs USDA established and substantiated consistent with CEQ's previous NEPA procedures, are listed at § 1b.4. Notification of CEs adopted by a USDA subcomponent from other agencies will be in accordance with paragraph (c) of this section and tracked by USDA for use by any other USDA subcomponent.

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

(1) Develop a written record containing information to substantiate its determination;

(2) Consult with CEQ on its proposed categorical exclusion, including the written record, for a period not to exceed 30 days prior to providing public notice as described in paragraph (b)(3) of this section; and

(3) Provide public notice in the **Federal Register** of USDA's establishment or revision of the categorical exclusion and location of availability of any additional written record.

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

(1) Identify the categorical exclusion listed in another agency's NEPA procedures that covers its category of proposed or related actions;

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

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

(i) Public notification will be provided on a USDA website and the adoption of the category will be tracked by USDA.

(ii) Once a categorical exclusion is adopted by one USDA subcomponent, it will be available for use to all other USDA subcomponents.

(iii) Non-USDA categorical exclusions that were already adopted by a USDA subcomponent prior to the 2025

revision of this part are tracked by USDA and may be used by any other USDA subcomponent on proposed actions that fit the categorically excluded actions. Adopted categorical exclusions will be listed on a USDA website.

(d) *Removal of categorical exclusions.* To remove a categorical exclusion from § 1b.4 of this part, a USDA subcomponent will:

(1) Develop a written justification for the removal;

(2) Consult with CEQ on its proposed removal of the categorical exclusion, including the written justification, for a period not to exceed 30 days prior to providing public notice as described in paragraph (d)(3) of this section; and

(3) Provide public notice of USDA's removal of the categorical exclusion and the written justification in the **Federal Register**.

(e) *Applying categorical exclusions.* If a USDA subcomponent determines that one or more categorical exclusions applies to a proposed action, the subcomponent will evaluate the action for extraordinary circumstances. USDA subcomponents may apply any of the categorical exclusions listed at § 1b.4. If a USDA subcomponent determines that a categorical exclusion established through legislation, or a categorical exclusion that Congress through legislation has directed USDA to establish, covers a proposed agency action, USDA will conclude review consistent with applicable law. If appropriate, USDA may examine extraordinary circumstances, modify the proposed action, or document the determination that the legislative categorical exclusion applies, consistent with paragraph (g) of this section and the legal authority for the establishment of the legislative categorical exclusion.

(f) *Extraordinary circumstances.* When applying categorical exclusions, USDA subcomponents shall consider relevant resources in the potentially affected environment for which an extraordinary circumstance may exist that would require the action to instead be documented in an environmental assessment (when there is uncertainty regarding the degree of effect) or an environmental impact statement (if it is determined there is a reasonably foreseeable significant impact). Resources for consideration for extraordinary circumstances will be determined at the responsible official's sole discretion, as informed by interdisciplinary review, and shall be based on the nature of the actions proposed and in the context of the potentially affected environment.

(1) The resources to screen for in the potentially affected environment when considering extraordinary circumstances may include, but are not limited to:

(i) Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat;

(ii) Flood plains, wetlands, or other such sensitive areas;

(iii) Special sources of water, such as sole-source aquifers, wellhead protection areas, municipal watersheds, or other water sources that are vital in a region;

(iv) Areas having formal Federal or state designations, such as wilderness areas, parks, or wildlife refuges; wild and scenic rivers; marine sanctuaries; national natural landmarks; inventoried roadless areas; or national recreation areas;

(v) Specially managed areas, such as designated research or experimental areas, coral reefs, coastal barrier resources, or, unless exempt, coastal zone management areas;

(vi) Prime, unique, or important farmland as defined by and subject to the provisions of the Farm Protection Policy Act;

(vii) Property (*e.g.,* sites, buildings, structures, and objects) of historic, archeological, or architectural significance, as designated by Federal, Tribal, State, or local governments, or property eligible for or listed on the National Register of Historic Places; or

(viii) American Indian and Alaska Native religious or cultural sites.

(2) The mere presence of one or more of the resources listed in paragraph (f)(1) of this section, or as otherwise identified at the sole discretion of the responsible official, does not mean an extraordinary circumstance exists. If there is a cause-effect relationship (impact) between the proposed actions and the resource considered, the responsible official should consider if there is something unique to the actions proposed or to the condition of the affected environment or resource(s) considered that creates uncertainty about the degree of potential effect or would lead to a reasonably foreseeable significant effect. An extraordinary circumstance exists only when there is reasonable uncertainty whether the degree of the effect is significant or certainty that the degree of effect is significant.

(3) If an extraordinary circumstance exists, the responsible official may modify the proposed action, or take other steps, such that certainty is created regarding the degree of effect and it is determined the degree of effect is not a reasonably foreseeable significant impact for the resource(s) considered that initially led to the existence of an extraordinary circumstance. With this outcome, the extraordinary circumstance will be considered to no longer exist and use of the categorical exclusion may proceed.

(4) When effects analysis is completed to demonstrate compliance with other applicable environmental laws, regulations, or executive orders (*e.g.,* analysis completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.) and already addresses one of the resources in paragraph (f)(1) of this section or as identified at the sole discretion of the responsible official, and it is clear from that analysis and compliance discussion that no extraordinary circumstance exists for the resource considered, the responsible official may rely on that analysis to inform their finding of no extraordinary circumstance.

(g) *Findings of applicability and no extraordinary circumstances (FANEC).* To apply a categorical exclusion, a responsible official must determine that one or more categorical exclusions apply to a proposed action and that no extraordinary circumstance exists. For those categories that require NEPA documentation, as specified in § 1b.4(d), responsible officials shall document these determinations as outlined in paragraphs (g)(1) and (2) of this section.

(1) A USDA subcomponent shall document a finding of applicability and no extraordinary circumstance (FANEC) if the subcomponent determines, based on the NEPA review, that:

(i) An action is categorically excluded from documentation in an environmental assessment or environmental impact statement;

(ii) No extraordinary circumstance exists; and

(iii) The category requires NEPA documentation in accordance with statute, § 1b.4(d), or as required by the Federal agency regulations or procedures from which a category was adopted.

(2) USDA subcomponents may apply any format they choose to document the finding of applicability and no extraordinary circumstance, but shall address the following elements at a minimum:

(i) Incorporate by reference any other relevant documentation developed as part of the environmental review process and contained in the proposal record, such as documentation of compliance with other applicable laws

or regulations as deemed necessary by the responsible official;

(ii) State the category or categories being used. If a category being used is adopted from another non-USDA agency, specify that it was adopted;

(iii) Describe the proposed action and state how the category or categories used are applicable to the actions;

(iv) State the resources that the responsible official considered in determining whether an extraordinary circumstance exists;

(v) State that no extraordinary circumstances exist, as informed by the interdisciplinary review; and

(vi) Include the date issued and signature of the responsible official.

(h) *Reliance on categorical exclusion determinations.* Responsible officials may also rely on a previous determination by the USDA subcomponent or another agency that:

(1) A category or categories applies to the activities being proposed when the activities are substantially the same as those activities being proposed by the USDA subcomponent; or

(2) A category or categories applies to the activities being proposed when the activities are substantially the same as those activities being proposed by the USDA subcomponent and no extraordinary circumstance exists when the potentially affected environment and resources considered for extraordinary circumstances are substantially the same.

(i) *Other documentation considerations.* If use of a categorical exclusion requires documentation in addition to those items listed in paragraph (g)(2) of this section, as specified in statute or regulation, USDA subcomponents may add them to the documentation for the finding of applicability and no extraordinary circumstance as needed.

(j) *Timing of action.* Once the responsible official has signed the documentation for the finding of applicability and no extraordinary circumstance, and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action. When NEPA documentation is not required for a categorical exclusion, once the responsible official has determined one or more categorical exclusions applies to a proposed action and no extraordinary circumstance exists and has completed any other necessary environmental review documentation, and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.4 Categorical exclusion of USDA subcomponents and actions.

(a) The USDA subcomponents listed in paragraphs (a)(1) through (9) of this section conduct programs and activities that do not normally result in reasonably foreseeable significant impacts on the natural or physical environment. As such, these subcomponents' actions are excluded from the preparation of an environmental assessment (EA) or environmental impact statement (EIS). Programs and activities of the USDA subcomponents listed in this paragraph may utilize categorical exclusions, as described in this part, but do not require the preparation of an EA or EIS unless the subcomponent determines that an extraordinary circumstance exists for an individual action and obtains the concurrence of the USDA Senior Agency Official (or their designee):

(1) Agricultural Marketing Service

(2) Economic Research Service

(3) Federal Crop Insurance Corporation

(4) Food and Nutrition Service

(5) Food Safety and Inspection Service

(6) Foreign Agricultural Service

(7) National Agricultural Library

(8) National Agricultural Statistics Service

(9) The following general offices of the Department: Office of the Chief Economist, Office of the Chief Financial Officer, Office of the Chief Information Officer, Office of the General Counsel, Office of the Inspector General, National Appeals Division, Office of Budget and Program Analysis, Office of Communications, Office of Partnerships and Public Engagement, Office of Tribal Relations, and Office of Small and Disadvantaged Business Utilization.

(b) The categories in paragraphs (c) and (d) of this section are for activities which have been determined by USDA to not have a reasonably foreseeable significant impact on the human environment and are excluded from the preparation of an environmental assessment or environmental impact statement. Categories have been assigned unique numbers for ease of reference. The following acronyms at the end of the number sequence indicate the USDA subcomponent that originally promulgated the category. These acronyms are used in the numbering sequence for USDA subcomponent tracking and continuity purposes and do not imply that the subcomponent indicated is the only USDA subcomponent that may use the category:

(1) OSEC (Office of the Secretary)

(2) APHIS (Animal and Plant Health Inspection Service)

(3) FSA (Farm Service Agency)

(4) NRCS (Natural Resources Conservation Service)

(5) RD (Rural Development)

(6) USFS (U.S. Forest Service)

(c) The following categorical exclusions do not require NEPA documentation.

(1) (USDA–01c–OSEC) Policy development, planning and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions. Examples include, but are not limited to:

(i) Issuing minor technical corrections to regulations, handbooks, and internal guidance, as well as amendments to them;

(ii) Personnel actions, reduction-in-force, or employee transfers; and

(iii) Procurement actions for goods and services conducted in accordance with applicable laws, regulations, and executive orders.

(2) (USDA–02c–OSEC) Activities which deal solely with the funding of programs, such as program budget proposals, disbursements, and transfer or reprogramming of funds.

(3) (USDA–03c–OSEC) Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in context and intensity. Examples include, but are not limited to:

(i) Identifications, inspections, surveys, sampling, testing, and monitoring that does not cause physical alteration of the environment;

(ii) Laboratory research involving the evaluation and use of chemicals in a manner not specifically listed on the product label pursuant to applicable Federal authorizations;

(iii) Research evaluating wildlife management products or tools, such as animal repellents, frightening devices, or fencing, that is carried out in a manner and area designed to eliminate the potential for harmful environmental effects and in accordance with applicable regulatory requirements;

(iv) Research operations conducted within any laboratory, greenhouse or other contained facility where research practices and safeguards prevent environment impacts, such as the release of hazardous materials into the environment;

(v) Testing outside of the laboratory, such as in small, isolated field plots, which involves the routine use of familiar chemicals or biological materials and does not involve the use of control agents requiring containment

or a special license or a permit from a regulatory agency.

(vi) Soil surveys;

(vii) Snow surveys and water supply forecasts;

(viii) Plant materials for conservation;

(ix) Inventory and monitoring;

(x) River Basin Studies under section 6 of Public Law 83–566, as amended.

(4) (USDA–04c–OSEC) Educational and informational programs and activities.

(5) (USDA–05c–OSEC) Civil and criminal law enforcement and investigative activities.

(6) (USDA–06c–OSEC) Activities which are advisory and consultative to other agencies and public and private entities, such as legal counselling and representation.

(7) (USDA–07c–OSEC) Activities related to trade representation and market development activities abroad.

(8) (USDA–08c–APHIS) Routine measures, such as, seizures, quarantines, removals, sanitizing, inoculations, and control employed by agency programs to pursue their missions and functions.

(i) Such measures may include the use—according to any label instructions or other lawful requirements and consistent with standard, published program practices and precautions—of chemicals, pesticides, or other potentially hazardous or harmful substances, materials, and target-specific devices or remedies, provided that such use meets all of the following criteria (insofar as they may pertain to a particular action):

(A) The use is localized or contained in areas where humans are not likely to be exposed, and is limited in terms of quantity, *i.e.,* individualized dosages and remedies;

(B) The use will not cause contaminants to enter water bodies, including wetlands;

(C) The use does not adversely affect any federally protected species or critical habitat; and

(D) The use does not cause bioaccumulation.

(ii) Examples of routine measures include, but are not limited to:

(A) Inoculation or treatment of discrete herds of livestock or wildlife undertaken in contained areas (such as a barn or corral, a zoo, an exhibition, or an aviary);

(B) Use of vaccinations or inoculations including new vaccines (*e.g.,* genetically engineered vaccines) and applications of existing vaccines to new species provided that the project is conducted in a controlled and limited manner, and the impacts of the vaccine can be predicted; and

(C) Isolated (*e.g.,* along a highway) weed control efforts.

(9) (USDA–09c–APHIS) Research and development activities limited in magnitude, frequency, and scope that occur in laboratories, facilities, pens, or field sites. Examples include, but are not limited to:

(i) Vaccination trials that occur on groups of animals in areas designed to limit interaction with similar animals, or include other controls needed to mitigate potential risk.

(ii) The development and/or production (including formulation, packaging or repackaging, movement, and distribution) of articles such as program materials, devices, reagents, and biologics that were approved and/or licensed in accordance with existing regulations, or that are for evaluation in confined animal, plant, or insect populations under conditions that prevent exposure to the general population.

(iii) Development, production, and release of sterile insects.

(10) (USDA–10c–APHIS) Licensing and permitting.

(i) Issuance of a license, permit, authorization, or approval to ship or field test previously unlicensed veterinary biologics, including veterinary biologics containing genetically engineered organisms (such as vector-based vaccines and nucleic acid-based vaccines);

(ii) Issuance of a license, permit, authorization, or approval for movement or uses of pure cultures of organisms (relatively free of extraneous micro-organisms and extraneous material) that are not strains of quarantine concern and occur, or are likely to occur, in a State's environment;

(iii) Permitting for confined field releases of genetically engineered organisms and products; or

(iv) Permitting of:

(A) Importation of nonindigenous species into containment facilities,

(B) Interstate movement of nonindigenous species between containment facilities, or

(C) Releases into a State's environment of pure cultures of organisms that are either native or are established introductions.

(11) (USDA–11c–APHIS) Minor renovation, improvement, and maintenance of facilities. Examples include, but are not limited to:

(i) Renovation of existing laboratories and other facilities.

(ii) Functional replacement of parts and equipment.

(iii) Minor additions to existing facilities.

(iv) Minor excavations of land and repairs to properties.

(12) (USDA–12c–FSA) Minor management, construction, or repair actions.

(i) Minor construction, such as a small addition;

(ii) Drain tile replacement;

(iii) Erosion control measures;

(iv) Grading, leveling, shaping, and filling;

(v) Grassed waterway establishment;

(vi) Hillside ditches;

(vii) Land-clearing operations of no more than 15 acres, provided any amount of land involved in tree harvesting (without stump removal) is to be conducted on a sustainable basis and according to a Federal, State, Tribal, or other governmental unit approved forestry management plan;

(viii) Nutrient management;

(ix) Permanent establishment of a water source for wildlife (not livestock);

(x) Restoring and replacing property;

(xi) Soil and water development;

(xii) Spring development;

(xiii) Trough or tank installation; and

(xiv) Water harvesting catchment.

(13) (USDA–13c–FSA) Repair, improvement, or minor modification actions.

(i) Existing fence repair;

(ii) Improvement or repair of farm-related structures under 50 years of age; and

(iii) Minor amendments or revisions to previously approved projects, provided such proposed actions do not substantively alter the purpose, operation, location, impacts, or design of the project as originally approved.

(14) (USDA–14c–FSA) Planting actions.

(i) Bareland planting or planting without site preparation;

(ii) Bedding site establishment for wildlife;

(iii) Chiseling and subsoiling;

(iv) Clean tilling firebreaks;

(v) Conservation crop rotation;

(vi) Contour farming;

(vii) Contour grass strip establishment;

(viii) Cover crop and green manure crop planting;

(ix) Critical area planting;

(x) Firebreak installation;

(xi) Grass, forbs, or legume planting;

(xii) Heavy use area protection;

(xiii) Installation and maintenance of field borders or field strips;

(xiv) Pasture, range, and hayland planting;

(xv) Seeding of shrubs;

(xvi) Seedling shrub planting;

(xvii) Site preparation;

(xviii) Strip cropping;

(xix) Wildlife food plot planting; and

(xx) Windbreak and shelterbelt establishment.

(15) (USDA–15c–FSA) Management actions.

(i) Forage harvest management;

(ii) Integrated crop management;

(iii) Mulching, including plastic mulch;

(iv) Netting for hard woods;

(v) Obstruction removal;

(vi) Pest management (consistent with all labelling and use requirements);

(vii) Plant grafting;

(viii) Plugging artesian wells;

(ix) Residue management including seasonal management;

(x) Roof runoff management;

(xi) Thinning and pruning of plants;

(xii) Toxic salt reduction; and

(xiii) Water spreading.

(16) (USDA–16c–FSA) Miscellaneous FSA actions.

(i) Fence installation and replacement;

(ii) Fish stream improvement;

(iii) Grazing land mechanical treatment; and

(iv) Inventory property disposal or lease without protective easements or covenants;

(v) Conservation easement purchases with no construction planned;

(vi) Emergency program proposed actions (including Emergency Conservation Program and Emergency Forest Restoration Program) that have a total cost share of less than $5,000;

(vii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost and supply of such commodities or programs of a similar nature or intent (that is, price support programs);

(viii) Individual farm participation in Farm Service Agency programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation;

(ix) Safety net programs without ground disturbance;

(x) Site characterization, environmental testing, and monitoring where no significant alteration of existing ambient conditions would occur, including air, surface water, groundwater, wind, soil, or rock core sampling; installation of monitoring wells; installation of small scale air, water, or weather monitoring equipment;

(xi) Stand analysis for forest management planning; and

(xii) Tree protection including plastic tubes.

(17) (USDA–17c–RD) A guarantee provided to the Federal Financing Bank pursuant to Section 313A(a) of the Rural Electrification Act of 1936 for the purpose of:

(i) Refinancing existing debt instruments of a lender organized on a not-for-profit basis; or

(ii) Prepaying outstanding notes or bonds made to or guaranteed by the Agency.

(18) (USDA–18c–RD) Financial assistance for minor construction proposals or for energy or telecommunication proposals. The CEs in this section are for proposals for financial assistance that involve no or minimal alterations in the physical environment and typically occur on previously disturbed land. These actions normally do not require an applicant to submit environmental documentation with the application. However, based on the review of the project description, the Agency may request additional environmental documentation from the applicant at any time, specifically if the Agency determines that extraordinary circumstances may exist.

(i) Minor amendments or revisions to previously approved projects provided such activities do not alter the purpose, operation, geographic scope, or design of the project as originally approved;

(ii) Repair, upgrade, or replacement of equipment in existing structures for such purposes as improving habitability, energy efficiency (including heat rate efficiency), replacement or conversion to enable use of renewable fuels, pollution prevention, or pollution control;

(iii) Any internal modification or minimal external modification, restoration, renovation, maintenance, and replacement in-kind to an existing facility or structure;

(iv) Construction of or substantial improvement to a single-family dwelling, or a Rural Housing Site Loan project or multi-family housing project serving up to four families and affecting less than 10 acres of land;

(v) Siting, construction, and operation of new or additional water supply wells for residential, farm, or livestock use;

(vi) Replacement of existing water and sewer lines within the existing right-of-way and as long as the size of pipe is either no larger than the inner diameter of the existing pipe or is an increased diameter as required by Federal or state requirements. If a larger pipe size is required, applicants must provide a copy of written administrative requirements mandating a minimum pipe diameter from the regulatory agency with jurisdiction;

(vii) Modifications of an existing water supply well to restore production in existing commercial well fields, if there would be no drawdown other than in the immediate vicinity of the pumping well, no resulting long-term decline of the water table, and no degradation of the aquifer from the replacement well;

(viii) Burying new facilities for communication purposes in previously developed, existing rights-of-way and in areas already in or committed to urbanized development or rural settlements whether incorporated or unincorporated that are characterized by high human densities and within contiguous, highly disturbed environments with human-built features. Covered actions include associated vaults and pulling and tensioning sites outside rights-of-way in nearby previously disturbed or developed land;

(ix) Changes to electric transmission lines that involve pole replacement or structural components only where either the same or substantially equivalent support structures at the approximate existing support structure locations are used;

(x) Phase or voltage conversions, reconductoring, upgrading, or rebuilding of existing electric distribution lines that would not affect the environment beyond the previously developed, existing rights-of-way. Includes pole replacements and overhead-to-underground conversions;

(xi) Collocation of telecommunications equipment on existing infrastructure and deployment of distributed antenna systems and small cell networks provided the latter technologies are not attached to and will not cause adverse effects to historic properties;

(xii) Siting, construction, and operation of small, ground source heat pump systems that would be located on previously developed land;

(xiii) Siting, construction, and operation of small solar electric projects or solar thermal projects to be installed on or adjacent to an existing structure and that would not affect the environment beyond the previously developed facility area and are not attached to and will not cause adverse effects to historic properties;

(xiv) Siting, construction, and operation of small biomass projects, such as animal waste anaerobic digesters or gasifiers, that would use feedstock produced on site (such as a farm where the site has been previously disturbed) and supply gas or electricity for the site's own energy needs with no or only incidental export of energy;

(xv) Construction of small standby electric generating facilities with a rating of one average megawatt (MW) or less, and associated facilities, for the

purpose of providing emergency power for or startup of an existing facility;

(xvi) Additions or modifications to electric transmission facilities that would not affect the environment beyond the previously developed facility area including, but not limited to, switchyard rock, grounding upgrades, secondary containment projects, paving projects, seismic upgrading, tower modifications, changing insulators, and replacement of poles, circuit breakers, conductors, transformers, and crossarms;

(xvii) Safety, environmental, or energy efficiency (including heat rate efficiency) improvements within an existing electric generation facility, including addition, replacement, or upgrade of facility components (such as precipitator, baghouse, or scrubber installations), that do not result in a change to the design capacity or function of the facility and do not result in an increase in pollutant emissions, effluent discharges, or waste products;

(xviii) New utility service connections to individual users or construction of utility lines or associated components where the applicant has no control over the placement of the utility facilities;

(xix) Upgrading or rebuilding existing telecommunication facilities (both wired and wireless) or addition of aerial cables for communication purposes to electric power lines that would not affect the environment beyond the previously-developed, existing rights-of-way; and

(xx) Conversion of land in agricultural production to pastureland or forests, or conversion of pastureland to forest.

(19) (USDA–19c–USFS) Orders issued pursuant to 36 CFR part 261: Prohibitions to provide short-term resource protection or to protect public health and safety. Examples include, but are not limited to:

(i) Closing a road to protect bighorn sheep during lambing season, and

(ii) Closing an area during a period of extreme fire danger.

(20) (USDA–20c–USFS) Rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions. Examples include, but are not limited to:

(i) Adjusting special use or recreation fees using an existing formula;

(ii) Proposing a technical or scientific method or procedure for screening effects of emissions on air quality related values in Class I wildernesses;

(iii) Proposing a policy to defer payments on certain permits or contracts to reduce the risk of default;

(iv) Proposing changes in contract terms and conditions or terms and conditions of special use authorizations;

(v) Establishing a service-wide process for responding to offers to exchange land and for agreeing on land values; and

(vi) Establishing procedures for amending or revising forest land and resource management plans.

(21) (USDA–21c–USFS) Repair and maintenance of administrative sites. Examples include, but are not limited to:

(i) Mowing lawns at a district office;

(ii) Replacing a roof or storage shed;

(iii) Painting a building; and

(iv) Applying registered pesticides for rodent or vegetation control.

(22) (USDA–22c–USFS) Repair and maintenance of roads, trails, and landline boundaries. Examples include, but are not limited to:

(i) Authorizing a user to grade, resurface, and clean the culverts of an established National Forest System (NFS) road;

(ii) Grading a road and clearing the roadside of brush without the use of herbicides;

(iii) Resurfacing a road to its original condition;

(iv) Pruning vegetation and cleaning culverts along a trail and grooming the surface of the trail; and

(v) Surveying, painting, and posting landline boundaries.

(23) (USDA–23c–USFS) Repair and maintenance of recreation sites and facilities. Examples include, but are not limited to:

(i) Applying registered herbicides to control poison ivy on infested sites in a campground;

(ii) Applying registered insecticides by compressed air sprayer to control insects at a recreation site complex;

(iii) Repaving a parking lot; and

(iv) Applying registered pesticides for rodent or vegetation control.

(24) (USDA–24c–USFS) Acquisition of land or interest in land. Examples include, but are not limited to:

(i) Accepting the donation of lands or interests in land to the NFS, and

(ii) Purchasing fee, conservation easement, reserved interest deed, or other interests in lands.

(25) (USDA–25c–USFS) Sale or exchange of land or interest in land and resources where resulting land uses remain essentially the same. Examples include, but are not limited to:

(i) Selling or exchanging land pursuant to the Small Tracts Act;

(ii) Exchanging NFS lands or interests with a State agency, local government, or other non-Federal party (individual or organization) with similar resource management objectives and practices;

(iii) Authorizing the Bureau of Land Management to issue leases on producing wells when mineral rights revert to the United States from private ownership and there is no change in activity; and

(iv) Exchange of administrative sites involving other than NFS lands.

(26) (USDA–26c–USFS) Approval, modification, or continuation of minor, short-term (1 year or less) special uses of NFS lands. Examples include, but are not limited to:

(i) Approving, on an annual basis, the intermittent use and occupancy by a State-licensed outfitter or guide;

(ii) Approving the use of NFS land for apiaries; and

(iii) Approving the gathering of forest products for personal use.

(27) [Reserved]

(28) (USDA–28c–USFS) Issuance of a new special use authorization to replace an existing or expired special use authorization, when such issuance is to account only for administrative changes, such as a change in ownership of authorized improvements or expiration of the current authorization, and where there are no changes to the authorized facilities or increases in the scope or magnitude of authorized activities. The applicant or holder must be in compliance with all the terms and conditions of the existing or expired special use authorization. Subject to the foregoing conditions, examples include, but are not limited to:

(i) Issuing a new authorization to replace a powerline facility authorization that is at the end of its term;

(ii) Issuing a new permit to replace an expired permit for a road that continues to be used as access to non-NFS lands; and

(iii) Converting a transitional priority use outfitting and guiding permit to a priority use outfitting and guiding permit.

(29) (USDA–29c–USFS) Issuance of a new authorization or amendment of an existing authorization for recreation special uses that occur on existing roads or trails, in existing facilities, in existing recreation sites, or in areas where such activities are allowed. Subject to the foregoing condition, examples include, but are not limited to:

(i) Issuance of an outfitting and guiding permit for mountain biking on NFS trails that are not closed to mountain biking;

(ii) Issuance of a permit to host a competitive motorcycle event;

(iii) Issuance of an outfitting and guiding permit for backcountry skiing;

(iv) Issuance of a permit for a one-time use of existing facilities for other recreational events; and

(v) Issuance of a campground concession permit for an existing campground that has previously been operated by the Forest Service.

(30) (USDA–30c–FSA) FSA Loan Actions

(i) Closing cost payments;

(ii) Commodity loans;

(iii) Debt set asides;

(iv) Deferral of loan payments;

(v) Youth loans;

(vi) Loan consolidation;

(vii) Loans for annual operating expenses, except livestock;

(viii) Loans for equipment;

(ix) Loans for family living expenses;

(x) Loan subordination, with no or minimal construction below the depth of previous tillage or ground disturbance, and no change in operations, including, but not limited to, an increase in animal numbers to exceed the current CAFO designation (as defined by the U.S. Environmental Protection Agency in 40 CFR 122.23);

(xi) Loans to pay for labor costs;

(xii) Loan (debt) transfers and assumptions with no new ground disturbance;

(xiii) Partial or complete release of loan collateral;

(xiv) Re-amortization of loans;

(xv) Refinancing of debt;

(xvi) Rescheduling loans;

(xvii) Restructuring of loans; and

(xviii) Writing down of debt.

(xix) Farm storage and drying facility loans for added capacity;

(xx) Loans for livestock purchases;

(xxi) Release of loan security for forestry purposes;

(xxii) Reorganizing farm operations; and

(xxiii) Replacement building loans;

(xxiv) Loans and loan subordination with construction, demolition, or ground disturbance planned;

(xxv) Real estate purchase loans with new ground disturbance planned; and

(xxvi) Term operating loans with construction or demolition planned;

(31) (USDA–31c–RD) The promulgation of rules or formal notices for policies or programs that are administrative or financial procedures for implementing Agency assistance activities.

(32) (USDA–32c–RD) Agency proposals for legislation that have no potential for significant environmental impacts because they would allow for no or minimal construction or change in operations.

(33) (USDA–33c–RD) Financial assistance for the purchase, transfer, lease, or other acquisition of real property when no or minimal change in use is reasonably foreseeable.

(i) Real property includes land and any existing permanent or affixed structures.

(ii) ''No or minimal change in use is reasonably foreseeable'' means no or only a small change in use, capacity, purpose, operation, or design is expected where the foreseeable type and magnitude of impacts would remain essentially the same.

(34) (USDA–34c–RD) Financial assistance for the purchase, transfer, or lease of personal property or fixtures where no or minimal change in operations is reasonably foreseeable. These include:

(i) [Reserved]

(ii) Acquisition of end-user equipment and programming for telecommunication distance learning;

(iii) Purchase, replacement, or installation of equipment necessary for the operation of an existing facility (such as Supervisory Control and Data Acquisition Systems (SCADA), energy management or efficiency improvement systems (including heat rate efficiency), replacement or conversion to enable use of renewable fuels, standby internal combustion electric generators, battery energy storage systems, and associated facilities for the primary purpose of providing emergency power);

(iv) Purchase of vehicles (such as those used in business, utility, community, or emergency services operations);

(v) Purchase of existing water rights where no associated construction is involved;

(vi) Purchase of livestock and essential farm equipment, including crop storing and drying equipment; and

(vii) Purchase of stock in an existing enterprise to obtain an ownership interest in that enterprise.

(35) (USDA–35c–RD) Financial assistance for operating (working) capital for an existing operation to support day-to-day expenses.

(36) (USDA–36c–RD) Sale or lease of Agency-owned real property, if the sale or lease of Agency-owned real property will have no or minimal construction or change in current operations in the foreseeable future.

(37) (USDA–37c–RD) The provision of additional financial assistance for cost overruns where the purpose, operation, location, and design of the proposal as originally approved has not been substantially changed.

(38) (USDA–38c–RD) Rural Business Investment Program (7 U.S.C. 1989 and 2009cc *et seq.*) actions as follows:

(i) Non-leveraged program actions that include licensing by USDA of Rural Business Investment Companies (RBIC); or

(ii) Leveraged program actions that include licensing by USDA of RBIC and Federal financial assistance in the form of technical grants or guarantees of debentures of an RBIC, unless such Federal assistance is used to finance construction or development of land.

(39) (USDA–39c–RD) Repairs made because of an emergency situation to return to service damaged facilities of an applicant's utility system or other actions necessary to preserve life and control the immediate impacts of the emergency.

(40) (USDA–40c–RD) Site characterization, environmental testing, and monitoring where no significant alteration of existing ambient conditions would occur. This includes, but is not limited to, air, surface water, groundwater, wind, soil, or rock core sampling; installation of monitoring wells; and installation of small-scale air, water, or weather monitoring equipment.

(d) The following categorical exclusions require NEPA documentation, which will be completed as set forth at § 1b.3(g). For CEs promulgated by Natural Resources and Conservation Service (indicated by NRCS at the end of the category number), USDA subcomponents must adhere to NRCS Conservation Practice Standards, or to comparable technical guidelines, or similar agency-specific conservation or best management practices, as determined at the sole discretion of the subcomponent's responsible official.

(1) (USDA–01d–FSA) Construction or ground disturbance actions.

(i) Bridges;

(ii) Chiseling and subsoiling in areas not previously tilled;

(iii) Construction of a new farm storage facility;

(iv) Dams;

(v) Dikes and levees;

(vi) Diversions;

(vii) Drop spillways;

(viii) Dugouts;

(ix) Excavation;

(x) Grade stabilization structures;

(xi) Grading, leveling, shaping and filling in areas or to depths not previously disturbed;

(xii) Installation of structures designed to regulate water flow such as pipes, flashboard risers, gates, chutes, and outlets;

(xiii) Irrigation systems;

(xiv) Land smoothing;

(xv) Line waterways or outlets;

(xvi) Lining;

(xvii) Livestock crossing facilities;

(xviii) Pesticide containment facility;

(xix) Pipe drop;
(xx) Pipeline for watering facility;
(xxi) Ponds, including sealing and lining;
(xxii) Precision land farming with ground disturbance;
(xxiii) Riparian buffer establishment;
(xxiv) Roads, including access roads;
(xxv) Rock barriers;
(xxvi) Rock filled infiltration trenches;
(xxvii) Sediment basin;
(xxviii) Sediment structures;
(xxix) Site preparation for planting or seeding in areas not previously tilled;
(xxx) Soil and water conservation structures;
(xxxi) Stream bank and shoreline protection;
(xxxii) Structures for water control;
(xxxiii) Subsurface drains;
(xxxiv) Surface roughening;
(xxxv) Terracing;
(xxxvi) Underground outlets;
(xxxvii) Watering tank or trough installation, if in areas not previously disturbed;
(xxxviii) Wells; and
(xxxix) Wetland restoration.

(2) (USDA–02d–FSA) Management and planting type actions.

(i) Establishing or maintaining wildlife plots in areas not previously tilled or disturbed;
(ii) Prescribed burning;
(iii) Tree planting when trees have root balls of one gallon container size or larger; and
(iv) Wildlife upland habitat management.

(3) (USDA–03d–NRCS) Planting appropriate herbaceous and woody vegetation, which does not include noxious weeds or invasive plants, on disturbed sites to restore and maintain the sites ecological functions and services.

(4) (USDA–04d–NRCS) Removing dikes and associated appurtenances (such as culverts, pipes, valves, gates, and fencing) to allow waters to access floodplains to the extent that existed prior to the installation of such dikes and associated appurtenances.

(5) (USDA–05d–NRCS) Plugging and filling excavated drainage ditches to allow hydrologic conditions to return to pre-drainage conditions to the extent practicable.

(6) (USDA–06d–NRCS) Replacing and repairing existing culverts, grade stabilization, and water control structures and other small structures that were damaged by natural disasters where there is no new depth required and only minimal dredging, excavation, or placement of fill is required.

(7) (USDA–07d–NRCS) Restoring the natural topographic features of agricultural fields that were altered by farming and ranching activities for the purpose of restoring ecological processes.

(8) (USDA–08d–NRCS) Removing or relocating residential, commercial, and other public and private buildings and associated structures constructed in the 100-year floodplain or within the breach inundation area of an existing dam or other flood control structure in order to restore natural hydrologic conditions of inundation or saturation, vegetation, or reduce hazards posed to public safety.

(9) (USDA–09d–NRCS) Removing storm debris and sediment following a natural disaster where there is a continuing and eminent threat to public health or safety, property, and natural and cultural resources and removal is necessary to restore lands to pre-disaster conditions to the extent practicable. Excavation will not exceed the pre-disaster condition.

(10) (USDA–10d–NRCS) Stabilizing stream banks and associated structures to reduce erosion through bioengineering techniques following a natural disaster to restore pre-disaster conditions to the extent practicable, *e.g.,* utilization of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, rip-rap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(11) (USDA–11d–NRCS) Repairing or maintenance of existing small structures or improvements (including structures and improvements utilized to restore disturbed or altered wetland, riparian, in stream, or native habitat conditions). Examples of such activities include the repair or stabilization of existing stream crossings for livestock or human passage, levees, culverts, berms, dikes, and associated appurtenances.

(12) (USDA–12d–NRCS) Constructing small structures or improvements for the restoration of wetland, riparian, in stream, or native habitats. Examples of activities include installation of fences and construction of small berms, dikes, and associated water control structures.

(13) (USDA–13d–NRCS) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition.

(14) (USDA–14d–NRCS) Repairing or maintenance of existing constructed fish passageways, such as fish ladders or spawning areas impacted by natural disasters or human alteration.

(15) (USDA–15d–NRCS) Repairing, maintaining, or installing fish screens to existing structures.

(16) (USDA–16d–NRCS) Repairing or maintaining principal spillways and appurtenances associated with existing serviceable dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the construction footprint of the dam, and no major change in reservoir or downstream operations will result.

(17) (USDA–17d–NRCS) Repairing or improving (deepening/widening/armoring) existing auxiliary/emergency spillways associated with dams, originally constructed to NRCS standards, in order to meet current safety standards. Work will be confined to the construction footprint of the dam or abutment areas, and no major change in reservoir or downstream operation will result.

(18) (USDA–18d–NRCS) Repairing embankment slope failures on structures or reshaping the embankment, originally built to NRCS standards, where the work is confined to the embankment or abutment areas.

(19) (USDA–19d–NRCS) Increasing the freeboard (which is the height from the auxiliary (emergency) spillway crest to the top of embankment) of an existing dam or dike, originally built to NRCS standards, by raising the top elevation in order to meet current safety and performance standards. The purpose of the safety standard and associated work is to ensure that during extreme rainfall events, flows are confined to the auxiliary/emergency spillway so that the existing structure is not overtopped which may result in a catastrophic failure. Elevating the top of the dam will not result in an increase to lake or stream levels. Work will be confined to the construction footprint of the dam and abutment areas, and no major change in reservoir operations will result. Examples of work may include the addition of fill material such as earth or gravel or placement of parapet walls.

(20) (USDA–20d–NRCS) Modifying existing residential, commercial, and other public and private buildings to prevent flood damages, such as elevating structures or sealing basements to comply with current State safety standards and Federal performance standards.

(21) (USDA–21d–NRCS) Undertaking minor agricultural practices to maintain and restore ecological conditions in floodplains after a natural disaster or on lands impacted by human alteration. Examples of these practices include: mowing, haying, grazing, fencing, off-

stream watering facilities, and invasive species control which are undertaken when fish and wildlife are not breeding, nesting, rearing young, or during other sensitive timeframes.

(22) (USDA–22d–NRCS) Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting.

(23) (USDA–23d–NRCS) Implementing water conservation activities on existing agricultural lands, such as minor irrigation land leveling, irrigation water conveyance (pipelines), irrigation water control structures, and various management practices.

(24) The CEs in this section are for proposals for financial assistance that require an applicant to submit environmental documentation with their application to facilitate agency determination of extraordinary circumstances. At a minimum, the environmental documentation will include a complete description of all components of the applicant's proposal and any connected actions, including its specific location on detailed site plans as well as location maps equivalent to a U.S. Geological Survey (USGS) quadrangle map; and information from authoritative sources acceptable to the agency confirming the presence or absence of sensitive environmental resources in the area that could be affected by the applicant's proposal. The environmental documentation submitted must be accurate, complete, and capable of verification. The agency may request additional information as needed to make an environmental determination. Failure to submit the required environmental documentation will postpone further consideration of the applicant's proposal until the environmental documentation is submitted, or the agency may deny the request for financial assistance. The agency will review the environmental documentation and determine if extraordinary circumstances exist. The agency's review may determine that classification as an environmental assessment or an environmental impact statement is more appropriate than a categorical exclusion classification.

(i) (USDA–24–1d–RD) Small-scale site-specific development. The following CEs apply to proposals where site development activities (including construction, expansion, repair, rehabilitation, or other improvements) for rural development purposes would impact not more than 10 acres of real property and would not cause a substantial increase in traffic. These CEs are identified in paragraphs (d)(24)(i)(A) through (J). This paragraph does not apply to new industrial proposals (such as ethanol and biodiesel production facilities).

(A) Multi-family housing and Rural Housing Site Loans.

(B) Business development.

(C) Community facilities such as municipal buildings, libraries, security services, fire protection, schools, and health and recreation facilities.

(D) Infrastructure to support utility systems such as water or wastewater facilities; headquarters, maintenance, equipment storage, or microwave facilities; and energy management systems.

(E) Installation of new, commercial-scale water supply wells and associated pipelines or water storage facilities that are required by a regulatory authority or standard engineering practice as a backup to existing production well(s) or as reserve for fire protection.

(F) Construction of telecommunications towers and associated facilities, if the towers and associated facilities are 450 feet or less in height and would not be in or visible from an area of documented scenic value.

(G) Repair, rehabilitation, or restoration of water control, flood control, or water impoundment facilities, such as dams, dikes, levees, detention reservoirs, and drainage ditches, with minimal change in use, size, capacity, purpose, operation, location, or design from the original facility.

(H) Installation or enlargement of irrigation facilities on an applicant's land, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate less than 80 acres.

(I) Replacement or restoration of irrigation facilities, including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers, with no or minimal change in use, size, capacity, or location from the original facility(s).

(J) Vegetative biomass harvesting operations of no more than 15 acres, provided any amount of land involved in harvesting is to be conducted managed on a sustainable basis and according to a Federal, state, or other governmental unit approved management plan.

(ii) (USDA–24–2d–RD) Financial assistance for small-scale corridor development.

(A) Construction or repair of roads, streets, and sidewalks, including related structures such as curbs, gutters, storm drains, and bridges, in an existing right-of-way with minimal change in use, size, capacity, purpose, or location from the original infrastructure;

(B) Improvement and expansion of existing water, wastewater, and gas utility systems: within 20 miles of currently served areas irrespective of the percent of increase in new capacity;

(C) Replacement of utility lines where road reconstruction undertaken by non-Agency applicants requires the relocation of lines either within or immediately adjacent to the new road easement or right-of-way; and

(D) Installation of new linear telecommunications facilities and related equipment and infrastructure.

(iii) (USDA–24–3d–RD) Financial assistance for small-scale energy proposals.

(A) Construction of electric power substations (including switching stations and support facilities) or modification of existing substations, switchyards, and support facilities;

(B) Construction of electric power lines and associated facilities designed for or capable of operation at a nominal voltage of either:

(*1*) Less than 69 kilovolts (kV);

(*2*) Less than 230 kV if no more than 25 miles of line are involved; or

(*3*) 230 kV or greater involving no more than three miles of line, but not for the integration of major new generation resources into a bulk transmission system;

(C) Reconstruction (upgrading or rebuilding) or minor relocation of existing electric transmission lines (230 kV or less) 25 miles in length or less to enhance environmental and land use values or to improve reliability or access. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts on environmentally sensitive areas;

(D) Repowering or uprating modifications or expansion of an existing unit(s) up to a rating of 50 average MW at electric generating facilities in order to maintain or improve the efficiency, capacity, or energy output of the facility. Any air emissions from such activities must be within the limits of an existing air permit;

(E) Installation of new generating units or replacement of existing generating units at an existing hydroelectric facility or dam which results in no change in the normal maximum surface area or normal maximum surface elevation of the

existing impoundment. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(F) Installation of a heat recovery steam generator and steam turbine with a rating of 200 average MW or less on an existing electric generation site for the purpose of combined cycle operations. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(G) Construction of small electric generating facilities (except geothermal and solar electric projects), including those fueled with wind or biomass, with a rating of 10 average MW or less. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(H) Siting, construction, and operation of small biomass projects (except small electric generating facilities projects fueled with biomass) producing not more than 3 million gallons of liquid fuel or 300,000 million British thermal units annually, developed on up 10 acres of land;

(I) Geothermal electric power projects or geothermal heating or cooling projects developed on up to 10 acres of land and including installation of one geothermal well for the production of geothermal fluids for direct use application (such as space or water heating/cooling) or for power generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(J) Solar electric projects or solar thermal projects developed on up to 10 acres of land including all supporting facilities and new related electric transmission lines 10 miles in length or less;

(K) Distributed resources of any capacity located at or adjacent to an existing landfill site or wastewater treatment facility that is powered by refuse-derived fuel. All supporting facilities and new related electric transmission lines 10 miles in length or less are included;

(L) Small conduit hydroelectric facilities having a total installed capacity of not more than 5 average MW using an existing conduit such as an irrigation ditch or a pipe into which a turbine would be placed for the purpose of electric generation. All supporting facilities and new related electric transmission lines 10 miles in length or less are included; and

(M) Modifications or enhancements to existing facilities or structures that would not substantially change the footprint or function of the facility or structure and that are undertaken for the purpose of improving energy efficiency (including heat rate efficiency), promoting pollution prevention or control, safety, reliability, or security. This includes, but is not limited to, retrofitting existing facilities to produce biofuels and replacing fossil fuels used to produce heat or power in biorefineries with renewable biomass. This also includes installation of fuel blender pumps and associated changes within an existing fuel facility.

(25) [Reserved]

(26) (USDA–26d–USFS) Construction and reconstruction of trails. Examples include, but are not limited to:

(i) Constructing or reconstructing a trail to a scenic overlook, and

(ii) Reconstructing an existing trail to allow use by handicapped individuals.

(27) (USDA–27d–USFS) Additional construction or reconstruction of existing telephone or utility lines in a designated corridor. Examples include, but are not limited to:

(i) Replacing an underground cable trunk and adding additional phone lines, and

(ii) Reconstructing a power line by replacing poles and wires.

(28) (USDA–28d–USFS) Approval, modification, or continuation of special uses that require less than 20 acres of NFS lands. Subject to the preceding condition, examples include but are not limited to:

(i) Approving the construction of a meteorological sampling site;

(ii) Approving the use of land for a one-time group event;

(iii) Approving the construction of temporary facilities for filming of staged or natural events or studies of natural or cultural history;

(iv) Approving the use of land for a utility corridor that crosses a national forest;

(v) Approving the installation of a driveway or other facilities incidental to use of a private residence; and

(vi) Approving new or additional communication facilities, associated improvements, or communication uses at a site already identified as available for these purposes.

(29) (USDA–29d–USFS) Regeneration of an area to native tree species, including site preparation that does not involve the use of herbicides or result in vegetation type conversion. Examples include, but are not limited to:

(i) Planting seedlings of superior trees in a progeny test site to evaluate genetic worth, and

(ii) Planting trees or mechanical seed dispersal of native tree species following a fire, flood, or landslide.

(30) (USDA–30d–USFS) (See discussion in the preamble for the final rule regarding the status of this CE.)

Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction. Examples include, but are not limited to:

(i) Girdling trees to create snags;

(ii) Thinning or brush control to improve growth or to reduce fire hazard including the opening of an existing road to a dense timber stand;

(iii) Prescribed burning to control understory hardwoods in stands of southern pine; and

(iv) Prescribed burning to reduce natural fuel build-up and improve plant vigor.

(31) (USDA–31d–USFS) Modification or maintenance of stream or lake aquatic habitat improvement structures using native materials or normal practices. Examples include, but are not limited to:

(i) Reconstructing a gabion with stone from a nearby source;

(ii) Adding brush to lake fish beds; and

(iii) Cleaning and resurfacing a fish ladder at a hydroelectric dam.

(32) (USDA–32d–USFS) Short-term (1 year or less) mineral, energy, or geophysical investigations and their incidental support activities that may require cross-country travel by vehicles and equipment, construction of less than 1 mile of low standard road, or use and minor repair of existing roads. Examples include, but are not limited to:

(i) Authorizing geophysical investigations which use existing roads that may require incidental repair to reach sites for drilling core holes, temperature gradient holes, or seismic shot holes;

(ii) Gathering geophysical data using shot hole, vibroseis, or surface charge methods;

(iii) Trenching to obtain evidence of mineralization;

(iv) Clearing vegetation for sight paths or from areas used for investigation or support facilities;

(v) Redesigning or rearranging surface facilities within an approved site;

(vi) Approving interim and final site restoration measures; and

(vii) Approving a plan for exploration which authorizes repair of an existing road and the construction of ⅓ mile of temporary road; clearing vegetation from an acre of land for trenches, drill pads, or support facilities.

(33) (USDA–33d–USFS) Implementation or modification of minor management practices to improve allotment condition or animal distribution. Examples include, but are not limited to:

(i) Rebuilding a fence to improve animal distribution;

(ii) Adding a stock watering facility to an existing water line; and

(iii) Spot seeding native species of grass or applying lime to maintain forage condition.

(34) (USDA–34d–USFS) Post-fire rehabilitation activities, not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds), to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities:

(i) Shall be conducted consistent with Agency and departmental procedures and applicable land and resource management plans;

(ii) Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and

(iii) Shall be completed within 3 years following a wildland fire.

(35) (USDA–35d–USFS) Harvest of live trees not to exceed 70 acres, requiring no more than ½ mile of temporary road construction. Do not use this category for even-aged regeneration harvest or vegetation type conversion. The proposed action may include incidental removal of trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Removal of individual trees for sawlogs, specialty products, or fuelwood, and

(ii) Commercial thinning of overstocked stands to achieve the desired stocking level to increase health and vigor.

(36) (USDA–36d–USFS) Salvage of dead and/or dying trees not to exceed 250 acres, requiring no more than ½ mile of temporary road construction. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Harvest of a portion of a stand damaged by a wind or ice event and construction of a short temporary road to access the damaged trees, and

(ii) Harvest of fire-damaged trees.

(37) (USDA–37d–USFS) Commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than ½ mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease. The proposed action may include incidental removal of live or dead trees for landings, skid trails, and road clearing. Examples include, but are not limited to:

(i) Felling and harvest of trees infested with southern pine beetles and immediately adjacent uninfested trees to control expanding spot infestations, and

(ii) Removal and/or destruction of infested trees affected by a new exotic insect or disease, such as emerald ash borer, Asian long horned beetle, and sudden oak death pathogen.

(38) (USDA–38d–USFS) Land management plans, plan amendments, and plan revisions developed in accordance with 36 CFR part 219 *et seq.* that provide broad guidance and information for project and activity decision-making in a NFS unit. (The plan approval document required by 36 CFR part 219 satisfies the documentation requirement for this categorical exclusion.) Proposals for actions that approve projects and activities, or that command anyone to refrain from undertaking projects and activities, or that grant, withhold or modify contracts, permits or other formal legal instruments, are outside the scope of this category and shall be considered separately under USDA NEPA procedures.

(39) (USDA–39d–USFS) Approval of a Surface Use Plan of Operations for oil and natural gas exploration and initial development activities, associated with or adjacent to a new oil and/or gas field or area, so long as the approval will not authorize activities in excess of any of the following:

(i) One mile of new road construction;

(ii) One mile of road reconstruction;

(iii) Three miles of individual or co-located pipelines and/or utilities disturbance; or

(iv) Four drill sites.

(40) (USDA–40d–USFS) Restoring wetlands, streams, riparian areas or other water bodies by removing, replacing, or modifying water control structures such as, but not limited to, dams, levees, dikes, ditches, culverts, pipes, drainage tiles, valves, gates, and fencing, to allow waters to flow into natural channels and floodplains and restore natural flow regimes to the extent practicable where valid existing rights or special use authorizations are not unilaterally altered or canceled. Examples include but are not limited to:

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

(ii) Installing a newly-designed structure that replaces an existing culvert to improve aquatic organism passage and prevent resource and property damage where the road or trail maintenance level does not change;

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

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

(41) (USDA–41d–USFS) Removing and/or relocating debris and sediment following disturbance events (such as floods, hurricanes, tornados, mechanical/engineering failures, etc.) to restore uplands, wetlands, or riparian systems to pre-disturbance conditions, to the extent practicable, such that site conditions will not impede or negatively alter natural processes. Examples include but are not limited to:

(i) Removing an unstable debris jam on a river following a flood event and relocating it back in the floodplain and stream channel to restore water flow and local bank stability;

(ii) Clean-up and removal of infrastructure flood debris, such as, benches, tables, outhouses, concrete, culverts, and asphalt following a hurricane from a stream reach and adjacent wetland area; and

(iii) Stabilizing stream banks and associated stabilization structures to reduce erosion through bioengineering techniques following a flood event, including the use of living and nonliving plant materials in combination with natural and synthetic support materials, such as rocks, riprap, geo-textiles, for slope stabilization, erosion reduction, and vegetative establishment and establishment of appropriate plant communities (bank shaping and planting, brush mattresses, log, root wad, and boulder stabilization methods).

(42) (USDA–42d–USFS) Activities that restore, rehabilitate, or stabilize lands occupied by roads and trails, including unauthorized roads and trails and National Forest System (NFS) roads and NFS trails, to a more natural condition that may include removing, replacing, or modifying drainage structures and ditches, reestablishing vegetation, reshaping natural contours and slopes, reestablishing drainage-ways, or other activities that would restore site productivity and reduce environmental impacts. Examples include but are not limited to:

(i) Decommissioning a road to a more natural state by restoring natural contours and removing construction fills, loosening compacted soils, revegetating the roadbed and removing ditches and culverts to reestablish natural drainage patterns;

(ii) Restoring a trail to a natural state by reestablishing natural drainage patterns, stabilizing slopes, reestablishing vegetation, and installing water bars; and

(iii) Installing boulders, logs, and berms on a road segment to promote naturally regenerated grass, shrub, and tree growth.

(43) (USDA–43d–USFS) Construction, reconstruction, decommissioning, relocation, or disposal of buildings, infrastructure, or other improvements at an existing administrative site, as that term is defined in section 502(1) of Public Law 109–54 (119 Stat. 559; 16 U.S.C. 580d note). Examples include but are not limited to:

(i) Relocating an administrative facility to another existing administrative site;

(ii) Construction, reconstruction, or expansion of an office, a warehouse, a lab, a greenhouse, or a fire-fighting facility;

(iii) Surface or underground installation or decommissioning of water or waste disposal system infrastructure;

(iv) Disposal of an administrative building; and

(v) Construction or reconstruction of communications infrastructure.

(44) (USDA–44d–USFS) Construction, reconstruction, decommissioning, or disposal of buildings, infrastructure, or improvements at an existing recreation site, including infrastructure or improvements that are adjacent or connected to an existing recreation site and provide access or utilities for that site. Recreation sites include but are not limited to campgrounds and camping areas, picnic areas, day use areas, fishing sites, interpretive sites, visitor centers, trailheads, ski areas, and observation sites. Activities within this category are intended to apply to facilities located at recreation sites managed by the Forest Service and those managed by concessioners under a special use authorization. Examples include but are not limited to:

(i) Constructing, reconstructing, or expanding a toilet or shower facility;

(ii) Constructing or reconstructing a fishing pier, wildlife viewing platform, dock, or other constructed feature at a recreation site;

(iii) Installing or reconstructing a water or waste disposal system;

(iv) Constructing or reconstructing campsites;

(v) Disposal of facilities at a recreation site;

(vi) Constructing or reconstructing a boat landing;

(vii) Replacing a chair lift at a ski area;

(viii) Constructing or reconstructing a parking area or trailhead; and

(ix) Reconstructing or expanding a recreation rental cabin.

(45) (USDA–45d–USFS) Road management activities on up to 8 miles of National Forest System (NFS) roads and associated parking areas. Activities under this category cannot include construction or realignment. Examples include but are not limited to:

(i) Rehabilitating an NFS road or parking area where management activities go beyond repair and maintenance;

(ii) Shoulder-widening or other safety improvements within the right-of-way for an NFS road; and

(iii) Replacing a bridge along an NFS road.

(46) (USDA–46d–USFS) Construction and realignment of up to 2 miles of National Forest System (NFS) roads and associated parking areas. Examples include but are not limited to:

(i) Constructing an NFS road to improve access to a trailhead or parking area;

(ii) Rerouting an NFS road to minimize resource impacts; and

(iii) Improving or upgrading the surface of an NFS road to expand its capacity.

(47) (USDA–47d–USFS) Forest and grassland management activities with a primary purpose of meeting restoration objectives or increasing resilience. Activities to improve ecosystem health, resilience, and other watershed and habitat conditions may not exceed 2,800 acres.

(i) Activities to meet restoration and resilience objectives may include, but are not limited to:

(A) Stream restoration, aquatic organism passage rehabilitation, or erosion control;

(B) Invasive species control and reestablishment of native species;

(C) Prescribed burning;

(D) Reforestation;

(E) Road and/or trail decommissioning (system and non-system);

(F) Pruning;

(G) Vegetation thinning; and

(H) Timber harvesting.

(ii) The following requirements or limitations apply to this category:

(A) Projects shall be developed or refined through a collaborative process that includes multiple interested persons representing diverse interests;

(B) Vegetation thinning or timber harvesting activities shall be designed to achieve ecological restoration objectives, but shall not include salvage harvesting as defined in Agency policy; and

(C) Construction and reconstruction of permanent roads is limited to 0.5 miles. Construction of temporary roads is limited to 2.5 miles, and all temporary roads shall be decommissioned no later than 3 years after the date the project is completed. Projects may include repair and maintenance of National Forest System (NFS) roads and trails to prevent or address resource impacts; repair and maintenance of NFS roads and trails is not subject to the above mileage limits.

§ 1b.5 Environmental assessments.

(a) *Generally.* If an action is subject to NEPA, as determined following § 1b.2(e), and unless a USDA subcomponent finds that the proposed action is excluded from having to prepare an environmental assessment or environmental impact statement pursuant to a categorical exclusion as determined following § 1b.2(f), or by another provision of law, when USDA is the lead agency the USDA subcomponent will prepare an environmental assessment with respect to a proposed action that does not have a reasonably foreseeable significant impact on the quality of the human environment, or if the significance of such effect is unknown. USDA is mindful of Congress' direction that environmental assessments are to be ''concise'' and set forth the basis of the subcomponent's analysis to support, if appropriate, a finding of no significant impact (NEPA section 106(b)(2); 42 U.S.C. 4336(b)(2).

(b) *Scope of analysis.* (1) In preparing the environmental assessment, the USDA subcomponent will focus its analysis on whether the environmental effects of the proposed action (and action alternatives, if any) or project at hand are significant.

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

(3) To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time, or separate in place, or that fall

outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the environmental assessment and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.

(c) *Elements.* For the purpose of providing evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, USDA subcomponents may apply any format they choose for the environmental assessment, but shall address the scope of analysis required in paragraph (b) of this section and the following elements at a minimum:

(1) *Purpose and need for the proposal.* The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a subcomponent's statutory duty is to review an application for authorization, the subcomponent may base the purpose and need on the goals of the applicant and the subcomponent's authority.

(2) *No action, proposed action, and alternatives (if any).* (i) No action may be listed as a stand-alone alternative but is not required. The consequences of taking no action, however, shall be included as part of the environmental impacts analysis to contrast the impacts of the proposed action, and any alternative(s) if developed, with the current condition and expected future condition if the proposed action or alternative were not implemented.

(ii) Alternatives may be included to the extent required by NEPA section 102(2)(H), 42 U.S.C. 4332(2)(H). When there are no unresolved conflicts concerning alternative uses of available resources, the environmental assessment need only analyze the proposed action and may proceed without consideration of additional alternatives.

(iii) Where conflicts have been resolved during development of the proposed action or during the environmental analysis process through iterative modifications to the proposed action—such as addition of design criteria for the proposed action, changing the activities proposed, or adjusting locations of where activities are proposed—this should be described in the environmental assessment as rationale for why additional alternatives were not developed.

(3) *Potentially affected environment and environmental impacts.* Succinctly describe the potentially affected environment that may be affected by the proposed action and alternatives (if any) under consideration. The environmental assessment may combine the potentially affected environment description with evaluation of the environmental impacts, and it should be no longer than is necessary to provide context for the effects of the proposed action and alternatives (if any). Briefly discuss the reasonably foreseeable environmental impacts of the proposed action and alternatives (if any) and provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact, taking into consideration the potential for reasonably foreseeable significant impacts as outlined in § 1b.2(f)(3).

(4) *Agencies and persons consulted.* Provide a succinct list of agencies and persons consulted.

(5) *Other environmental reviews.* Briefly document determinations for compliance with other applicable laws or regulations, as deemed necessary by the responsible official. When effects analysis is completed to demonstrate compliance with other applicable environmental laws, regulations, or executive orders and already addresses a resource being considered for effects under NEPA (*e.g.,* analysis completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.) and it is clear from that analysis and compliance discussion that no reasonably foreseeable significant impact exists, the responsible official may rely on that analysis to inform their finding of no significant impact.

(6) *Certifying statements for page limit and deadline.* The responsible official shall certify the environmental assessment complies with the page limit and deadline required by NEPA. Certification statements shall apply the criteria in paragraphs (d)(4) and (h) of this section. The certifying statement does not require a signature. Approval to publish the environmental assessment to a USDA website indicates the responsible official has reviewed the environmental assessment and concurs with the certifying statement.

(7) *Unique identification number.* The USDA subcomponent shall include a unique identification number on the environmental assessment, as required by § 1b.9(u).

(d) *Page limits*—(1) *Length of text.* The text of an environmental assessment will not exceed 75 pages (NEPA section 107(e)(2), 42 U.S.C. 4336a(e)(2)), not including citations or appendices.

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

(3) *Page formatting.* Environmental assessments shall be formatted for an 8.5 by 11 inches page with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10- point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5 by 11 inches, each such item will count as one page.

(4) *Certification related to page limits.* The breadth and depth of analysis in an environmental assessment will be tailored to ensure that the environmental analysis does not exceed this page limit. In this regard, as part of the finalization of the environmental assessment, a responsible official will certify (and the certification will be incorporated into the environmental assessment) that the USDA subcomponent has considered the factors mandated by NEPA; that the environmental assessment represents the subcomponent's good-faith effort to prioritize documentation of the substantive issues and most important considerations required by the Act within the congressionally mandated page limits; that this prioritization reflects the subcomponent's expert judgment; and that any issues or considerations addressed briefly or left unaddressed were, in the subcomponent's judgment, comparatively not of a substantive nature (see § 1b.11(53) of this part).

(e) *Deadlines.* As the Supreme Court has repeatedly held, NEPA is governed by a ''rule of reason'' and Congress established deadlines for the environmental assessment process in the 2023 revision of NEPA (NEPA section 107(g), 42 U.S.C. 4336a(g)).

Thus, USDA subcomponents will complete the environmental assessment not later than the date that is one (1) year after the sooner of, as applicable:

(1) The date on which such agency (or subcomponent) determines that NEPA section 106(b)(2), 42 U.S.C. 4336(b)(2)

requires the preparation of an environmental assessment with respect to such action. For internally driven proposals, this determination should not be made until a proposed action is finalized and determined by the responsible official to be ready for interdisciplinary review of environmental impacts. For externally-driven proposals (*e.g.,* applications) submitted to a USDA subcomponent which require preparation of an environmental assessment, the responsible official should not make a determination that an action requires the issuance of an environmental assessment until receiving an application the responsible official deems complete and final;

(2) The date on which such agency (or subcomponent) notifies the applicant that the application to establish a right-of-way for such action is complete; or

(3) The date on which such agency (or subcomponent) issues a notice of intent to prepare the environmental assessment for such action. If the subcomponent determines that it will prepare an environmental assessment for a proposed action, the subcomponent may publish notice of intent to publish an environmental assessment.

(i) Publication of a notice of intent in the **Federal Register** for an environmental assessment should be the exception rather than the norm and should only be done for those proposals that are of a more complex scope or scale, such as proposals that are national or regional in scope or other instances for which there are numerous cooperating agencies, or interested or affected parties, given the scope of the actions or scale of the proposal.

(ii) Publication of a notice of intent for an environmental assessment shall be at the sole discretion of the responsible official. When opting to publish a notice of intent for an environmental assessment, the responsible official will publish the notice in the **Federal Register** and include the following:

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

(B) A preliminary description of the proposed action and known alternatives, if any, that will be considered in the environmental assessment;

(C) A schedule for the decision-making process on whether to issue a finding of no significant impact or prepare an environmental impact statement;

(D) A link to the USDA website where additional information about the proposal can be found, to include publication of the environmental assessment and finding of no significant impact, as required by paragraph (f) of this section and § 1b.6(d); and

(F) Contact information for a person within the lead agency who can answer questions about the proposed action and the environmental assessment.

(iii) Notwithstanding other statutory or regulatory requirements, the decision to solicit public comment in the notice of intent for an environmental assessment shall be at the sole discretion of the responsible official.

(f) *Publication of the environmental assessment.* USDA subcomponents shall make the environmental assessment available to the public on a USDA website. At the time the environmental assessment is published on the website, it shall be considered complete and conclude the timeline for the environmental assessment. The USDA subcomponent will publish the environmental assessment (unless the deadline is extended pursuant to paragraph (g) of this section), at the latest, on the day the deadline elapses, in as substantially complete form as is possible.

(g) *Deadline extensions.* The deadlines described in paragraph (e) of this section indicate Congress' determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances an extension will be given only for such time as is necessary to complete the analysis. If a USDA subcomponent determines it is not able to meet the deadline prescribed by NEPA section 107(g)(1)(B), 42 U.S.C. 4336a(g)(1)(B), it must consult with the applicant, if any, pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, it may establish a new deadline. If an extension is approved, the new deadline will be documented in writing and included in the proposal record. The documentation of the new deadline will specify the reason why the environmental assessment was not able to be completed under the statutory deadline and whether the applicant consented to the new deadline. The responsible official should consider if other agencies or persons consulted as part of preparing the environmental assessment need to be notified of the change in the deadline.

(1) Cause for establishing a new deadline is only established if the environmental assessment is so incomplete, at the time at which the USDA subcomponent determines it is not able to meet the statutory deadline, that publication pursuant to paragraph (f) of this section would, in the responsible official's judgment, result in an inadequate analysis that does not meaningfully inform the responsible official's final decision regarding the proposed action or selected alternative (if applicable). Such new deadline must provide only so much additional time as is necessary to complete such environmental assessment.

(2) USDA subcomponents shall coordinate with the USDA Senior Agency Official, or the applicable mission area Under Secretary or other USDA official with delegated authority, prior to extending the deadline for an environmental assessment, in accordance with § 1b.2(b)(5)(iv).

(h) *Certification Related to Deadline.* When the environmental assessment (EA) is published, the responsible official will certify (and the certification will be incorporated into the environmental assessment) that the resulting EA represents the USDA subcomponent's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; that, in the subcomponent's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the responsible official's judgment, the analysis contained therein is adequate to inform and reasonably explain the responsible official's finding regarding the proposed action or selected alternative.

§ 1b.6 Finding of no significant impact.

(a) *General.* When a USDA subcomponent is the lead agency, it will prepare a finding of no significant impact if the subcomponent determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action or selected alternative, or project at hand, will not have a reasonably foreseeable significant impact on the quality of the human environment. When it will not prevent the USDA subcomponent from meeting the deadline in § 1b.5(e), the finding of no significant impact may be prepared in conjunction with the environmental assessment and included in the same document and will not count towards the page limits in § 1b.5(d).

(b) *Elements.* USDA subcomponents may apply any format they choose for the FONSI, but shall address the following elements at a minimum:

(1) Incorporate by reference the environmental assessment and note any other documentation related to it, such as documentation contained in the proposal record. The finding need not

repeat any of the discussion in the environmental assessment;

(2) Include a statement of the selected alternative if other alternatives were considered and analyzed in detail in addition to the proposed action;

(3) Document the reasons why the responsible official has determined that the proposed action or selected alternative will not have a reasonably foreseeable significant impact on the quality of the human environment, based on analysis and evidence provided in the environmental assessment, and conclude with a statement that for these reasons an environmental impact statement will not be prepared. If the responsible official finds no significant impacts based on mitigation, state the authority for any mitigation that the responsible official has adopted and any applicable monitoring or enforcement provisions.

(4) A statement regarding when implementation of the action is anticipated to begin; and

(5) Include the date issued and the signature of the responsible official.

(c) *Other documentation consideration.* If a statute or regulation explicitly requires a decision document to approve actions analyzed in an environmental assessment, the finding of no significant impact can be retitled to indicate its function as a decision document.

(d) *Publication of the finding of no significant impact (FONSI).* When the FONSI is not included in the same document as the environmental assessment, as permitted in paragraph (a) of this section, the USDA subcomponents shall make the FONSI available to the public on the USDA website where the environmental assessment is published.

(e) *Notification.* The responsible official shall notify any agencies or persons consulted, as identified in the environmental assessment, that the FONSI is available. Notification shall be in the manner of communication used to consult with the agency or person.

(f) *Timing of action.* Once the USDA subcomponent has published the FONSI on the USDA website and provided necessary notifications (as required in paragraph (e) of this section), and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.7 Environmental impact statements.

(a) *Generally.* A USDA subcomponent will prepare an environmental impact statement only with respect to proposed actions that otherwise require preparation of an environmental document and that have a reasonably foreseeable significant impact on the quality of the human environment (NEPA section 106(b)(1); 42 U.S.C. 4336(b)(1)). Whether an action rises to the level of significant is a matter of the responsible official's expert judgment, as informed by interdisciplinary analysis. Environmental impact statements will discuss effects in proportion to their reasonably foreseeable significance. With respect to issues that are not of a substantive nature (see § 1b.11(53)) there will be no more than the briefest possible discussion to explain why those issues are not substantive and therefore not deemed necessary, at the sole discretion of the responsible official, of any further analysis. Environmental impact statements will be analytic, concise, and no longer than necessary to comply with NEPA in light of the congressionally mandated page limits and deadlines.

(b) *Notice of intent.* As soon as practicable after determining that a proposal is sufficiently developed to allow for meaningful public comment and requires an environmental impact statement, when a USDA subcomponent is the lead agency it will publish a notice of intent in the **Federal Register** to prepare an environmental impact statement. Where there is a lengthy delay between the USDA subcomponent's decision to prepare an environmental impact statement and the time of actual preparation, the subcomponent may publish the notice of intent at a reasonable time in advance of preparation of the statement.

(1) The notice of intent to publish an environmental impact statement shall include:

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

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

(iii) A preliminary list of substantive issues to be analyzed in detail, with a brief summary of expected impacts for each issue;

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

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

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

(vii) Identification of any cooperating and participating agencies (*i.e.,* agencies responsible for related actions), and any information that such agencies require in the notice to facilitate their decisions or authorizations;

(viii) a request for public comment on alternatives or effects and on relevant information, studies, or analyses with respect to the proposal (NEPA section 107(c); 42 U.S.C. 4336a(c));

(ix) A link to the website where additional information about the proposal can be found, to include publication of the environmental impact statement and record of decision, as required by paragraph (n) of this section and § 1b.8(c); and

(x) Contact information for a person within the lead agency who can answer questions about the proposed action and the environmental impact statement.

(2) A USDA subcomponent may publish a notice in the **Federal Register** to inform the public of a pause in its preparation of an environmental impact statement.

(3) USDA subcomponents shall publish a notice of intent in the **Federal Register** if a decision is made to withdraw the intent to complete an environmental impact statement, or to withdraw an environmental impact statement already filed with the Environmental Protection Agency (see paragraph (o) of this section).

(c) *Scoping.* When a USDA subcomponent is the lead agency, the subcomponent may use an early and open process to determine the scope of issues and alternatives for analysis in an environmental impact statement, including identifying substantive issues (see § 1b.11(23) and (53)) and eliminating from further study non-substantive issues and action alternatives that are not technically or economically feasible or do not meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii)). Scoping may begin as soon as practicable after the proposal is sufficiently developed for consideration. Scoping may include appropriate pre-application procedures or work conducted prior to publication of the notice of intent. Scoping is not a statutorily required step in the NEPA review procedures and there is no prescribed process or procedure required for scoping. If a USDA subcomponent is the lead agency, and the responsible official chooses to apply a scoping process, the subcomponent may, as appropriate:

(1) Invite the participation of likely affected Federal, State, Tribal, and local agencies and governments, the applicant, and other likely affected or interested persons;

(2) Hold a scoping meeting or meetings, publish scoping information, or use other means to communicate with those persons or agencies who may be interested or affected, which the

subcomponent may integrate with any other early planning meeting; and

(3) Take responsibility for the following:

(i) Allocate assignments for preparation of the environmental impact statement when there are joint and/or cooperating agencies, with the lead agency retaining responsibility for the statement;

(ii) Identify and eliminate from detailed study the issues that are not substantive or have been covered by prior environmental review(s), narrowing the discussion of these issues in the environmental impact statement to a brief presentation of why they are not of a substantive nature that meaningfully informed the consideration of environmental effects and the resulting decision on how to proceed;

(iii) Identify and eliminate from detailed study action alternatives that are not technically or economically feasible or do not meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii));

(iv) Indicate any public environmental assessments and other environmental impact statements that are being or will be prepared and are related to, but are not part of, the scope of the impact statement under consideration;

(v) Identify other environmental review, authorization, and consultation requirements to allow for other required analyses and studies to be prepared concurrently and integrated with the environmental impact statement and ensure any joint and/or cooperating agencies have shared understanding of their role in meeting these requirements;

(vi) Indicate the relationship between the timing of the preparation of the environmental impact statement and the subcomponent's (or agencies') tentative planning and decision-making schedule; and

(vii) Specify the USDA website where additional information will be provided as the environmental impact statement is developed.

(d) *Requesting comments.* During the process of preparing an environmental impact statement, when a USDA subcomponent is the lead agency, it:

(1) Will request the comments of (NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C)):

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

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

(2) May request the comments of the following in a manner designed to inform those persons or organizations who may be interested in or affected by the proposed action or action alternatives:

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

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

(iii) The applicant, if any; and

(iv) The public.

(3) The process of obtaining and requesting comments may be undertaken at any time that is determined reasonable by the responsible official in the process of preparing the environmental impact statement.

(4) The USDA subcomponent shall ensure that the process of obtaining and requesting comments, and the responsible official's subsequent consideration of those comments (as outlined in paragraph (f) of this section), does not cause the subcomponent to violate the congressionally mandated deadline for completion of an environmental impact statement, as specified in paragraph (k) of this section.

(e) *Electronic submission and publication of comments.* USDA subcomponents shall:

(1) Provide for electronic submission of comments.

(2) Electronically publish all substantive comments received on an environmental impact statement, including those received in response to the notice of intent to prepare an environmental impact statement, or any other opportunities for comment. If a USDA subcomponent does not have the capability or capacity to publish substantive comments electronically, the subcomponent shall include a summary of substantive comments received, including those received in response to the notice of intent publication or any other opportunities for comment, as an appendix in the environmental impact statement.

(f) *Considering and addressing substantive comments.* A USDA subcomponent preparing an environmental impact statement:

(1) Shall consider and should address in writing comments that raise substantive issues and/or recommendations.

(i) Comments shall be analyzed to determine substantive issues raised (see § 1b.11(23) and (53)) and, if applicable, recommendations made to remedy the issues.

(ii) Multiple comments regarding the same or similar substantive issues and/or recommendations may be grouped and paraphrased as one issue or recommendation. The USDA subcomponent need not address every comment individually. Rather, the manner and degree to which comments should be addressed should be commensurate with the degree to which the comments raise issues and/or recommendations that have bearing on the proposed action, development of alternatives, or analysis of the reasonably foreseeable significant impacts of the proposed action or alternatives.

(2) When addressing in writing substantive issues raised and/or recommendations made, documentation should focus on identifying the action the responsible official took in response to the issue and/or recommendation. The action taken in response to a substantive issue or recommendation may include:

(i) Modifying alternatives, including the proposed action;

(ii) Developing and evaluating alternatives not previously given serious consideration by the subcomponent;

(iii) Supplementing, improving, or modifying analyses;

(iv) Consideration of science or literature not previously considered, if the commenter clearly identifies cause-and-effect issues relating the literature to the environmental analysis;

(v) Making factual corrections; or

(vi) No action needed. The USDA subcomponent may provide brief rationale for taking no action, such as: the comment is outside the scope of what is being proposed; there is no cause-effect relationship between the actions the subcomponent is proposing and the issue raised and/or recommendation made; the commenter misinterpreted the information provided; or the recommendation made does not comply with applicable laws or regulations and/or is not feasible to implement (technically or economically) or does not meet the purpose and need of the proposal, etc.

(3) Where action was taken and when substantive issues and recommendations are addressed in writing, the USDA subcomponent should, where feasible, cite to where in the environmental impact statement or supporting proposal record the indicated action taken is accounted for.

(4) The USDA subcomponent's documentation of how substantive issues and recommendations were addressed should be included as an appendix in the environmental impact statement when this will not prevent the subcomponent from publishing the environmental impact statement within the deadlines specified in paragraph (k) of this section.

(g) *Scope of analysis.* (1) In preparing the environmental impact statement, the USDA subcomponent will focus its analysis on whether the environmental effects of the proposed action and action alternatives, or project at hand, are significant.

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

(3) To the extent it assists in reasoned decision-making, the USDA subcomponent may, but is not required to by NEPA, analyze environmental effects from other actions separate in time, or separate in place, or that fall outside of the USDA subcomponent's regulatory authority, or that would have to be initiated by a third party. If the USDA subcomponent determines that such analysis would assist it in reasoned decision-making, it will document this determination in the environmental impact statement and explain where it drew a reasonable and manageable line relating to the consideration of such effects from such separate actions.

(h) *Elements.* Environmental impact statements shall state the alternatives considered and disclose the difference in anticipated effects between alternatives. USDA subcomponents may apply any format they choose for the environmental impact statement, but shall address the scope of analysis required in paragraph (g) of this section and the following elements at a minimum:

(1) *Cover.* The cover shall not exceed two pages, front and back, and should include the following to convey necessary information associated with the proposal:

(i) The title of the proposal that is the subject of the statement;

(ii) A list of the responsible agencies, including the lead agency and any joint or cooperating agencies. Where the number of cooperating agencies is excessive, the list need only include the types of agencies participating as cooperating agencies;

(iii) Specification of where the action is located, such as the State(s), county(ies), or other applicable jurisdiction(s); and

(iv) The name, mailing address, email address, and telephone number of the person at the lead agency who can supply further information about the proposal.

(v) The unique identification number, as required by § 1b.9(u).

(2) *Purpose and need for the proposal.* The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a USDA subcomponent's statutory duty is to review an application for authorization, the subcomponent may base the purpose and need on the goals of the applicant and the subcomponent's authority.

(3) *Proposed action and alternatives* (NEPA sections 102(2)(C)(iii) and 102(2)(E), 42 U.S.C. 4332(2)(C)(iii) and (2)(E)). The alternatives section should list the no action alternative and describe the proposed action and the action alternatives in comparative form based on the difference in scope and scale of the activities proposed. Consequences of not implementing the proposed action may be discussed in this section of the environmental impact statement or in conjunction with environmental impacts, as specified in paragraph (h)(5)(iv) of this section. In this section, USDA subcomponents shall:

(i) Evaluate a reasonable range of alternatives, in addition to the proposed action. Alternatives analyzed in detail must be technically and economically feasible and meet the purpose and need of the proposal (NEPA section 102(2)(C)(iii), 42 U.S.C. 4332(2)(C)(iii)) and recommend alternative uses of available resources for unresolved conflicts associated with the proposed action (NEPA section 102(2)(H)), 42 U.S.C. 4332(2)(H));

(ii) Not commit resources prejudicing selection of alternatives before making a final decision;

(iii) Briefly discuss the reasons the subcomponent eliminated alternatives from detailed study; and

(iv) Discuss each alternative considered in detail, including the proposed action, so that the responsible official may evaluate their comparative merits.

(4) *Potentially affected environment.* Succinctly describe the environment of the area(s) that may potentially be affected by the alternatives under consideration. The environmental impact statement may combine the potentially affected environment description with evaluation of the environmental impacts, and it should be no longer than is necessary to provide context for the effects of the alternatives.

(5) *Environmental impacts.* The environmental impacts section forms the scientific and analytic basis for the comparisons under paragraph (h)(3) of this section. It shall consolidate the discussions of those elements required by NEPA sections 102(2)(C)(i), (ii), (iv), and (v), 42 U.S.C. 4332(2)(C)(i)(ii)(iv) and (v), and that are within the scope of the statement and as much of section 102(2)(C)(iii) of NEPA, section 4332(2)(C)(iii), as is necessary to support the comparisons. This section should not duplicate discussions outlined in paragraph (h)(3) of this section. When conducting analysis and documenting determinations for compliance with other applicable environmental laws, regulations, or executive orders (*e.g.,* analysis completed for Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.), as deemed necessary by the responsible official, that analysis may be relied on to inform discussions of significance in the environmental impact statement. The discussion shall include:

(i) Reasonably foreseeable environmental impacts of the proposed action and alternatives;

(ii) Any means identified to reduce adverse environmental effects, such as design criteria included in the proposed action or action alternatives;

(iii) Any reasonably foreseeable adverse environmental impacts which cannot be avoided should the proposed action or alternatives be implemented;

(iv) Consequences of taking no action to contrast the impacts of the proposed action and alternatives with the current condition and expected future condition if the proposed action or alternative were not implemented;

(v) Any adverse environmental impacts or consequences of not implementing the proposed action or alternatives;

(vi) Any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed action, or an action alternative, should it be implemented; and

(vii) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(6) *Environmental review and consultation requirements, to include a list of agencies and persons consulted.* The environmental impact statement shall document compliance with other

applicable laws or regulations, as deemed necessary by the responsible official, and list all Federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. If it is uncertain whether a Federal permit, license, or other authorization is necessary, the environmental impact statement shall so indicate. Provide a succinct list of agencies and persons consulted.

(7) *Appendices (if any).* (i) Appendices in the environmental impact statement may consist of:

(A) Material prepared in connection with an environmental impact statement (as distinct from material that is not incorporated by reference);

(B) Material substantiating any analysis fundamental to the environmental impact statement; and

(C) Material relevant to the decision to be made.

(ii) See paragraph (e) of this section regarding the need to provide a summary of comments received in response to the publication of the notice of intent, or any other opportunities for public comment, as an appendix in the environmental impact statement if comments cannot be electronically published.

(iii) See paragraph (f)(4) regarding the recommendation to provide documentation of how comments were addressed as an appendix in the environmental impact statement.

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

(8) *Certifying statements for page limit and deadline.* The responsible official shall certify the environmental impact statement complies with the page limit and deadline required by NEPA. Certification statements shall apply the criteria in paragraphs (j) and (m) of this section. The certifying statement does not require a signature. Approval to publish the environmental impact statement to a USDA website indicates the responsible official has reviewed the environmental impact statement and concurs with the certifying statement.

(i) *Page limits.* Except as provided in paragraph (i)(1) of this section, the text of an environmental impact statement will not exceed 150 pages (NEPA section 107(e)(1)(A), 42 U.S.C. 4336a(e)(1)(A)), not including citations or appendices.

(1) An environmental impact statement for a proposal of extraordinary complexity will not exceed 300 pages (NEPA section 107(e)(1)(B), 42 U.S.C. 4336a(e)(1)(B)), not including any citations or appendices.

(2) USDA subcomponents shall coordinate with the USDA Senior Agency Official, or the applicable mission area Under Secretary or other USDA official with delegated authority, prior to determining that an environmental impact statement is of extraordinary complexity.

(3) Environmental impact statements shall be prepared on 8.5 inch by 11-inch paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information, although pages containing such material do count towards the page limit. When an item of graphical material is larger than 8.5 by 11 inches, each such item shall count as one page.

(j) *Certification related to page limits.* The breadth and depth of analysis in an environmental impact statement will be tailored to ensure that the environmental analysis does not exceed the page limit. In this regard, as part of the finalization of the environmental impact statement, a responsible official will certify (and the certification will be incorporated into the environmental impact statement) that the USDA subcomponent has considered the factors mandated by NEPA; that the environmental impact statement represents the subcomponent's good-faith effort to prioritize documentation of the substantive issues and most important considerations required by the Act within the congressionally mandated page limits; that this prioritization reflects the subcomponent's expert judgment; and that any issues or considerations addressed briefly or left unaddressed were, in the subcomponent's judgment, comparatively not of a substantive nature (see § 1b.11(53)).

(k) *Deadlines.* As the Supreme Court has repeatedly held, NEPA is governed by a ''rule of reason'' and Congress established deadlines for the environmental impact statement process in the 2023 revision of NEPA (NEPA section 107(g), 42 U.S.C. 4336a(g)). A USDA subcomponent will complete the environmental impact statement not later than the date that is 2 years after the sooner of, as applicable:

(1) The date on which the subcomponent determines that section 102(2)(C) requires the issuance of an environmental impact statement with respect to such action. For internally driven proposals, this determination should not be made until a proposed action is finalized and determined by the responsible official to be ready for interdisciplinary review. For externally-driven proposals (*e.g.,* applications) to a USDA subcomponent which require preparation of an environmental impact statement, the responsible official should not make a determination that an action requires the issuance of an environmental impact statement until receiving an application the responsible official deems complete and final.

(2) The date on which the subcomponent notifies the applicant that the application to establish a right-of-way for such action is complete; or

(3) The date on which the subcomponent issues a notice of intent to prepare the environmental impact statement for such action.

(l) *End of deadline.* The environmental impact statement will be considered complete at the time it is published on a USDA website and is not indicated to be a draft. The USDA subcomponent will publish the environmental impact statement (unless the deadline is extended pursuant to paragraph (l)(1) of this section) on the day the deadline elapses, in as substantially complete form as is possible.

(1) *Deadline extensions.* The deadlines described in paragraph (k) of this section indicate Congress' determination that an agency has presumptively spent a reasonable amount of time on analysis and the document should issue, absent very unusual circumstances. In such circumstances, an extension will be given only for such time as is necessary to complete the analysis. If a USDA subcomponent determines it is not able to meet the deadline prescribed by NEPA section 107(g)(1)(A), 42 U.S.C. 4336a(g)(1)(A), it must consult with the applicant, if any, pursuant to NEPA section 107(g)(2), 42 U.S.C. 4336a(g)(2). After such consultation, if needed, and for cause stated, it may establish a new deadline by getting approval from the USDA official delegated authority for extending deadlines as specified in 1b.2(b)(2)(iv). If an extension is approved, the new deadline will be documented in writing and included in the proposal record. The documentation of the new deadline will specify the reason why the environmental impact statement was not able to be completed under the statutory deadline and

whether the applicant consented to the new deadline. The documentation for extending an environmental impact statement deadline shall be posted on the USDA website specified in the notice of intent to prepare an environmental impact statement. The responsible official should consider if other agencies or persons consulted as part of preparing the environmental impact statement need to be notified of the change in the deadline.

(2) *Cause for deadline extension.* Cause for establishing a new deadline is only established if the environmental impact statement is so incomplete, at the time at which the USDA subcomponent determines it is not able to meet the statutory deadline, that issuance pursuant to paragraph (l) of this section would, in the responsible official's judgment, result in an inadequate analysis that does not meaningfully inform the responsible official's final decision regarding the proposed action or selected alternative. Such new deadline must provide only so much additional time as is necessary to complete such environmental impact statement.

(m) *Certification related to deadlines.* When the environmental impact statement is published, a responsible official will certify (and the certification will be incorporated into the environmental impact statement) that the resulting environmental impact statement represents the USDA subcomponent's good-faith effort to fulfill NEPA's requirements within the Congressional timeline; that such effort is substantially complete; and that, in the subcomponent's expert opinion, it has thoroughly considered the factors mandated by NEPA; and that, in the responsible official's judgment, the analysis contained therein is adequate to inform and reasonably explain the responsible official's final decision regarding the proposed action or selected alternative.

(n) *Publishing the environmental impact statement.* (1) During the process of preparing the environmental impact statement, a responsible official may choose to publish a draft environmental impact statement and any other pre-decisional materials that, in their judgment, may assist in fulfilling their responsibilities under NEPA and in facilitating the request for comments. Any draft environmental impact statement will be published to the USDA website that was specified in the notice of intent to prepare an environmental impact statement and will not be filed with the Environmental Protection Agency until such time it is considered complete. The responsible official shall ensure that the process of publishing a draft environmental impact statement does not cause the subcomponent to violate the congressionally mandated deadline for completion of an environmental impact statement as specified in paragraph (k) of this section.

(2) If the responsible official does not publish a draft environmental impact statement, they will publish the completed environmental impact statement to the USDA website that was specified in the notice of intent to prepare an environmental impact statement. The same version published to the USDA website must also be filed with the Environmental Protection Agency in accordance with the provision at paragraph (o) of this section.

(o) *Filing the environmental impact statement.* USDA subcomponents shall file completed environmental impact statements with the Environmental Protection Agency (EPA) consistent with EPA's procedures. Subcomponents may file environmental impact statements with the EPA at the same time they are transmitted to participating agencies and made available to the public. When the record of decision is included in the same document as the environmental impact statement, as permitted in paragraph (a) of § 1b.8, it shall also be filed.

§ 1b.8 Records of decision.

(a) *General.* Upon completing the environmental impact statement, at the time of its decision a USDA subcomponent, if the lead agency, shall prepare and publish a record of decision or joint record of decision. When it will not prevent the USDA subcomponent from meeting the deadline in § 1b.7(k), the record of decision may be prepared in conjunction with the environmental impact statement and included in the same document and will not count towards the page limits in § 1b.7(i). When including the record of decision in the environmental impact statement (EIS), the EIS cover page should be updated to reflect the document also includes the record of decision.

(b) *Elements.* USDA subcomponents may apply any format they choose for the record of decision, but shall address the following elements at a minimum:

(1) Incorporate by reference the environmental impact statement and note any other documentation related to it, such as documentation contained in the proposal record. The record of decision need not repeat any of the discussion in the environmental impact statement;

(2) Certify that the subcomponent has considered all the substantive alternatives, information, and analyses submitted by State, Tribal, and local governments and public commenters for consideration by the lead and cooperating agencies in developing the environmental impact statement;

(3) State the decision, that is, the alternative selected;

(4) Provide explanation on how the responsible official considered significance, in accordance with § 1b.2(f)(3), relative to the alternatives described in the environmental impact statement;

(5) Identify and discuss all such factors, including any essential considerations of national policy, that the responsible official balanced in making the decision and state how those considerations informed the decision. The discussion may include preferences among alternatives based on other relevant factors, such as environmentally preferable, economic and technical feasibility considerations, and subcomponent statutory missions;

(6) State any means identified to mitigate adverse environmental effects of the proposed action or selected alternative. The responsible official is mindful in this respect that NEPA imposes no substantive environmental obligations or restrictions and does not require or authorize the subcomponent to impose any mitigation measures. If the responsible official decides to adopt any mitigation, state the statutory or regulatory authority for the mitigation. The subcomponent shall adopt and summarize, where applicable, a monitoring and enforcement program for any enforceable mitigation requirements or commitments;

(7) A statement regarding when implementation of the action is anticipated to begin; and

(8) Include the date issued and the signature of the responsible official.

(c) *Publication of the ROD.* When the ROD is not included in the same document as the environmental impact statement, as permitted in paragraph (a) of this section, USDA subcomponents shall make the record of decision available to the public on the USDA website that was specified in the notice of intent to prepare an environmental impact statement.

(d) *Notification.* The responsible official shall notify any agencies or persons consulted, as listed in the environmental impact statement, and any parties that submitted comments in response to publication of the notice of intent or any other opportunities for comment on the environmental impact statement, that the record of decision

has been signed and is available on a USDA website. Notification shall be in the manner of communication used to consult with the agency, person, or party.

(e) *Timing of action.* The Environmental Protection Agency publishes a notice of availability in the **Federal Register** each week of the environmental impact statements filed since its prior notice. Once the Environmental Protection Agency publishes the notice of availability in the **Federal Register** for the environmental impact statement filed by the USDA subcomponent and the subcomponent has published the record of decision on a USDA website and provided necessary notifications (as required in paragraph (d) of this section), and unless other statutes or regulations require otherwise, the USDA subcomponent or applicant may begin implementing the action.

§ 1b.9 Efficient and effective environmental reviews.

(a) *Proposal Record.* Upon determining NEPA applies and an environmental document must be developed, USDA subcomponents should begin compiling the proposal record early in the process. The proposal record should be maintained throughout the NEPA process to ensure the responsible official has all necessary information available on which they base iterative decisions during the NEPA process, required findings and determinations (to include those required for other applicable laws or regulations), and approval of the action. The proposal record is not determinative of the scope and content of an administrative record prepared for litigation pursuant to the Administrative Procedure Act or other law. The proposal record should include the following:

(1) Internal communications that contain substantive information demonstrating why the responsible official proceeded the way it did, to include briefing papers, presentations, emails, or other documented communications that capture rationale and decisions made at key points in the NEPA process;

(2) Necessary documentation generated by applicants or contractors, where documentation is determined not to be a potentially privileged information (see paragraph (c) of this section);

(3) Technical information, to include sampling results, survey information, engineering reports, applicable resource and program assessments, maps, etc.;

(4) Cost-benefit analysis if completed, as well as any technical or feasibility studies completed to inform development of the proposed action or action alternatives;

(5) External communications that contain substantive information about the proposal, to include a notice of intent to prepare an environmental impact statement and other such documents that invite feedback from the public or other external parties, and consultation communications with regulatory agencies and tribes (where information is not determined to be a potential withholding or privileged, as specified in paragraph (c) of this section);

(6) Comments or other submissions received from external parties or the public, as well as documentation, if any, of how substantive issues raised and/or recommendations made were considered and the action taken;

(7) Draft versions of any documents circulated externally for comment or review;

(8) Documents containing guidance or information that the USDA subcomponent relied on when developing the proposed action (or action alternatives) or conducting analysis, to include literature and scientific papers;

(9) Environmental documents, to include updated or supplemental versions when applicable, as specified in paragraph (r) of this section;

(10) Finding and determination documents, as well as decision documents; and

(11) Any other information deemed applicable by the responsible official.

(b) *Freedom of Information Act requests.* USDA subcomponents shall make documents associated with the NEPA review and integrated environmental review, comments received, and any other underlying documents available pursuant to the provisions of the Freedom of Information Act, as amended (5 U.S.C. 552), and in accordance with the subcomponent's statutory authority for protecting certain information.

(c) *Potential withholdings and privileges.* USDA subcomponents shall identify data or information with potential withholdings or privileges—such as potentially sensitive information about threatened or endangered species locations, cultural or heritage sites when certain conditions are met, third-party proprietary information, or personally identifiable information—and mark it as such in the proposal record to ensure it is properly reviewed prior to responding to Freedom of Information Act requests or other such requests for documentation regarding the NEPA process and other environmental analysis, consultation, or compliance efforts occurring commensurate with the NEPA process.

(d) *Classified information.* To the extent practicable, USDA subcomponents shall segregate any information that has been classified pursuant to Executive order or statute. Subcomponents shall maintain the confidentiality of such information in a manner required for the information involved. Such information may not be included in any publicly disclosed documents. If such material cannot be reasonably segregated, or if segregation would leave essentially meaningless material, the subcomponent must withhold the entire analysis document from the public; however, the subcomponent shall otherwise prepare the analysis documentation in accord with applicable regulations.

(e) *Reducing paperwork.* USDA subcomponents should avoid excessive paperwork and shall ensure environmental assessments and environmental impact statements meet specified page limits established by NEPA section 107(e), 42 U.S.C. 4336a(e). Recommended best practices for reducing paperwork include, but are not limited to:

(1) Preparing analytic and concise environmental documents by using web-based collaboration and document management platforms that allow for interdisciplinary review and analysis to occur in a centralized document that reduces redundant and contradictory discussions that can occur when analysis is documented in a partitioned and individualized manner;

(2) Compiling and maintaining the proposal record throughout the NEPA process so information can be efficiently incorporated by reference when it is appropriate to do so and meets the requirements specified in paragraph (c)(7) of this section;

(3) Discussing only briefly issues that are not identified as substantive issues and eliminating from further study non-substantive issues;

(4) Writing environmental documents and associated analyses in plain language;

(5) Following a clear format for environmental documents and associated decision documents that is tailored to address only the minimum requirements outlined in NEPA and this part;

(6) Integrating NEPA requirements with other environmental review and consultation requirements, and where appropriate to do so relying on analyses done to demonstrate compliance with

other laws and regulations to inform findings and determinations made for NEPA;

(7) Incorporating (by reference), into an environmental document, any applicable material—such as planning studies, analyses, or other relevant information—that specifically supports the environmental document or associated finding or decision document when the effect will be to cut down on bulk without impeding other agency and public review of the action; and

(i) USDA subcomponents shall cite the incorporated material in the document in a manner that identifies the content it contains and make the materials reasonably available for review by potentially interested parties.

(ii) When an opportunity for comment is provided and the documents or information being commented on refer to material incorporated by reference, this material must be reasonably available for inspection, in draft or final form, by potentially interested persons within the time allowed for comment.

(iii) Subcomponents should not incorporate by reference unredacted information that is privileged, classified, or subject to any other potential withholdings (see paragraphs (c) and (d) of this section) as such material is not available for review and comment.

(8) Relying on an existing environmental assessment (EA), environmental impact statement (EIS), finding of no significant impact (FONSI), record of decision (ROD), documentation of a finding of applicability and no extraordinary circumstance (FANEC), or a portion thereof—to include supporting analysis documentation not included in an EA, EIS, FONSI, ROD or FANEC itself—provided that the assessment, statement, finding, decision, analyses, or portion thereof provides the information necessary to inform the required findings or conclusions required for the level of NEPA being completed. USDA subcomponents may rely on previous analysis completed by the subcomponent or analysis completed by any other Federal agency where the nature of the proposal, the potentially affected environment, and the anticipated effects are substantially the same for the current proposal being considered. The USDA subcomponent relying on the previously completed analysis shall specify the reliance in the applicable environmental document or finding or decision document and provide explanation of how the nature of the proposal, the potentially affected environment, and the anticipated effects (both quantitatively and qualitatively) were determined to be substantially the same.

(i) *When relying on environmental impact statements and environmental assessments in full.* For an environmental impact statement relied on in full, the document need not be refiled with the Environmental Protection Agency but shall be published, with the new record of decision, on a USDA website and included in the proposal record. For an environmental assessment relied on in full, the document shall be published, with the new finding of no significant impact, on a USDA website and included in the proposal record.

(ii) *Relying on categorical exclusion determinations.* For categorical exclusions requiring documentation in accordance with legislation, § 1b.4(d), or as required by the agency from which a category was adopted, the responsible official will document their reliance on categorical exclusion determinations (as discussed in § 1b.3(h)) when completing NEPA documentation in accordance with § 1b.3(g).

(iii) *Other analysis or portions of environmental documents.* USDA subcomponents may also rely on other analysis or portions of environmental documents when these contain information that supports necessary NEPA or other environmental law conclusions or determinations required by provisions of environmental law other than NEPA's procedural requirements (*e.g.,* those required by Endangered Species Act, National Historic Preservation Act, Clean Water Act, etc.). The analysis or environmental document(s) relied upon shall be included in the proposal record.

(iv) *Adequacy of analysis and inclusion in the proposal record.* A brief description shall be provided in the environmental document being completed as to how the effects analysis being relied on is adequate (both quantitatively and qualitatively) given the actions being proposed. The other analysis or environmental documents being relied on shall be included in the proposal record (as outlined in paragraph (a) of this section).

(v) *Programmatic documents.* Refer to paragraph (q) of this section for discussion on relying on programmatic environmental documents.

(vi) *Identification of certain circumstances.* When relying on another environmental document, other analysis, or portion thereof, USDA subcomponents shall specify if the subcomponent is relying on an environmental document, other analysis, or portion thereof that is:

(A) Not final within the agency that prepared it;

(B) The subject of an adequacy referral to the Council on Environmental Quality for NEPA or a referral to the applicable regulatory agency for other laws (*e.g.,* U.S. Fish and Wildlife Service for Endangered Species Act compliance); or

(C) The subject of a judicial action that is not final.

(f) *Reducing delay.* USDA subcomponents should reduce delay in the environmental review process. For environmental assessments and environmental impact statements, subcomponents shall ensure documents are completed within the deadlines specified in NEPA section 107(g), 42 U.S.C. 4336a(g). Recommended best practices for reducing delay include, but are not limited to:

(1) Establishing (§ 1b.3(b)), adopting (§ 1b.3(c)), and applying (§ 1b.3(e)) categorical exclusions for categories of actions that normally do not have a significant effect on the human environment and therefore do not require preparation of an environmental assessment or environmental impact statement;

(2) Completing an environmental assessment when an action, which is not otherwise categorically excluded, is not anticipated to have a significant effect on the human environment and therefore is not expected to require preparation of an environmental impact statement;

(3) Integrating considerations of the applicable NEPA process early in proposed action development;

(4) Integrating NEPA requirements with other environmental review and consultation requirements;

(5) Designating a person to manage and expedite the NEPA and overall environmental review process, such as a project manager or an individual with adequate NEPA and environmental review experience;

(6) Engaging in interagency cooperation before or as the environmental impact statement is prepared, rather than awaiting submission of comments;

(7) Identifying and eliminating from detailed study the issues that are not substantive or have been covered by prior environmental review(s), and narrowing the discussion of these issues in the effects analysis to a brief presentation of why they are not of a substantive nature;

(8) Ensuring swift and fair resolution of lead agency disputes;

(9) Requiring comments received in response to publication of a notice of intent to prepare an environmental

impact statement, or other opportunities for comment, to be as specific as possible and, if documenting how substantive comments were considered, focusing on documenting the action taken in response to the substantive issues raised and/or recommendations made; and

(10) Eliminating duplication with State, Tribal, and local procedures by providing for joint preparation of environmental documents where practicable (see paragraph (l) of this section), and with other Federal procedures, by providing that a USDA subcomponent may rely on appropriate environmental documents or analysis prepared by another agency (see paragraph (e)(8) of this section).

(g) *Interdisciplinary preparation.* As required in NEPA section 102(2)(A), 42 U.S.C. 4332(2)(A), USDA subcomponents shall prepare environmental documents using an interdisciplinary approach that will ensure the integrated use of the natural and social sciences and the environmental design arts. The disciplines of the preparers should be appropriate to the scope and issues identified at the sole discretion of the responsible official.

(h) *Methodology.* As required by NEPA section 102(2)(D), 42 U.S.C. 4332(2)(D), USDA subcomponents:

(1) Shall ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental documents;

(2) May make use of any reliable data sources, such as remotely gathered information or statistical models;

(3) Should identify any methodologies used and make explicit reference to the scientific and other sources relied upon for conclusions in the environmental document; and

(4) May place discussion of methodology used or list references cited in the proposal record or include these as an appendix in an environmental assessment or environmental impact statement.

(i) *Scientific accuracy.* USDA subcomponents should make use of existing credible and reliable scientific resources, data, and evidence that is relevant to evaluating the reasonably foreseeable impacts on the human environment. Subcomponents should not undertake new scientific and technical research to inform its analyses unless it is essential to a reasoned choice among alternatives and the overall costs and time frame of such undertaking are not unreasonable.

(j) *Information availability.* When a USDA subcomponent is evaluating a proposed action's reasonably foreseeable impacts on the human environment, and there is incomplete or unavailable information that cannot be obtained at a reasonable cost or the means to obtain it are unknown, the subcomponent should make clear in the relevant environmental document that such information is lacking.

(k) *Public involvement.* USDA subcomponents may host or sponsor public hearings, public meetings, or other opportunities for public involvement as deemed necessary by the responsible official to inform the decision-making process or in accordance with statutory requirements applicable to the subcomponent. Subcomponents may conduct public hearings and public meetings by means of electronic communication except where another format is required by law. When selecting appropriate methods for public involvement, subcomponents should consider the ability of affected entities to access the methods used. USDA subcomponents:

(1) Should announce opportunities for public involvement on USDA websites where environmental documents are published.

(2) May provide additional guidance as needed to ensure interested persons can get information or status reports on environmental documents and other elements of the NEPA process.

(3) Should establish online platforms or systems that facilitate the sharing of environmental documents and other information pertinent to the management of environmental reviews conducted in conjunction with the applicable level of NEPA.

(l) *Elimination of duplication with State, Tribal, and local procedures.* USDA subcomponents may cooperate with State, Tribal, and local agencies that are responsible for preparing environmental documents, including those prepared pursuant to NEPA section 102(2)(G), 42 U.S.C. 4332(2)(G). To the fullest extent practicable, unless specifically prohibited by law, USDA subcomponents will cooperate with State, Tribal, and local agencies to reduce duplication between NEPA and State, Tribal, and local requirements, including through use of studies, analysis, and decisions developed by State, Tribal, or local agencies. Such cooperation may include:

(1) Joint planning processes;

(2) Joint environmental research and studies;

(3) Joint public hearings (except where otherwise provided by statute); or

(4) Joint environmental documents.

(m) *Timely and unified Federal reviews.* In many instances, a proposal or decision is undertaken in the context which entails activities or decisions undertaken by other Federal agencies (for example, where multiple Federal authorizations or analyses are required with respect to a proposal sponsor's overall purpose and goal). These activities and decisions are ''related actions,'' in that they are each the responsibility of a particular agency but they are all related in a matter relevant to NEPA by their relationship with one overarching proposal. In such instances, Congress has provided that the multiple agencies involved shall determine which of them will be the lead agency pursuant to the criteria identified in NEPA section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). When serving as the lead agency, a USDA subcomponent is ultimately responsible for completing the NEPA process. When a joint lead relationship is established pursuant to NEPA section 107(a)(1)(B), 42 U.S.C. 4336a(a)(1)(B), a USDA subcomponent and the other joint lead agency or agencies are collectively responsible for completing the NEPA process.

(1) *Lead agency.* If a USDA subcomponent is participating in developing a proposal and there are two or more participating Federal agencies, the lead agency shall be determined in accordance with NEPA section 107(a)(1)(A), 42 U.S.C. 4336a(a)(1)(A). A lead agency shall fill the role described in NEPA section 107(a)(1)(B)(2), 42 U.S.C. 4336a(a)(1)(B)(2).

(i) Any Federal, State, Tribal, or local agency or person that is substantially affected by the lack of a designation of a lead agency with respect to a proposal, as described in paragraph (m) of this section, may submit a written request for such a designation to a participating Federal agency. An agency that receives a request under this paragraph shall transmit such request to each participating Federal agency and to the Council on Environmental Quality, in accordance with NEPA section 107(a)(4), 42 U.S.C. 4336a(a)(4).

(ii) When serving as the lead agency, the USDA subcomponent will fulfill the role of lead agency as outlined in NEPA section 107(a)(2) and determine the scope of the analysis for the proposal in accordance with sections 1b.5(b) and 1b.7(g) and document the scope of the project at hand.

(2) *Joint lead agencies.* In making a determination under paragraph (m) of this section, the participating Federal agencies may appoint such State, Tribal, or local agencies as joint lead agencies as the involved Federal agencies shall determine appropriate. Joint lead agencies shall jointly fulfill the role described in NEPA section

107(a)(1)(B)(2), 42 U.S.C. 4336a(a)(1)(B)(2).

(3) *Cooperating agencies.* In accordance with NEPA section 107(a)(3), 42 U.S.C. 4336a(a)(3), the lead USDA subcomponent may, with respect to a proposal, designate as a cooperating agency any Federal, State, Tribal, or local agency that has eligibility based on their jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal.

(i) The responsible official for a lead USDA subcomponent may invite eligible agencies to participate as cooperating agencies when a USDA subcomponent is developing an environmental assessment or environmental impact statement. When it will be necessary for an eligible agency to rely on an environmental assessment or environmental impact statement to authorize actions associated with the proposal for which they have jurisdiction by law, the responsible official for the lead USDA subcomponent shall invite the eligible agency to be a cooperating agency.

(ii) The responsible official for the lead USDA subcomponent must consider any request by an eligible agency to participate in a particular environmental assessment or environmental impact statement as a cooperating agency. Such request shall not be arbitrarily denied. When it will be necessary for the requesting agency to rely on an environmental assessment or environmental impact statement to authorize actions associated with the proposal for which they have jurisdiction by law, the responsible official for the lead USDA subcomponent shall accept the agency's request to be a cooperating agency. If the responsible official for the lead USDA subcomponent denies a request, they must communicate the reasons to the requesting agency and ensure the reasons are documented in the proposal record. Denial of a request for cooperating agency status is not subject to any internal administrative review process, nor is it a final agency action subject to review under the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

(iii) USDA subcomponents within the Department will be cooperating agencies with other USDA subcomponents when requested.

(iv) USDA subcomponents should work with cooperating agencies to develop and adopt appropriate documentation that includes their respective roles, assignment of issues, schedules, and staff commitments so that the NEPA process remains on track and within the time schedule. Such documentation must be used in the case of non-Federal agencies and must include a commitment to maintain the confidentiality of documents and deliberations during the period prior to the public release by the USDA subcomponent of any environmental document, including drafts that may be circulated for review, to the extent permitted by the Freedom of Information Act and other applicable law. However, no documentation can require a cooperating agency to waive the right to judicial review.

(v) A lead USDA subcomponent shall consider comments from cooperating agencies that have been submitted no later than a date specified in the established schedule.

(n) *Unified documentation.* If a USDA subcomponent proposal will require action by more than one Federal agency and the lead agency, as described in NEPA section 107(A), 42 U.S.C. 4336a(A), has determined that it requires preparation of an environmental document, the lead and cooperating agencies should evaluate the proposed action (and any action alternatives) in a single environmental document. If an environmental document is being developed by more than one USDA subcomponent, all USDA subcomponents shall contribute to the completion of one environmental document and shall not develop separate documents for each subcomponent, unless other statutory requirements demonstrate it is more efficient to do so. If a USDA subcomponent is not the lead agency and the lead agency's NEPA implementing procedures specify:

(1) Format requirements for documenting categorical exclusion considerations, environmental assessments, or environmental impact statements, the USDA subcomponent should follow the formatting requirements for the lead agency.

(2) Format and signature requirements for findings of no significant impact or records of decision (and for categorical exclusion NEPA documentation if required), the USDA subcomponent should follow the format and signature requirements for the lead agency's finding or decision document. If more than one responsible official needs to sign a document, multiple signature blocks should be added to the one document created by the lead agency. When multiple signature blocks are included, the document shall specify what each signing responsible official is approving or authorizing given the nature of the actions proposed and the responsible official's statutory authority.

(o) *Disagreement concerning proposed major Federal actions.* In the event there are interagency disagreements concerning designation of a lead or joint agency or disagreements over proposed major Federal actions that might cause significant environmental effects, these matters shall be referred to the USDA Senior Agency Official for determination on whether the disagreement needs elevated to the Council on Environmental Quality. The USDA Senior Agency Official may delegate this authority to the applicable mission-area Undersecretary or other USDA official for a subcomponent with NEPA responsibilities, per § 1b.2(b)(2)(ix)).

(p) *Programmatic actions.* Environmental impact statements and environmental assessments may be prepared for programmatic Federal actions. When USDA subcomponents prepare such statements, they should be relevant to the program decision and timed to coincide with meaningful points in subcomponent planning and decision-making. When preparing statements on programmatic actions (including proposed actions by more than one agency), USDA subcomponents may find it useful to evaluate the proposed actions in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area;

(2) Generically, including actions that have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter; or

(3) By stage of technological development including Federal or federally assisted research, development or demonstration programs for new technologies that, if applied, could significantly affect the quality of the human environment. Statements on such programs should be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(q) *Relying on programmatic documents.* Consistent with NEPA section 108, 42 U.S.C. 4336b, and paragraph (e)(8) of this section, after completing a programmatic environmental assessment or environmental impact statement, USDA subcomponents may rely on that document for 5 years if there are not substantial new circumstances or information about the significance of adverse impacts that bear on the analysis. After 5 years, as long as the

subcomponent reevaluates the analysis (see paragraph (r) of this section regarding reevaluation of environmental documents) in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid and briefly documents its reevaluation and explains why the analysis remains valid considering any new and substantial information or circumstances, the subcomponent may continue to rely on the document. Determinations of whether the analysis in the programmatic document and reliance on any underlying assumptions remains valid may be made on a case-by-case or programmatic basis and record keeping of the justifications for these determinations is advisable.

(r) *Reevaluation of environmental documents.* Responsible officials shall reevaluate environmental documents for which a USDA subcomponent was the lead agency if a major Federal action or portion thereof is incomplete and ongoing, and the USDA subcomponent makes substantial changes to the major Federal action, or there are new circumstances or information with relevance to the proposal and these have bearing on the major Federal action, such that there is potential to alter the disclosure of adverse effects. USDA subcomponents will proceed as follows depending on the outcome of the reevaluation:

(1) *Reevaluation determines updates are not necessary.* If the responsible official determines after reevaluation that it is not necessary to correct, revise, or supplement an environmental document, implementation of the major Federal action may continue. The USDA subcomponent may document the reevaluation determination in the proposal record in a format deemed sufficient by the responsible official.

(2) *Reevaluation determines updates are necessary for documents other than a filed EIS.* If the responsible official determines an environmental document, other than an environmental impact statement that has been filed with the Environmental Protection Agency, requires corrections, revisions, or supplements, updates should be made as follows:

(i) If updates, such as minor corrections or revisions, do not substantially change the major Federal action and do not substantially alter the disclosure of adverse effects, the subcomponent may continue to implement the major Federal action, or portion thereof, and shall document the reevaluation and description of updates in the proposal record in a format deemed sufficient by the responsible official. The reevaluation documentation shall be posted to the USDA website along with the original environmental document. The responsible official should consider if courtesy notification of the updates needs to be provided to any joint, cooperating, or participating agencies or other pertinent parties that that may be affected by the updates.

(ii) If updates substantially change the major Federal action or substantially alter the disclosure of adverse effects, the USDA subcomponent should not continue implementing those portions of the action that are changing or that have been materially affected by new circumstances or information unless the subcomponent invokes an emergency authority, as identified in paragraph (v) of this section, or a NEPA exemption. The responsible official shall supplement the published environmental document and shall consider whether the updates warrant a higher level of NEPA review. Supplemental NEPA may require notifications to any joint, cooperating, or participating agencies, or other pertinent parties that will be directly affected by the updates. The USDA subcomponent shall:

(A) Consider feedback received from joint, cooperating, or participating agencies or other pertinent parties, if applicable;

(B) Post the supplemental document(s) to the USDA website as a separate version from the original posted; and

(C) Notify joint, cooperating, or participating agencies or other pertinent parties, if applicable, of the availability of the updated document(s).

(3) *Reevaluation determines updates are necessary for a filed EIS.* If the responsible official determines an environmental impact statement that has been filed with the Environmental Protection Agency requires corrections, revisions, or supplements, updates should be made as follows:

(i) If minor corrections or revisions do not substantially change the major Federal action and do not substantially alter or add disclosure of significant adverse impacts, the subcomponent may continue to implement the major Federal action, or portion thereof, and shall file an errata sheet with the Environmental Protection Agency (EPA), following the EPA filing guidance. The errata sheet may be completed in any format so long as it includes and is made available as follows:

(A) The title of the environmental impact statement, as it appears on the document filed with the EPA;

(B) A citation to the notice of availability the EPA published in the **Federal Register** after the environmental impact statement was filed;

(C) Citations to the pages and sections in the environmental impact statement where information is being updated;

(D) Clear descriptions of what is being updated and an explanation of why the update is needed;

(E) A statement by the responsible official that the updates do not substantially change the proposed action (or selected alternative), do not add disclosure of additional significant adverse impacts, and do not change the determinations made in the Record of Decision;

(F) Date and signature of the responsible official;

(G) A copy of the errata sheet is published to the USDA website where a copy of the environmental impact statement is also published; and

(H) Notification of the updates is provided, if necessary, to any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved or is authorized to develop and enforce environmental standards, or to appropriate State, Tribal, and local agencies that are authorized to develop and enforce environmental standards, or other pertinent parties.

(ii) If updates substantially change the major Federal action or substantially alter or add disclosure of significant adverse impacts, the USDA subcomponent should not continue implementing those portions of the action that are changing or that have been materially affected by new circumstances or information unless the subcomponent invokes an emergency authority, as identified in paragraph (v) of this section, or a NEPA exemption. The USDA subcomponent shall prepare a supplemental EIS in accordance with § 1b.7.

(s) *Proposals for rules or regulations.* Where the proposal is the promulgation of a rule or regulation, procedures and documentation pursuant to other statutory or Executive order requirements may satisfy one or more requirements of this part. When a procedure or document satisfies one or more requirements of this part, a USDA subcomponent may substitute it for the corresponding requirements in this part and need not carry out duplicative procedures or documentation. Subcomponents will identify which corresponding requirements in this part are satisfied and consult with CEQ to confirm such determinations. For informal rulemaking conducted pursuant to the Administrative

Procedure Act, 5 U.S.C. 553, the environmental document will normally accompany the proposed rule.

(t) *Proposals for legislation.* When developing legislation, USDA subcomponents shall integrate the NEPA process for proposals for legislation significantly affecting the quality of the human environment with the legislative process of the Congress. Technical drafting assistance does not by itself constitute a legislative proposal. Only the Federal agency that has primary responsibility for the subject matter involved will prepare a legislative environmental impact statement.

(1) A legislative environmental impact statement is the detailed statement required by law to be included in a Federal agency's recommendation or report on a legislative proposal to Congress. A legislative environmental impact statement shall be considered part of the formal transmittal of a legislative proposal to Congress; however, it may be transmitted to Congress up to 30 days later in order to allow time for completion of an accurate statement that can serve as the basis for public and Congressional debate. The statement must be available in time for Congressional hearings and deliberations.

(2) Preparation of a legislative environmental impact statement shall conform to the requirements of the regulations in this subchapter, except there need not be a scoping process.

(u) *Unique identification numbers.* For environmental assessments and environmental impacts statements, USDA subcomponents will provide a unique identification number for tracking purposes, which the subcomponent will reference for other documents associated with the proposal and in any database or tracking system for such documents. A subcomponent may provide a unique identification number on documentation for a finding of applicability and no extraordinary circumstances where useful to do so. The unique identification number may be a number generated by a USDA subcomponent system used to track environmental reviews or an identification numbering process specified by the USDA Senior Agency Official or the Council on Environmental Quality.

(v) *Emergency actions.* (1) If emergency circumstances exist that make it necessary to take action to address imminent threats to life, property, or important natural, cultural, or historic resources, the responsible official may take such actions without preparing a NEPA analysis. When taking such actions, the responsible official shall take into account the probable environmental consequences of the emergency action and consider taking steps to mitigate reasonably foreseeable adverse environmental effects to the extent practical and consistent with agency authority.

(2) When taking actions other than those described in paragraph (v)(1) of this section that are not likely to have a reasonably foreseeable significant impacts, but emergency circumstances exist that make it necessary to take actions before preparing a categorical exclusion that requires NEPA documentation, an environmental assessment, or a finding of no significant impact, USDA subcomponents may authorize alternative arrangements for NEPA compliance so long as the alternative arrangements are limited to actions necessary to address the emergency circumstance. Alternative arrangements will, to the extent practicable, attempt to achieve the substantive requirements of this part for the level of NEPA being completed. USDA subcomponents should proceed as follows:

(i) Animal and Plant Health Inspection Services. The responsible official shall consult with the APHIS official who is delegated the authority to oversee NEPA compliance for the environmental unit. The APHIS official who is delegated the authority may authorize emergency alternative arrangements for completing the required NEPA compliance documentation.

(ii) Farm Service Agency. The responsible official shall consult the National Environmental Compliance Manager (or designee) who, with direction from the FSA Administrator (or designee), will identify alternative arrangements for compliance with this part with the appropriate subcomponents.

(iii) Rural Development. (Rural Business-Cooperative Service, Rural Housing Service, and Rural Utility Service.) The responsible official shall consult the National Director for Environmental and Historic Preservation (or designee) who, in coordination with the Administrator (or designee) and appropriate subcomponents, will identify alternative arrangements for compliance with this part.

(iv) U.S. Forest Service. The responsible official shall consult with the national headquarters office about alternative arrangements. Consultation with national headquarters shall be coordinated through the applicable regional (or equivalent) office. The Chief or Associate Chief of the Forest Service may grant emergency alternative arrangements under NEPA for categorical exclusions, environmental assessments, and associated findings.

(v) All other USDA subcomponents. The responsible official shall consult with the national program manager for environmental review, NEPA compliance, or other equivalent program to determine the appropriate mission area official who can authorize alternative arrangements for categorical exclusions, environmental assessments, and findings of no significant impact. When the national program manager is unsure how to proceed, they should consult the USDA Senior Agency Official (or their designee).

(3) When taking actions other than those described in paragraph (v)(1) of this section that are likely to have reasonably foreseeable significant impacts, but emergency circumstances exist that make it necessary to take the actions before preparing an environmental impact statement or record of decision, the responsible official taking the action shall request consultation with the Council on Environmental Quality (CEQ) about alternative arrangements for compliance with NEPA section 102(2)(C), 42 U.S.C. 4332(2)(C). Consultation with CEQ shall be requested through the USDA Senior Agency Official, or their designee. The USDA Senior Agency Official, or their designee, will coordinate with the applicable USDA mission area when arranging consultation with CEQ. The USDA Senior Agency Official, or their designee, and CEQ will limit such arrangements to actions necessary to address the emergency circumstance prior to preparing the environmental impact statement.

§ 1b.10 Documentation prepared by applicant or third party.

(a) *Environmental assessments and environmental impact statements.* In accordance with NEPA section 107(f), 42 U.S.C. 4336a(f), USDA subcomponents may allow an applicant or other third party (*e.g.,* contractor) to prepare an environmental assessment or environmental impact statement, in whole or in part, under their supervision. Each USDA subcomponent is responsible for the accuracy, scope, and content of documentation prepared by an applicant or third party under the supervision of the subcomponent. USDA subcomponents shall ensure applicants or third parties apply the process and documentation criteria set forth in this part and comply with all other applicable environmental laws, regulations, or executive orders under

the subcomponent's purview. The subcomponent may provide additional guidance to the applicants or third parties. Applicant and third-party preparation is subject to the following:

(1) A USDA subcomponent may require an applicant to submit environmental information for possible use by the subcomponent in preparing an environmental assessment or environmental impact statement. The subcomponent may also direct an applicant or authorize a third party to prepare an environmental assessment or environmental impact statement under the supervision of the subcomponent.

(2) The subcomponent will assist the applicant by outlining the types of information required or, for the preparation of an environmental assessment or environmental impact statement, should provide guidance to the applicant or third party and participate in their preparation.

(3) The subcomponent may also provide appropriate guidance and assist in preparation of an environmental assessment or environmental impact statement, to the extent that the subcomponent's resources and policy priorities admit. The subcomponent will work with the applicant to define the purpose and need, and, when appropriate, to develop a reasonable range of alternatives to meet that purpose and need.

(4) The subcomponent shall independently evaluate the information or documentation submitted to determine if the accuracy, scope, and contents are sufficient and comply with USDA documentation criteria for an environmental assessment or environmental impact statement, and it shall take responsibility for its contents.

(5) Applicants or third parties preparing an environmental assessment or environmental impact statement shall submit a disclosure statement to the lead agency that specifies any financial or other interest in the outcome of the action. Such statement need not include privileged or confidential trade secrets or other confidential business information.

(6) Nothing in this section is intended to prohibit any USDA subcomponent from requesting any person, including the applicant, to submit information to it or to prohibit any person from submitting information to any subcomponent for use in preparing an environmental assessment or environmental impact statement.

(7) The USDA subcomponent will work with the applicant to develop a schedule for preparation of an environmental assessment or an environmental impact statement. Major changes to the schedule or related matters will be documented through written correspondence in accordance with § 1b.5(g) and § 1b.7(l)(1).

(b) *NEPA documentation for categorical exclusions.* For purposes of this part, subcomponents may also allow an applicant or other third party to complete, in whole or in part, documentation for a finding of applicability and no extraordinary circumstance for categorical exclusions requiring NEPA documentation. Applicant and third-party preparation of categorical exclusion NEPA documentation is also subject to paragraphs (a)(1) through (6) of this section, as it would pertain to NEPA documentation for a categorical exclusion.

§ 1b.11 Definitions and acronyms.

(a) *Definitions.* As used in this part, terms have the meanings provided in NEPA section 111, 42 U.S.C. 4336(e). The following definitions apply to this part. USDA subcomponents shall use these terms uniformly throughout the Department.

(1) *Act* or *NEPA* means the National Environmental Policy Act, as amended (42 U.S.C. 4321–4347).

(2) *Action alternative* (or *alternative*) means an alternate means of implementing actions that is different from the agency's proposed action. Alternatives are developed in response to a substantive issue(s) and should demonstrate a clear difference in impacts when compared to the proposed action.

(3) *Agency* means a subcomponent of USDA.

(4) *Affecting* means will or may have an effect on.

(5) *Alternative.* See action alternative.

(6) *Authorization* means any license, permit, approval, finding, determination, or other administrative decision issued by an agency that is required or authorized under Federal law in order to implement a proposed action or selected alternative.

(7) *Categorical exclusion (CE).* See NEPA section 111(1), 42 U.S.C. 4336e(1).

(8) *Control agents* means biological material or chemicals that are intended to enhance the production efficiency of an agricultural crop or animal such as through elimination of a pest.

(9) *Cooperating agency.* See NEPA section 111(2), 42 U.S.C. 4336e(2).

(10) *Council* means the Council on Environmental Quality established by title II of NEPA.

(11) *Design criteria* (or *design elements, design features, resource protection measures, best management practices,* or *conservation practices* etc.) means constraints or requirements that are included as part of the proposed action (or action alternatives) through an iterative interdisciplinary process, in coordination with the applicant if applicable, to avoid or minimize adverse impacts. The need for design criteria is informed by the need to comply with other laws, regulations, or executive orders; interdisciplinary discussions that identify best management practices or other design recommendations; feedback from the public or external parties; or other input provided during proposed action development and preliminary effects analysis phases. When design criteria are added to the proposed action in response to an issue raised during interdisciplinary preparation or through external comments submitted regarding the proposal, that issue should no longer be analyzed in detail in the analysis process. Design criteria include constraints or requirements as part of the proposed action that:

(i) Avoid the adverse impact altogether;

(ii) Minimize adverse impacts by limiting the degree or magnitude of the action and its implementation; or

(iii) Reduce or eliminate the adverse impact over time by preservation and maintenance operations during the life of the action.

(12) *Effect* or *impact* means changes to the human environment from the proposed action or action alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives.

(i) Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects appropriate for analysis under NEPA may be either beneficial or adverse, or both, with respect to these values.

(ii) A ''but for'' causal relationship is insufficient to make a USDA subcomponent responsible for a particular effect under NEPA. Effects should generally not be considered if they are remote in time, geographically remote, or the product of a lengthy causal chain. Effects do not include those effects that the subcomponent has no ability to prevent due to the limits of its regulatory authority or that would occur regardless of the proposed action or selected alternative, or that would need to be initiated by a third party.

(13) *Emergency* means circumstances exist that make it necessary to take action where delaying action to follow

standard procedures for completing NEPA analysis would be contrary to the public interest, as determined by a responsible official.

(14) *Environmental assessment (EA).* See NEPA section 111(4), 42 U.S.C. 4336e(4). An EA is also an environmental document. (Refer to the definition for ''environmental documents'' in paragraph (a)(15) of this section.)

(15) *Environmental document.* See NEPA section 111(5), 42 U.S.C. 4336e(5).

(16) *Environmental impact statement (EIS).* See NEPA section 111(6), 42 U.S.C. 4336e(6). An EIS is also an environmental document. (Refer to the definition for ''environmental documents'' in paragraph (a)(15) of this section.)

(17) *Extraordinary circumstance* means a unique situation exists in which actions that normally do not have significant impacts—and are therefore categorically excluded from documentation in an environmental assessment or environmental impact statement—create uncertainty whether the degree of the effect is significant, or certainty that the degree of effect is significant, for the relevant resources considered.

(18) *Federal agency* means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. For the purposes of this part, Federal agency also includes States, units of general local government, and Tribal governments assuming NEPA responsibilities from a Federal agency pursuant to statute.

(19) *Finding of applicability and no extraordinary circumstance (FANEC)* means a determination by a USDA subcomponent that a category (or categories) fits the proposed actions and extraordinary circumstances (as defined in paragraph (a)(17) of this section) do not exist for a categorically excluded action, and therefore the issuance of an environmental assessment or environmental impact statement is not required. For those categories that require NEPA documentation, this finding must be documented.

(20) *Finding of no significant impact (FONSI).* See NEPA section 111(7), 42 U.S.C. 4336e(7). A FONSI is also an environmental document. (Refer to the definition for ''environmental documents'' in paragraph (a)(15) of this section.)

(21) *Human environment* means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment. (See also the definition of ''effects'' in paragraph (a)(12) of this section.)

(22) *Impact.* See *Effect.*

(23) *Issue* means a logical cause-effect relationship between the actions proposed (cause) and the reasonably foreseeable impacts (effect) on resources found in the affected environment. An issue may be addressed by modifying the proposed action, developing an action alternative, or supplementing, improving, or modifying the analysis to better understand the effects.

(24) *Jurisdiction by law (or statutory authority)* means Federal agency authority to approve, veto, or finance all or part of the proposal.

(25) *Lead agency.* See NEPA section 111(9), 42 U.S.C. 4336e(9).

(26) *Legislation* means a bill or legislative proposal to Congress developed by a Federal agency but does not include requests for appropriations or legislation recommended by the President.

(27) *Level of NEPA* refers to categorical exclusion, environmental assessment, or environmental impact statement.

(28) *Major Federal action:* See NEPA section 111(10), 42 U.S.C. 4336e(10).

(29) *Mitigation (or mitigation measure)* means constraints or requirements that avoid, minimize, or compensate for adverse impacts caused by a proposed action or selected alternative. Mitigation is documented in a finding of no significant impact (FONSI) or record of decision (ROD) and is determined by the responsible official in reaction to the effects described in an environmental assessment or environmental impact statement. When adopting mitigation measures as part of the FONSI or ROD, the statutory or regulatory authority for any mitigation must be provided. While NEPA requires consideration of mitigation, it does not mandate the form or adoption of any mitigation. Mitigation includes:

(i) Avoiding the adverse impact altogether by not taking a certain action or parts of an action;

(ii) Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation;

(iii) Rectifying the adverse impact by repairing, rehabilitating, or restoring the affected environment;

(iv) Reducing or eliminating the adverse impact over time by preservation and maintenance operations during the life of the action; or

(v) Compensating for the adverse impact by replacing or providing substitute resources or environments.

(30) *NEPA process* means all the steps necessary to complete a level of NEPA (categorical exclusion, environmental assessment, or environmental impact statement) and issue the associated finding or decision document (finding of applicability and no extraordinary circumstance when NEPA documentation is required for a categorical exclusion, finding of no significant impact, or record of decision) to conclude the process.

(31) *Notice of availability* means a public announcement in the **Federal Register** that a document, generally an environmental impact statement (EIS), is available for review.

(32) *Notice of intent* means a public notice in the **Federal Register** that an agency will prepare an environmental impact statement (EIS), is pausing or resuming preparation of an EIS, or is withdrawing an EIS. In limited situations it can mean a public notice in the **Federal Register** that an agency will prepare an environmental assessment.

(33) *Page* means 8.5 by 11 inches paper with one-inch margins using a word processor with 12-point proportionally spaced font, single spaced. Footnotes may be in 10-point font. Such size restrictions do not apply to explanatory maps, diagrams, graphs, tables, and other means of graphically displaying quantitative or geospatial information. When an item of graphical material is larger than 8.5 by 11 inches, each such item shall count as one page.

(34) *Participating agency* means a Federal, State, Tribal, or local agency participating in an environmental review or authorization of an action.

(35) *Potentially affected environment* means the condition of the physical, biological, social, and economic factors that may be impacted by a proposed action (or action alternative).

(36) *Programmatic environmental document.* See NEPA section 111(11), 42 U.S.C. 4336e(11).

(37) *Proposal (or Project).* See NEPA section 111(12), 42 U.S.C. 4336e(12).

(38) *Proposal record (or project record)* means all relevant documentation and records, including all environmental analysis documents and comment submissions, that contain information the responsible official relies on to make iterative decisions throughout the NEPA process or to determine if and how the action will be approved.

(39) *Proposed action* means the set of actions, to include design criteria when applicable, that is submitted for final

interdisciplinary environmental review and effects analysis.

(40) *Publish* and *publication* mean methods found by the agency to efficiently and effectively make environmental documents and information available for review by interested persons, including electronic publication.

(41) *Purpose and need* means the reason action is needed in a location at this time. The purpose and need should generally be based on the USDA subcomponent's statutory authority. When a subcomponent's statutory duty is to review an application for authorization, the subcomponent may base the purpose and need on the goals of the applicant and the subcomponent's authority.

(42) *Reasonable alternatives* means a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposal, and, where applicable, meet the goals of the applicant.

(43) *Reasonably foreseeable* means sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision.

(44) *Record of decision* is a documented determination by the responsible official on how to proceed with respect to a proposed action and action alternatives that have reasonably foreseeable significant impacts on the quality of the human environment, as described in an environmental impact statement.

(45) *Related action* means an action undertaken by an agency, such as a permitting action, some other type of authorization action, an analysis required by statute, or the like, that bears a relationship to other actions undertaken by other agencies relevant to NEPA, whereas the set of related actions are all related to one overarching proposal.

(46) *Responsible official* means the USDA subcomponent employee who has the authority to determine: when NEPA applies, what level of NEPA review is appropriate, the extent of environmental review; the final NEPA finding and compliance with other applicable laws, regulations, and executive orders; and, how to proceed for a proposed action or action alternative(s).

(47) *Scale* refers to the spatial extent or magnitude of the actions being proposed.

(48) *Scope* consists of the range of actions and alternatives developed for a proposal or the issues and impacts to be considered in an environmental analysis.

(49) *Senior agency official* means an official of assistant secretary rank or higher (or equivalent) that is designated for overall agency NEPA compliance, including resolving implementation issues. At USDA, the Deputy Secretary is the senior agency official.

(50) *Significance* means the degree of effects of the specific action on the potentially affected environment.

(i) Potentially affected environment means the condition of the physical, biological, social, and economic factors that may be impacted by an action.

(ii) In considering the degree of effects, USDA subcomponents should consider the following, as appropriate to the specific action and in the context of the potentially affected environment:

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

(B) Both beneficial and adverse effects.

(C) Effects on public health and safety.

(D) Economic effects.

(E) Effects on the quality of life of the American people.

(iii) In providing rationale for whether the degree of effect is significant, responsible officials shall consider:

(A) How the unavoidable short- and long-term adverse and beneficial impacts of implementing the action compares to the short- and long-term adverse or beneficial consequences of not implementing the action as it relates to effects on public health and safety, economics, and the quality of life of the American people; and

(B) How the irreversible and irretrievable commitment of a Federal resource, as part of the action, contributes to a loss of long-term productivity for the human environment.

(51) *Special expertise* means statutory responsibility, agency mission, or related program experience.

(52) *Subcomponent* means a mission area, agency, or staff office of USDA.

(53) *Substantive* means information that meaningfully informs the consideration of reasonably foreseeable impacts on the human environment, the resulting significance determination, decisions on how to proceed (*i.e.,* alternatives to be considered or analyzed or the alternative selected for implementation), or compliance with applicable laws, executive orders, and regulations.

(54) *USDA website* means a website managed by USDA or a USDA subcomponent or the website of a proponent or other federal agency when a USDA website redirects to the proponent or other agency website to find the information or environmental documents required to be published and accessible to the public.

(b) *Acronyms.* The following acronyms may appear throughout this part or may be used when applying this part during the applicable NEPA process:

(1) APHIS—Animal and Plant Health Inspection Service
(2) CE—Categorical Exclusion
(3) CEQ—Council on Environmental Quality
(4) CFR—Code of Federal Regulations
(5) EA—Environmental Assessment
(6) EIS—Environmental Impact Statement
(7) FANEC—Finding of Applicability and No Extraordinary Circumstance
(8) FONSI—Finding of No Significant Impact
(9) FSA—Farm Service Agency
(10) NEPA—National Environmental Policy Act
(11) NRCS—Natural Resources Conservation Service
(12) RD—Rural Development
(13) ROD—Record of Decision
(14) OSEC—Office of the Secretary
(15) USDA—U.S. Department of Agriculture
(16) USFS—U.S. Forest Service

§ 1b.12 Severability.

The sections of this part are separate and severable from one another. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is USDA's intention that the validity of the remainder of those parts will not be affected, with the remaining sections and all applications thereof to continue in effect.

Stephen Vaden,

Deputy Secretary, U.S. Department of Agriculture.

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Part III

The President

Executive Order 14399—Ensuring Citizenship Verification and Integrity in Federal Elections

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Presidential Documents

Title 3—

The President

Executive Order 14399 of March 31, 2026

Ensuring Citizenship Verification and Integrity in Federal Elections

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Help America Vote Act of 2002 (52 U.S.C. 20901 *et seq.*), the National Voter Registration Act of 1993 (52 U.S.C. 20501 *et seq.*), and the Federal Government's constitutional obligation to guarantee a republican form of Government to every State in the Union, U.S. Const. Art. IV, Sec. 4, it is hereby ordered:

Section 1. *Purpose and Policy.* The right to vote in Federal elections is reserved exclusively for citizens of the United States under the Constitution and Federal law. Federal statutes explicitly prohibit non-citizens from registering to vote or voting in Federal elections and impose criminal penalties for violations. (18 U.S.C. 241; 18 U.S.C. 611; 18 U.S.C. 1015; and 52 U.S.C. 20511). The Social Security Administration (SSA) maintains records that, in conjunction with the Department of Homeland Security's (DHS) Systematic Alien Verification for Entitlements (SAVE) program under 42 U.S.C. 1320b–7, can assist in verifying identity and Federal election voter eligibility.

The Federal Government has an unavoidable duty under Article II of the Constitution of the United States to enforce Federal law, which includes preventing violations of Federal criminal law and maintaining public confidence in election outcomes. To enhance election integrity via the United States Mail, additional measures are necessary. Secure ballot envelope identifiers provide a reliable, auditable mechanism to enforce Federal law without unduly burdening or infringing on the rights of eligible voters. Unique ballot envelope identifiers, such as bar codes, enable confirmation that only citizens receive and cast ballots, reducing the risk of fraud and protecting the integrity of Federal elections.

Sec. 2. *Establishment and Transmission of State Citizenship Lists and Prioritization of Investigations and Prosecutions Related to Election Fraud.* (a) To the extent feasible and consistent with applicable law, including but not limited to the Privacy Act of 1974 (5 U.S.C. 552a), the Secretary of Homeland Security, through the Director of United States Citizenship and Immigration Services and in coordination with the Commissioner of SSA, shall take appropriate action to compile and transmit to the chief election official of each State a list of individuals confirmed to be United States citizens who will be above the age of 18 at the time of an upcoming Federal election and who maintain a residence in the subject State (State Citizenship List). The State Citizenship List shall be derived from Federal citizenship and naturalization records, SSA records, SAVE data, and other relevant Federal databases. The State Citizenship List shall be updated and transmitted to State election officials no fewer than 60 days before each regularly scheduled Federal election, or promptly upon request by a State in connection with any special Federal election. The Secretary of Homeland Security shall establish procedures to (i) allow individuals to access their individual records as well as to update or correct them in advance of elections; and (ii) enable States to routinely supplement and provide suggested modifications or amendments to the State Citizenship List transmitted thereto. An individual's identification on the State Citizenship List does not indicate that the individual has been properly registered to vote in the State. State and Federal laws and State procedures must still be followed

for an individual to be registered to vote. There may be State laws, not reflected in the State Citizenship List, that preclude voter registration, or the individual may choose not to be registered.

(b) For purposes of this order, an individual is ''eligible to vote in a Federal election'' if the individual is a citizen of the United States, 18 years of age or older by the date of the upcoming election, and otherwise qualified under the laws of his or her State. The Attorney General shall prioritize the investigation and, as appropriate, the prosecution of State and local officials or any others involved in the administration of Federal elections who issue Federal ballots to individuals not eligible to vote in a Federal election, including under 18 U.S.C. 2(a), 18 U.S.C. 241, 18 U.S.C. 371, 18 U.S.C. 611(a), 18 U.S.C. 1001, 18 U.S.C. 1015, 52 U.S.C. 10307, and 52 U.S.C. 20511. Similarly, the Attorney General shall prioritize the investigation and, as appropriate, the prosecution of individuals and public or private entities engaged in, or aiding and abetting, the printing, production, shipment, or distribution of ballots to individuals who are not eligible to vote in a Federal election.

Sec. 3. *United States Postal Service Rulemaking on Mail-In and Absentee Ballots.* (a) The unlawful use of the mail in connection with elections is prohibited by various Federal statutes, including 18 U.S.C. 1341, 18 U.S.C. 1708, 52 U.S.C. 10307, and 52 U.S.C. 20511.

(b) To ensure the faithful execution of Federal law, protect the integrity of the mail as a medium for transmitting Federal election ballots and establish uniform standards for mail-in or absentee ballot services implemented through the United States Postal Service (USPS), the Postmaster General is hereby directed to initiate a proposed rulemaking pursuant to 39 U.S.C. 401 and other applicable authority within 60 days of the date of this order. The notice of proposed rulemaking shall include, at minimum, the following:

(i) Proposed provisions specifying that all outbound ballot mail must be mailed in an envelope that:

(A) is marked as Official Election Mail, including through designated markings provided by USPS for this purpose, such as the Official Election Mail logo, as necessary and appropriate;

(B) is automation-compatible and bears a unique Intelligent Mail barcode, or successor USPS technology, that facilitates tracking and is consistent with the other requirements of this section; and

(C) has undergone a mail envelope design review by the USPS to ensure compliance with USPS mailing standards, including barcode placement.

(ii) Proposed provisions specifying that, no fewer than 90 days prior to a Federal election, any State may choose to notify the USPS if it intends to allow for mail-in or absentee ballots to be transmitted by the USPS. As part of that notification, any notifying State should further indicate whether it intends to submit to the USPS, no fewer than 60 days before the election, a list of voters eligible to vote in a Federal election in such State to whom the State intends to provide a mail-in or absentee ballot to be transmitted via the USPS.

(iii) Proposed provisions specifying that the USPS shall not transmit mail-in or absentee ballots from any individual unless those individuals have been enrolled on a State-specific list described in subsection (b)(iv) of this section with the USPS pursuant to this subsection.

(iv) Proposed provisions specifying that the USPS shall provide each State with a list of individuals (Mail-In and Absentee Participation List) who are enrolled with the USPS, pursuant to a process specified in the rulemaking directed by this subsection, for mail-in or absentee ballots provided by such State, along with unique ballot envelope identifiers, such as bar codes, for mail-in or absentee ballots provided to such individuals. The preparation and transmission of each State-specific Mail-In and Absentee Participation List shall comply with the Privacy Act and all applicable use agreements.

(v) Proposed procedures enabling each State to routinely supplement and provide suggested modifications or amendments to the State's Mail-In and Absentee Participation List in advance of any Federal election, consistent with applicable State law.

(c) The USPS shall coordinate with the USPS Office of Inspector General and the Department of Justice for investigation of suspected unlawful use of the mail involving Federal election materials.

(d) Any final rule pursuant to this section shall be issued no later than 120 days from the date of this order.

Sec. 4. *Implementation.* (a) The Secretary of Homeland Security, the Commissioner of SSA, and the Postmaster General shall coordinate with the Secretary of Commerce in effectuating all relevant aspects of the implementation of this order.

(b) The Attorney General shall enforce compliance with the applicable Federal statutes referenced herein and provide guidance to election officials, including any instrumentalities thereof; contractors; individuals involved in the administration of Federal elections; or public or private entities engaged in the printing, production, shipment, or distribution of ballots.

(c) The Secretary of Homeland Security shall, within 90 days of the date of this order, establish the infrastructure necessary to compile, maintain, and transmit the State Citizenship List described in section 2(a) of this order, and shall designate a point of contact within DHS to receive and process requests from individuals and State election officials regarding the relevant State Citizenship List. The Commissioner of SSA shall provide all necessary citizenship and identity data to the Secretary of Homeland Security in support of this requirement, consistent with applicable law, the Privacy Act, and all applicable use agreements.

Sec. 5. *Enforcement.* The Attorney General and the heads of executive departments and agencies (agencies) with relevant authority shall take all lawful steps to deter and address noncompliance with Federal law, including withholding Federal funds from noncompliant States and localities where such withholding is authorized by law. Evidence of violations of existing Federal laws by State or local election officials; States or localities, including any instrumentalities thereof; contractors; individuals involved in the administration of Federal elections; or public or private entities engaged in the printing, production, shipment, or distribution of ballots may be referred to the Department of Justice for consideration of investigation or charges under 18 U.S.C. 2(a), 18 U.S.C. 241, 18 U.S.C. 371, 18 U.S.C. 611(a), 18 U.S.C. 1001, 18 U.S.C. 1015, 52 U.S.C. 10307, and 52 U.S.C. 20511. States and localities should preserve, for a 5-year period, all records and materials—excluding ballots cast—evidencing voter participation in any Federal election (*e.g.,* ballot envelopes, regardless of carrier).

Sec. 6. *Severability.* If any provision of this order, or the application of any provision to any agency, person, or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other agencies, persons, or circumstances shall not be affected thereby.

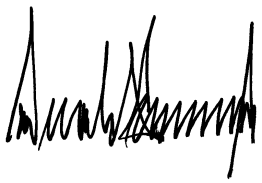
Sec. 7. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
March 31, 2026.

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Federal Register

Vol. 91, No. 64

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FEDERAL REGISTER PAGES AND DATE, APRIL

16151–16538 1
16539–16814 2
16815–17128 3

CFR PARTS AFFECTED DURING APRIL

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

Executive Orders:
14399.....17125

5 CFR

Proposed Rules:
212.....16584
213.....16584
302.....16584
930.....16584

7 CFR

1b.....17061
400.....16151
402.....16151
407.....16151
457.....16151
956.....16539

10 CFR

72.....16541

Proposed Rules:
50.....16584
53.....16584
72.....16588

12 CFR

30.....16156
618.....16815

Proposed Rules:
Ch. XV 16844

14 CFR

39 .....16160, 16546, 16815, 16818, 16821, 16824
71.....16826

Proposed Rules:
39 .....16590, 16593, 16595, 16867, 16869
71.....16168

16 CFR

1239.....16162

20 CFR

404.....16548, 16828
406.....16828

21 CFR

1300.....16167
1301.....16167
1304.....16167
1306.....16167
1307.....16167
1310.....16831

Proposed Rules:
73.....16169

22 CFR

22.....16837

29 CFR

4044.....16838

31 CFR

Proposed Rules:
1010.....16328

34 CFR

Proposed Rules:
Ch. III 16599

39 CFR

Proposed Rules:
111.....16601
211.....16601

40 CFR

52 .....16550, 16553, 16555, 16556, 16558, 16562
63.....16388, 16502
80.....16388
81.....16558, 16562
271.....16566
745.....16578
1090.....16388

Proposed Rules:
52.....16605, 16614
68.....16621
70.....16621

47 CFR

Proposed Rules:
54.....16871

48 CFR

Ch. 13 16578

49 CFR

192.....16167

Proposed Rules:
571.....16172

50 CFR

622.....16580
679 .....16167, 16581, 16583, 16840, 16842

Proposed Rules:
217.....16893
622.....16623

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 March 30, 2026

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